

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



**SENATE BILL 07-085**

**SENATE SPONSORSHIP**

**Veiga,**

**HOUSE SPONSORSHIP**

**Massey,**

**Senate Committees**

Business, Labor and Technology  
Appropriations

**House Committees**

Business Affairs and Labor  
Appropriations

**A BILL FOR AN ACT**

101 **CONCERNING ADDITIONAL CONSUMER PROTECTIONS RELATING TO REAL**  
102 **ESTATE TRANSACTIONS, AND MAKING AN APPROPRIATION IN**  
103 **CONNECTION THEREWITH.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Prohibits a mortgage broker from improperly influencing a real estate appraisal and makes such improper influencing a deceptive trade practice. Specifies criminal penalties for such misconduct. Authorizes the

director of the division of registrations in the department of regulatory agencies to revoke a mortgage broker's registration when the broker has

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improperly influenced a real estate appraisal or has, in the previous 5 years, been enjoined by a court in any state from brokering a mortgage.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** The introductory portion to [12-61-905](#) (1) (c) and  
3 [12-61-905](#) (7), Colorado Revised Statutes, are amended, and the said  
4 [12-61-905](#) (1) is further amended BY THE ADDITION OF THE  
5 FOLLOWING NEW PARAGRAPHS, to read:

6 **[12-61-905. Powers and duties of the director.](#)** (1) The director  
7 shall deny, refuse to renew, or revoke the registration of an applicant who  
8 has:

9 (c) WITHIN THE LAST FIVE YEARS, had a license, registration, or  
10 certification issued by Colorado or another state revoked or suspended for  
11 fraud, deceit, material misrepresentation, theft, or the breach of a fiduciary  
12 duty, and such discipline denied the person authorization to practice as:

13 (d) BEEN ENJOINED WITHIN THE IMMEDIATELY PRECEDING FIVE  
14 YEARS UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED  
15 STATES FROM ENGAGING IN DECEPTIVE CONDUCT RELATING TO THE  
16 BROKERING OF A MORTGAGE LOAN;

17 (e) BEEN FOUND TO HAVE VIOLATED THE PROVISIONS OF SECTION  
18 [12-61-910.2](#).

19 (7) (a) If the director has reasonable cause to believe that a person  
20 is violating this part 9, including but not limited to section [12-61-910](#) (1),  
21 the director may enter an order requiring such person to cease and desist  
22 such violations.

23 (b) THE DIRECTOR, UPON HIS OR HER OWN MOTION MAY, AND, UPON  
24 THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE THE  
25 ACTIVITIES OF ANY REGISTRANT OR ANY PERSON WHO ASSUMES TO ACT IN

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1 SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER PENALTY  
2 WHICH MAY BE IMPOSED PURSUANT TO THIS PART 9, ANY PERSON  
3 VIOLATING ANY PROVISION OF THIS PART 9 OR ANY RULES PROMULGATED  
4 PURSUANT TO THIS ARTICLE MAY BE FINED UPON A FINDING OF  
5 MISCONDUCT BY THE DIRECTOR AS FOLLOWS:

6 (l) IN THE FIRST ADMINISTRATIVE PROCEEDING, A FINE NOT IN  
7 EXCESS OF ONE THOUSAND DOLLARS PER ACT OR OCCURRENCE;

8 (II) IN ANY SUBSEQUENT ADMINISTRATIVE PROCEEDING, A FINE  
9 NOT LESS THAN ONE THOUSAND DOLLARS NOR IN EXCESS OF TWO  
10 THOUSAND DOLLARS PER ACT OR OCCURRENCE.

11 (c) ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (7)  
12 SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT  
13 SUCH MONEYS TO THE CASH FUND CREATED IN SECTION [12-61-908](#).

14 **SECTION 2.** [12-61-908](#) (1), Colorado Revised Statutes, is  
15 amended to read:

16 **[12-61-908](#). Fees.** (1) The director may set the fee for registration  
17 under this part 9. The fee shall be set in an amount ~~not to exceed two~~  
18 ~~hundred dollars~~, that offsets the direct and indirect costs of implementing  
19 this part 9. The moneys collected pursuant to this section shall be  
20 transferred to the state treasurer, who shall credit them to the mortgage  
21 broker registration cash fund.

22 **SECTION 3.** Part 9 of article 61 of title 12, Colorado Revised  
23 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW  
24 SECTIONS to read:

25 **[12-61-910.2](#). Prohibited conduct - influencing a real estate**  
26 **appraisal.** (1) A MORTGAGE BROKER SHALL NOT, DIRECTLY OR  
27 INDIRECTLY, COMPENSATE, COERCE, OR INTIMIDATE AN APPRAISER, OR

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1 ATTEMPT, DIRECTLY OR INDIRECTLY, TO COMPENSATE, COERCE, OR  
2 INTIMIDATE AN APPRAISER, FOR THE PURPOSE OF INFLUENCING THE  
3 INDEPENDENT JUDGMENT OF THE APPRAISER WITH RESPECT TO THE VALUE  
4 OF A DWELLING OFFERED AS SECURITY FOR REPAYMENT OF A MORTGAGE  
5 LOAN. THIS PROHIBITION SHALL NOT BE CONSTRUED AS PROHIBITING A  
6 MORTGAGE BROKER FROM REQUESTING AN APPRAISER TO:

7 (a) CONSIDER ADDITIONAL, APPROPRIATE PROPERTY  
8 INFORMATION;

9 (b) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION  
10 FOR THE APPRAISER'S VALUE CONCLUSION; OR

11 (c) CORRECT ERRORS IN THE APPRAISAL REPORT.

12 **[12-61-910.3](#). Rule-making authority.** THE DIRECTOR SHALL  
13 HAVE THE AUTHORITY TO PROMULGATE RULES AS NECESSARY TO  
14 ENABLE THE DIRECTOR TO CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS  
15 PART 9.

16 **SECTION 4.** Part 7 of article 1 of title 6, Colorado Revised  
17 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18 **[6-1-717](#). Influencing a real estate appraisal.** (1) A PERSON  
19 ENGAGES IN A DECEPTIVE TRADE PRACTICE WHEN, IN THE COURSE OF SUCH  
20 PERSON'S BUSINESS, VOCATION, OR OCCUPATION, THE PERSON:

21 (a) KNOWINGLY SUBMITS A FALSE OR MISLEADING APPRAISAL IN  
22 CONNECTION WITH A DWELLING OFFERED AS SECURITY FOR REPAYMENT  
23 OF A MORTGAGE LOAN; OR

24 (b) DIRECTLY OR INDIRECTLY COMPENSATES, COERCES, OR  
25 INTIMIDATES AN APPRAISER, OR ATTEMPTS, DIRECTLY OR INDIRECTLY, TO  
26 COMPENSATE, COERCE, OR INTIMIDATE AN APPRAISER, FOR THE PURPOSE  
27 OF INFLUENCING THE INDEPENDENT JUDGMENT OF THE APPRAISER WITH

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1 RESPECT TO THE VALUE OF A DWELLING OFFERED AS SECURITY FOR  
2 REPAYMENT OF A MORTGAGE LOAN.

3 (2) THE PROHIBITION REFERRED TO IN SUBSECTION (1) OF THIS  
4 SECTION SHALL NOT BE CONSTRUED AS PROHIBITING A PERSON FROM  
5 REQUESTING AN APPRAISER TO:

6 (a) CONSIDER ADDITIONAL, APPROPRIATE PROPERTY  
7 INFORMATION;

8 (b) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION  
9 FOR THE APPRAISER'S VALUE CONCLUSION; OR

10 (c) CORRECT ERRORS IN THE APPRAISAL REPORT.

11 **SECTION 5.** [6-1-105](#) (1), Colorado Revised Statutes, is amended  
12 BY THE ADDITION OF A NEW PARAGRAPH to read:

13 **[6-1-105. Deceptive trade practices.](#)** (1) A person engages in a  
14 deceptive trade practice when, in the course of such person's business,  
15 vocation, or occupation, such person:

16 (yy) VIOLATES ANY PROVISION OF SECTION [6-1-717](#).

17 **SECTION 6.** [6-1-114](#), Colorado Revised Statutes, is amended to  
18 read:

19 **[6-1-114. Criminal penalties.](#)** Upon a first conviction any person  
20 who promotes a pyramid promotional scheme in this state or who violates  
21 any provision of section [6-1-701](#) ~~is~~ OR [6-1-717](#) IS guilty of a class 1  
22 misdemeanor, as defined in section [18-1.3-501](#), C.R.S., and upon a second  
23 or subsequent conviction OF SECTION [6-1-701](#) is guilty of a class 6 felony,  
24 as defined in section [18-1.3-401](#), C.R.S.

25 **SECTION 7.** Part 7 of article 38 of title 38, Colorado Revised  
26 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

27 **[38-38-705. Curative provisions.](#)** (1) IF THE PUBLIC TRUSTEE

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1 FAILS TO COMPLY WITH ANY OF THE NOTICE DEADLINES SET FORTH IN THIS  
2 ARTICLE, UNLESS THE FORECLOSURE HAS ALREADY BEEN WITHDRAWN BY

3 THE HOLDER OF THE EVIDENCE OF DEBT OR THE HOLDER'S ATTORNEY,  
4 FOLLOWING WRITTEN NOTICE TO THE HOLDER OF THE EVIDENCE OF DEBT  
5 OR THE HOLDER'S ATTORNEY, THE PUBLIC TRUSTEE MAY RERECORD THE  
6 NOTICE OF ELECTION AND DEMAND, AND THE PUBLIC TRUSTEE SHALL  
7 THEREAFTER COMPLY WITH ALL SUCH NOTICE DEADLINES FROM THE LAST  
8 RECORDING DATE AS SET FORTH ON THE RERECORDED NOTICE OF  
9 ELECTION AND DEMAND AS THOUGH SUCH FORECLOSURE HAD BEEN  
10 COMMENCED ON SUCH DATE.

11 (2) IN THE EVENT OF AN ERROR CONTAINED IN ANY CERTIFICATE  
12 OF PURCHASE, CERTIFICATE OF REDEMPTION, PUBLIC TRUSTEE'S DEED, OR  
13 OTHER RECORDED DOCUMENT PREPARED BY THE OFFICE OF THE PUBLIC  
14 TRUSTEE, THE PUBLIC TRUSTEE MAY CORRECT SUCH ERROR BY EXECUTING  
15 AND RECORDING A SCRIVENER'S ERROR AFFIDAVIT AS SET FORTH IN  
16 SECTION [38-35-109](#) (5).

17 **SECTION 8. Appropriation.** (1) In addition to any other  
18 appropriation, there is hereby appropriated, out of any moneys in the  
19 mortgage broker registration cash fund created in section [12-61-908](#) (2),  
20 Colorado Revised Statutes, not otherwise appropriated, to the department  
21 of regulatory agencies, for the fiscal year beginning July 1, 2007, the sum  
22 of fifty-six thousand six hundred ninety-six dollars (\$56,696), cash funds,  
23 and 0.3 FTE, or so much thereof as may be necessary, for the  
24 implementation of this act. Of said sum, forty thousand six hundred  
25 sixty-two dollars (\$40,662) shall be allocated to the executive director's  
26 office for the purchase of legal services from the department of law and  
27 sixteen thousand thirty-four dollars (\$16,034) and 0.3 FTE shall be

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1 allocated to the division of real estate.

2 (2) In addition to any other appropriation, there is hereby  
3 appropriated, to the department of law, for the fiscal year beginning July 1,  
4 2007, the sum of forty thousand six hundred sixty-two dollars (\$40,662)  
5 and 0.3 FTE, or so much thereof as may be necessary, for the provision of  
6 legal services to the department of regulatory agencies related to the  
7 implementation of this act. Said sum shall be from cash funds exempt  
8 received from the department of regulatory agencies, executive director's  
9 office out of the appropriation for legal services in subsection (1) of this  
10 section.

11 **SECTION 9. Applicability.** This act shall apply to acts occurring  
12 on or after the effective date of this act.

13 **SECTION 10. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, and safety.