

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 07-203

SENATE SPONSORSHIP

Groff, and Kester

HOUSE SPONSORSHIP

Marshall,

Senate Committees

State, Veterans & Military Affairs
Appropriations

House Committees

Business Affairs and Labor
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PERSONS PARTICIPATING IN**
102 **MORTGAGE LOAN TRANSACTIONS, AND, IN CONNECTION**
103 **THEREWITH, REQUIRING MORTGAGE BROKERS TO BE LICENSED,**
104 **SPECIFYING PROHIBITED ACTS AND GROUNDS FOR DISCIPLINE OF**
105 **LICENSEES, AND MAKING AN APPROPRIATION.**

Bill Summary

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

Changes the regulatory framework for mortgage brokers from registration to licensing. Requires mortgage brokers to maintain errors and omissions insurance coverage. Defines the grounds for denial,

Page 2 of 25

revocation, or suspension of a license. Authorizes the director of the division of real estate (director) to impose fines and issue letters of admonition. Defines the procedure for administrative hearings, including the issuance of subpoenas by the director or an administrative law judge. Allows the director to seek and obtain injunctions in a court of law.

Where a mortgage broker is employed by a brokerage firm, makes the firm liable for the employee's wrongful acts only if the firm knew of the wrongful acts or was negligent in supervising the employee.

Requires all documents relating to a mortgage loan on residential real estate to be provided to the borrower at least 2 business days before closing. Gives the borrower a qualified right to rescind the transaction if any material term of the transaction is misstated or restated in such documents. Prohibits any attempt to waive a borrower's homestead rights in the subject property. In a refinancing transaction, prohibits any attempt to give a mortgage broker or other person connected with the transaction a quitclaim deed to the subject property or a power of attorney.

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

2 **SECTION 1.** The introductory portion to [12-61-905](#) (7) (b),
3 Colorado Revised Statutes, as enacted by Senate Bill 07-085, enacted at
4 the First Regular Session of the Sixty-sixth General Assembly, is amended
5 to read:

6 **[12-61-905. Powers and duties of the director.](#)** (7) (b) The
7 director, upon his or her own motion may, and, upon the complaint in
8 writing of any person, shall, investigate the activities of any ~~registrant~~
9 LICENSEE or any person who assumes to act in such capacity within the
10 state. In addition to any other penalty ~~which~~ THAT may be imposed
11 pursuant to this part 9, any person violating any provision of this part 9 or
12 any rules promulgated pursuant to this article may be fined upon a finding
13 of misconduct by the director as follows:

14 **SECTION 2.** [12-61-910.3](#), Colorado Revised Statutes, as enacted
15 by Senate Bill 07-085, enacted at the First Regular Session of the
16 Sixty-sixth General Assembly, is amended to read:

Page 3 of 25

1 **[12-61-910.3. Rule-making authority.](#)** The director may
2 ~~establish, and from time to time amend, such~~ ADOPT reasonable rules as are
3 necessary to enable the director to carry out the director's duties under this
4 part 9.

5 **SECTION 3.** [12-61-901](#), Colorado Revised Statutes, is amended
6 to read:

7 **[12-61-901](#). Short title.** This part 9 shall be known and may be
8 cited as the "Mortgage Broker ~~Registration~~ LICENSING Act".

9 **SECTION 4.** [12-61-903](#), Colorado Revised Statutes, is amended
10 to read:

11 **[12-61-903](#). License required - rules.** (1) (a) On or after January
12 1, ~~2007~~ 2008, unless ~~registered with the director~~ LICENSED BY THE
13 DIRECTOR, a person shall not broker a mortgage, offer to broker a
14 mortgage, act as a mortgage broker, or offer to act as a mortgage broker.

15 (b) A ~~registered~~ LICENSED mortgage broker shall apply for
16 ~~registration~~ LICENSE RENEWAL in accordance with subsection ~~(2)~~ (4) of
17 this section every three years.

18 (c) A MORTGAGE BROKER WHO WAS REGISTERED UNDER THE
19 PREDECESSOR TO THIS SECTION ON OR BEFORE JANUARY 1, 2008, SHALL
20 HAVE HIS OR HER REGISTRATION CONVERTED TO A LICENSE UPON
21 SATISFACTION OF ALL INITIAL LICENSING REQUIREMENTS THAT HE OR SHE
22 HAD NOT ALREADY SATISFIED WHEN APPLYING FOR REGISTRATION. THE
23 INITIAL TERM OF LICENSURE OF SUCH A MORTGAGE BROKER SHALL EXPIRE
24 ON THE THIRD ANNIVERSARY OF HIS OR HER INITIAL REGISTRATION.

25 (2) An applicant for ~~registration~~ INITIAL LICENSING shall submit to
26 the director the following:

27 (a) A criminal history ~~background~~ RECORD check in compliance

Page 4 of 25

1 with subsection ~~(3)~~ (5) of this section;

2 (b) A disclosure of all administrative discipline taken against the
3 applicant concerning the categories listed in section [12-61-905](#) (1) (c);
4 and

5 (c) The application fee established by the director in accordance
6 with section [12-61-908](#).

7 (3) (a) IN ADDITION TO THE REQUIREMENTS IMPOSED BY
8 SUBSECTION (2) OF THIS SECTION, ON OR AFTER JANUARY 1, 2009, EACH
9 INDIVIDUAL APPLICANT FOR INITIAL LICENSING AS A MORTGAGE BROKER
10 SHALL HAVE SATISFACTORILY COMPLETED, WITHIN THE THREE YEARS
11 IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, A MORTGAGE
12 LENDING FUNDAMENTALS COURSE APPROVED BY THE DIRECTOR AND
13 CONSISTING OF AT LEAST NINE HOURS OF CLASSROOM INSTRUCTION IN
14 SUBJECTS RELATED TO MORTGAGE LENDING. IN ADDITION, THE APPLICANT
15 SHALL HAVE SATISFACTORILY COMPLETED A WRITTEN EXAMINATION
16 APPROVED BY THE DIRECTOR.

17 (b) THE DIRECTOR MAY CONTRACT WITH ONE OR MORE
18 INDEPENDENT TESTING SERVICES TO DEVELOP, ADMINISTER, AND GRADE

19 THE EXAMINATIONS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3)
20 AND TO MAINTAIN AND ADMINISTER LICENSEE RECORDS. THE CONTRACT
21 MAY ALLOW THE TESTING SERVICE TO RECOVER FROM APPLICANTS ITS
22 COSTS INCURRED IN CONNECTION WITH THESE FUNCTIONS. THE DIRECTOR
23 MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND MAY ALLOW THE
24 COSTS TO BE COLLECTED BY A SINGLE CONTRACTOR FOR DISTRIBUTION TO
25 OTHER CONTRACTORS.

26 (4) AN APPLICANT FOR LICENSE RENEWAL SHALL SUBMIT TO THE
27 DIRECTOR THE FOLLOWING:

Page 5 of 25

1 (a) A DISCLOSURE OF ALL ADMINISTRATIVE DISCIPLINE TAKEN
2 AGAINST THE APPLICANT CONCERNING THE CATEGORIES LISTED IN
3 SECTION [12-61-905](#) (1) (c); AND

4 (b) THE RENEWAL FEE ESTABLISHED BY THE DIRECTOR IN
5 ACCORDANCE WITH SECTION [12-61-908](#).

6 ~~(3)~~ (5) Prior to submitting an application for ~~registration~~ A
7 LICENSE, an applicant shall submit a set of fingerprints to the Colorado
8 bureau of investigation. Upon receipt of the applicant's fingerprints, the
9 Colorado bureau of investigation shall use the fingerprints to conduct a
10 state and national criminal history record check using records of the
11 Colorado bureau of investigation and the federal bureau of investigation.
12 All costs arising from such criminal history record check shall be borne by
13 the applicant and shall be paid when the set of fingerprints is submitted.
14 Upon completion of the criminal history record check, the bureau shall
15 forward the results to the director.

16 ~~(4)~~ (6) Before ~~registering~~ GRANTING A LICENSE TO an applicant,
17 the director shall require the applicant to post a bond as required by section
18 [12-61-907](#).

19 ~~(5)~~ (7) The director shall issue or deny a ~~registration~~ LICENSE
20 within twenty-one days after receiving the completed criminal history
21 record check, completed application, application fee, and proof of the
22 posting of the surety bond.

23 (8) (a) THE DIRECTOR MAY REQUIRE, AS A CONDITION OF LICENSE
24 RENEWAL ON OR AFTER JANUARY 1, 2009, CONTINUING EDUCATION OF
25 LICENSEES FOR THE PURPOSE OF ENHANCING THE PROFESSIONAL
26 COMPETENCE AND PROFESSIONAL RESPONSIBILITY OF ALL LICENSEES.

27 (b) CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS SHALL

Page 6 of 25

1 BE DETERMINED BY THE DIRECTOR; EXCEPT THAT LICENSEES SHALL NOT BE
2 REQUIRED TO COMPLETE MORE THAN NINE CREDIT HOURS OF CONTINUING
3 EDUCATION WITHIN A THREE-YEAR PERIOD. THE DIRECTOR MAY CONTRACT
4 WITH ONE OR MORE INDEPENDENT SERVICE PROVIDERS TO DEVELOP,
5 REVIEW, OR APPROVE CONTINUING EDUCATION COURSES. THE CONTRACT

6 MAY ALLOW THE INDEPENDENT SERVICE PROVIDER TO RECOVER FROM
7 LICENSEES ITS COSTS INCURRED IN CONNECTION WITH THESE FUNCTIONS.
8 THE DIRECTOR MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND
9 MAY ALLOW THE COSTS TO BE COLLECTED BY A SINGLE CONTRACTOR FOR
10 DISTRIBUTION TO OTHER CONTRACTORS.

11 (9) (a) THE DIRECTOR MAY REQUIRE CONTRACTORS AND
12 PROSPECTIVE CONTRACTORS FOR SERVICES UNDER SUBSECTIONS (3) AND
13 (8) OF THIS SECTION TO SUBMIT, FOR THE DIRECTOR'S REVIEW AND
14 APPROVAL, INFORMATION REGARDING THE CONTENTS AND MATERIALS OF
15 PROPOSED COURSES AND OTHER DOCUMENTATION REASONABLY
16 NECESSARY TO FURTHER THE PURPOSES OF THIS SECTION.

17 (b) THE DIRECTOR MAY SET FEES FOR THE INITIAL AND
18 CONTINUING REVIEW OF COURSES FOR WHICH CREDIT HOURS WILL BE
19 GRANTED. THE INITIAL FILING FEE FOR REVIEW OF MATERIALS SHALL NOT
20 EXCEED FIVE HUNDRED DOLLARS, AND THE FEE FOR CONTINUED REVIEW
21 SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS PER YEAR PER COURSE
22 OFFERED.

23 (10) THE DIRECTOR MAY ADOPT REASONABLE RULES TO
24 IMPLEMENT THIS SECTION.

25 **SECTION 5.** Part 9 of article 61 of title 12, Colorado Revised
26 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

27 **12-61-903.5. Errors and omissions insurance - duties of the**

Page 7 of 25

1 **director - certificate of coverage - when required - group plan made**
2 **available - effect - rules.** (1) EVERY LICENSEE UNDER THIS PART 9,
3 EXCEPT AN INACTIVE MORTGAGE BROKER OR AN ATTORNEY LICENSEE WHO
4 MAINTAINS A POLICY OF PROFESSIONAL MALPRACTICE INSURANCE THAT
5 PROVIDES COVERAGE FOR ERRORS AND OMISSIONS FOR ACTIVITIES AS A
6 LICENSEE UNDER THIS PART 9, SHALL MAINTAIN ERRORS AND OMISSIONS
7 INSURANCE TO COVER ALL ACTIVITIES CONTEMPLATED UNDER THIS PART
8 9.

9 (2) THE DIRECTOR SHALL DETERMINE THE TERMS AND CONDITIONS
10 OF COVERAGE REQUIRED UNDER THIS SECTION, INCLUDING THE MINIMUM
11 LIMITS OF COVERAGE, THE PERMISSIBLE DEDUCTIBLE, AND PERMISSIBLE
12 EXEMPTIONS. EACH LICENSEE SHALL MAINTAIN EVIDENCE OF COVERAGE,
13 IN A MANNER SATISFACTORY TO THE DIRECTOR, DEMONSTRATING
14 CONTINUING COMPLIANCE WITH THE REQUIRED TERMS.

15 **SECTION 6.** 12-61-904 (1) (e), (1) (f) (I), and (1) (f) (III),
16 Colorado Revised Statutes, are amended to read:

17 **12-61-904. Exemptions.** (1) This part 9 shall not apply to the
18 following:

19 (e) ~~A federal housing administration approved mortgagee or an~~
20 ~~appointed federal housing administration correspondent, acting through~~

21 ~~officers, partners, members, exclusive agents, contractors, or employees~~
22 ~~of such entities when making or brokering any mortgage loan; or~~

23 (f) A person who:

24 (I) Funds a residential mortgage loan that has been originated and
25 processed by a ~~registered~~ LICENSED person or by an exempt person;

26 (III) Does not participate in the negotiation of residential mortgage
27 loans with the borrower, except for setting the terms under which a person

Page 8 of 25

1 may buy or fund a residential mortgage loan originated by a ~~registered~~
2 LICENSED or exempt person.

3 **SECTION 7.** The introductory portion to [12-61-905](#) (1) and
4 [12-61-905](#) (2), (3), (5), (7), and (8), Colorado Revised Statutes, are
5 amended, and the said [12-61-905](#) is further amended BY THE ADDITION
6 OF A NEW SUBSECTION, to read:

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

10 (2) The director may investigate the activities of a ~~registrant~~
11 LICENSEE or other person that present grounds for disciplinary action under
12 this part 9 or that violate section [12-61-910](#) (1).

13 (3) (a) If the director has reasonable grounds to believe that a
14 mortgage broker is no longer qualified under subsection (1) of this section,
15 the director may summarily suspend the mortgage broker's ~~registration~~
16 LICENSE pending a hearing to revoke the ~~registration~~ LICENSE. A summary
17 suspension shall conform to article 4 of title 24, C.R.S.

18 (b) The director shall suspend the ~~registration~~ LICENSE of a
19 MORTGAGE broker who fails to maintain the bond required by section
20 [12-61-907](#) until the ~~registrant~~ LICENSEE complies with such section.

21 (5) (a) Except as provided in paragraph (b) of this subsection (5),
22 a person whose ~~registration~~ LICENSE has been revoked shall not be eligible
23 for ~~registration~~ LICENSURE for two years after the effective date of the
24 revocation.

25 (b) If the director or an administrative law judge determines that an
26 application contained a misstatement of fact or omitted a required
27 disclosure due to an unintentional error, the director shall allow the

Page 9 of 25

1 applicant to correct the application. Upon receipt of the corrected and
2 completed application, the director or administrative law judge shall not
3 bar the applicant from being ~~registered~~ LICENSED on the basis of the
4 unintentional misstatement or omission.

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

9 (b) THE DIRECTOR, UPON HIS OR HER OWN MOTION MAY, AND, UPON
10 THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE THE
11 ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO ASSUMES TO ACT IN
12 SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER PENALTY
13 THAT MAY BE IMPOSED PURSUANT TO THIS PART 9, A PERSON VIOLATING
14 ANY PROVISION OF THIS PART 9 OR ANY RULES PROMULGATED PURSUANT
15 TO THIS ARTICLE MAY BE FINED UPON A FINDING OF MISCONDUCT BY THE
16 DIRECTOR AS FOLLOWS:

17 (I) IN THE FIRST ADMINISTRATIVE PROCEEDING, A FINE NOT IN
18 EXCESS OF ONE THOUSAND DOLLARS PER ACT OR OCCURRENCE;

19 (II) IN A SECOND OR SUBSEQUENT ADMINISTRATIVE PROCEEDING,
20 A FINE NOT LESS THAN ONE THOUSAND DOLLARS NOR IN EXCESS OF TWO
21 THOUSAND DOLLARS PER ACT OR OCCURRENCE.

22 (8) The director shall keep records of the persons ~~registered~~
23 LICENSED as mortgage brokers and of disciplinary proceedings. The
24 records kept by the director shall be open to public inspection in a
25 reasonable time and manner determined by the director.

26 (10) THE DIRECTOR SHALL PROMULGATE RULES TO ALLOW
27 LICENSED MORTGAGE BROKERS TO HIRE UNLICENSED MORTGAGE BROKERS

Page 10 of 25

1 UNDER TEMPORARY LICENSES. IF SUCH AN UNLICENSED MORTGAGE
2 BROKER HAS INITIATED THE APPLICATION PROCESS FOR A LICENSE, HE OR
3 SHE SHALL BE ASSIGNED A TEMPORARY LICENSE FOR A REASONABLE PERIOD
4 UNTIL A LICENSE IS APPROVED OR DENIED. THE LICENSED MORTGAGE
5 BROKER WHO EMPLOYS SUCH AN UNLICENSED MORTGAGE BROKER SHALL
6 BE HELD RESPONSIBLE UNDER ALL APPLICABLE PROVISIONS OF LAW,
7 INCLUDING WITHOUT LIMITATION THIS PART 9 AND SECTION [38-40-105](#),
8 C.R.S., FOR THE ACTIONS OF THE UNLICENSED MORTGAGE BROKER TO
9 WHOM A TEMPORARY LICENSE HAS BEEN ASSIGNED UNDER THIS
10 SUBSECTION (10).

11 **SECTION 8.** Part 9 of article 61 of title 12, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
13 SECTIONS to read:

14 **[12-61-905.5](#). Disciplinary actions - grounds - procedures -**
15 **rules.** (1) THE DIRECTOR, UPON HIS OR HER OWN MOTION, MAY, AND,
16 UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE
17 THE ACTIVITIES OF ANY MORTGAGE BROKER, AND THE DIRECTOR HAS THE
18 POWER TO IMPOSE AN ADMINISTRATIVE FINE IN ACCORDANCE WITH
19 SECTION [12-61-905](#) AND TO CENSURE A LICENSEE, TO PLACE THE LICENSEE
20 ON PROBATION AND TO SET THE TERMS OF PROBATION, OR TO SUSPEND
21 OR REVOKE A LICENSE WHEN THE DIRECTOR FINDS THAT THE LICENSEE
22 HAS PERFORMED, IS PERFORMING, OR IS ATTEMPTING TO PERFORM ANY OF
23 THE FOLLOWING ACTS:

24 (a) KNOWINGLY MAKING ANY MISREPRESENTATION OR
25 KNOWINGLY MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;

26 (b) MAKING ANY PROMISE THAT INFLUENCES, PERSUADES, OR
27 INDUCES ANOTHER PERSON TO DETRIMENTALLY RELY ON SUCH PROMISE

Page 11 of 25

1 WHEN THE LICENSEE COULD NOT OR DID NOT INTEND TO KEEP SUCH
2 PROMISE;

3 (c) KNOWINGLY MISREPRESENTING OR MAKING FALSE PROMISES
4 THROUGH AGENTS, SALESPERSONS, ADVERTISING, OR OTHERWISE;

5 (d) VIOLATING ANY PROVISION OF THE "COLORADO CONSUMER
6 PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S., AND, IF THE LICENSEE
7 HAS BEEN ASSESSED A CIVIL OR CRIMINAL PENALTY OR BEEN SUBJECT TO
8 AN INJUNCTION UNDER SAID ACT, THE DIRECTOR SHALL REVOKE THE
9 LICENSEE'S LICENSE;

10 (e) ACTING FOR MORE THAN ONE PARTY IN A TRANSACTION
11 WITHOUT DISCLOSING ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST
12 OR WITHOUT DISCLOSING TO ALL PARTIES ANY FIDUCIARY OBLIGATION OR
13 OTHER LEGAL OBLIGATION OF THE MORTGAGE BROKER TO ANY PARTY;

14 (f) REPRESENTING OR ATTEMPTING TO REPRESENT A MORTGAGE
15 BROKER OTHER THAN THE LICENSEE'S EMPLOYER WITHOUT THE EXPRESS
16 KNOWLEDGE AND CONSENT OF THAT EMPLOYER;

17 (g) IN THE CASE OF A LICENSEE IN THE EMPLOY OF ANOTHER
18 MORTGAGE BROKER, FAILING TO PLACE, AS SOON AFTER RECEIPT AS IS
19 PRACTICABLY POSSIBLE, IN THE CUSTODY OF THAT LICENSED MORTGAGE
20 BROKER-EMPLOYER ANY DEPOSIT MONEY OR OTHER MONEY OR FUND
21 ENTRUSTED TO THE EMPLOYEE BY ANY PERSON DEALING WITH THE
22 EMPLOYEE AS THE REPRESENTATIVE OF THAT LICENSED MORTGAGE
23 BROKER-EMPLOYER;

24 (h) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE
25 TIME, ANY MONEYS COMING INTO HIS OR HER POSSESSION THAT BELONG
26 TO OTHERS, WHETHER ACTING AS A MORTGAGE BROKER, REAL ESTATE
27 BROKER, SALESPERSON, OR OTHERWISE, AND FAILING TO KEEP RECORDS

Page 12 of 25

1 RELATIVE TO SAID MONEYS, WHICH RECORDS SHALL CONTAIN SUCH
2 INFORMATION AS MAY BE PRESCRIBED BY THE RULES OF THE DIRECTOR
3 RELATIVE THERETO AND SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

4 (i) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS
5 WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH
6 THE LICENSEE'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS
7 IN AN ESCROW OR A TRUSTEE ACCOUNT WITH A BANK OR RECOGNIZED
8 DEPOSITORY IN THIS STATE, WHICH ACCOUNT MAY BE ANY TYPE OF
9 CHECKING, DEMAND, PASSBOOK, OR STATEMENT ACCOUNT INSURED BY AN

10 AGENCY OF THE UNITED STATES GOVERNMENT, AND TO SO KEEP RECORDS
11 RELATIVE TO THE DEPOSIT THAT CONTAIN SUCH INFORMATION AS MAY BE
12 PRESCRIBED BY THE RULES OF THE DIRECTOR RELATIVE THERETO, WHICH
13 RECORDS SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

14 (j) FAILING TO PROVIDE THE PARTIES TO A RESIDENTIAL
15 MORTGAGE LOAN TRANSACTION WITH SUCH INFORMATION AS MAY BE
16 PRESCRIBED BY THE RULES OF THE DIRECTOR;

17 (k) FAILING TO MAINTAIN POSSESSION, FOR FUTURE USE OR
18 INSPECTION BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR, FOR
19 A PERIOD OF FOUR YEARS, OF THE DOCUMENTS OR RECORDS PRESCRIBED
20 BY THE RULES OF THE DIRECTOR OR TO PRODUCE SUCH DOCUMENTS OR
21 RECORDS UPON REASONABLE REQUEST BY THE DIRECTOR OR BY AN
22 AUTHORIZED REPRESENTATIVE OF THE DIRECTOR;

23 (l) PAYING A COMMISSION OR VALUABLE CONSIDERATION FOR
24 PERFORMING ANY OF THE FUNCTIONS OF A MORTGAGE BROKER, AS
25 DESCRIBED IN THIS PART 9, TO ANY PERSON NOT LICENSED UNDER THIS
26 PART 9; EXCEPT THAT A LICENSED MORTGAGE BROKER MAY PAY A FINDER'S
27 FEE OR A SHARE OF ANY COMMISSION ON A COOPERATIVE SALE WHEN SUCH

Page 13 of 25

1 PAYMENT IS MADE TO A MORTGAGE BROKER LICENSED IN ANOTHER STATE
2 OR COUNTRY. IF SUCH STATE OR COUNTRY DOES NOT LICENSE MORTGAGE
3 BROKERS, THEN THE PAYEE SHALL BE A CITIZEN OR RESIDENT OF SAID
4 STATE OR COUNTRY AND REPRESENT THAT THE PAYEE IS IN THE MORTGAGE
5 BROKERAGE BUSINESS IN SAID STATE OR COUNTRY.

6 (m) DISREGARDING OR VIOLATING ANY PROVISION OF THIS PART
7 9 OR OF ANY RULE ADOPTED BY THE DIRECTOR PURSUANT TO THIS PART 9;
8 VIOLATING ANY LAWFUL ORDERS OF THE DIRECTOR; OR AIDING AND
9 ABETTING A VIOLATION OF ANY RULE, ORDER OF THE DIRECTOR, OR
10 PROVISION OF THIS PART 9;

11 (n) CONVICTION OF, ENTERING A PLEA OF GUILTY TO, OR ENTERING
12 A PLEA OF NOLO CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18,
13 C.R.S., IN PARTS 1 TO 4 OF ARTICLE 4 OF TITLE 18, C.R.S., IN ARTICLE
14 5 OF TITLE 18, C.R.S., IN PART 3 OF ARTICLE 8 OF TITLE 18, C.R.S., IN
15 ARTICLE 15 OF TITLE 18, C.R.S., IN ARTICLE 17 OF TITLE 18, C.R.S., OR
16 ANY OTHER LIKE CRIME UNDER COLORADO LAW, FEDERAL LAW, OR THE
17 LAWS OF OTHER STATES. A CERTIFIED COPY OF THE JUDGMENT OF A
18 COURT OF COMPETENT JURISDICTION OF SUCH CONVICTION OR OTHER
19 OFFICIAL RECORD INDICATING THAT SUCH PLEA WAS ENTERED SHALL BE
20 CONCLUSIVE EVIDENCE OF SUCH CONVICTION OR PLEA IN ANY HEARING
21 UNDER THIS PART 9.

22 (o) VIOLATING OR AIDING AND ABETTING IN THE VIOLATION OF
23 THE COLORADO OR FEDERAL FAIR HOUSING LAWS;

24 (p) FAILING TO IMMEDIATELY NOTIFY THE DIRECTOR IN WRITING
25 OF A CONVICTION, PLEA, OR VIOLATION PURSUANT TO PARAGRAPH (n) OR
26 (o) OF THIS SUBSECTION (1);

Page 14 of 25

1 TO ACT AS A MORTGAGE BROKER BY CONDUCTING BUSINESS IN SUCH A
2 MANNER AS TO ENDANGER THE INTEREST OF THE PUBLIC;

3 (r) FAILING TO EXERCISE REASONABLE SUPERVISION OVER THE
4 ACTIVITIES OF LICENSED EMPLOYEES;

5 (s) PROCURING, OR ATTEMPTING TO PROCURE, A MORTGAGE
6 BROKER'S LICENSE OR RENEWING, REINSTATING, OR REACTIVATING, OR
7 ATTEMPTING TO RENEW, REINSTATE, OR REACTIVATE, A MORTGAGE
8 BROKER'S LICENSE BY FRAUD, MISREPRESENTATION, OR DECEIT OR BY
9 MAKING A MATERIAL MISSTATEMENT OF FACT IN AN APPLICATION FOR
10 SUCH LICENSE;

11 (t) CLAIMING, ARRANGING FOR, OR TAKING ANY SECRET OR
12 UNDISCLOSED AMOUNT OF COMPENSATION, COMMISSION, OR PROFIT OR
13 FAILING TO REVEAL TO THE LICENSEE'S PRINCIPAL OR EMPLOYER THE FULL
14 AMOUNT OF SUCH LICENSEE'S COMPENSATION, COMMISSION, OR PROFIT IN
15 CONNECTION WITH ANY ACTS FOR WHICH A LICENSE IS REQUIRED UNDER
16 THIS PART 9;

17 (u) EXERCISING AN OPTION TO PURCHASE IN ANY AGREEMENT
18 AUTHORIZING OR EMPLOYING SUCH LICENSEE TO SELL, BUY, OR EXCHANGE
19 REAL ESTATE FOR COMPENSATION OR COMMISSION EXCEPT WHEN SUCH
20 LICENSEE, PRIOR TO OR COINCIDENT WITH ELECTION TO EXERCISE SUCH
21 OPTION TO PURCHASE, REVEALS IN WRITING TO THE LICENSEE'S PRINCIPAL
22 OR EMPLOYER THE FULL AMOUNT OF THE LICENSEE'S PROFIT AND OBTAINS
23 THE WRITTEN CONSENT OF SUCH PRINCIPAL OR EMPLOYER APPROVING THE
24 AMOUNT OF SUCH PROFIT;

25 (v) FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF
26 TRUST FUNDS THAT RESULTS IN THE PAYMENT OF ANY CLAIM PURSUANT
27 TO THIS PART 9 OR THAT RESULTS IN THE ENTRY OF A CIVIL JUDGMENT

Page 15 of 25

1 FOR DAMAGES;

2 (w) ANY OTHER CONDUCT, WHETHER OF THE SAME OR A DIFFERENT
3 CHARACTER THAN SPECIFIED IN THIS SUBSECTION (1), THAT EVINCES A
4 LACK OF GOOD FAITH AND FAIR DEALING;

5 (x) HAVING HAD A MORTGAGE BROKER'S LICENSE SUSPENDED OR
6 REVOKED IN ANY JURISDICTION, OR HAVING HAD ANY DISCIPLINARY
7 ACTION TAKEN AGAINST THE MORTGAGE BROKER IN ANY OTHER
8 JURISDICTION. A CERTIFIED COPY OF THE ORDER OF DISCIPLINARY ACTION
9 SHALL BE PRIMA FACIE EVIDENCE OF SUCH DISCIPLINARY ACTION.

10 (2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
11 ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A
12 MORTGAGE BROKER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF

13 SAID FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR
14 CORPORATION IS GUILTY OF ANY OF THE ACTS SET OUT IN SUBSECTION (1)
15 OF THIS SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF
16 THE FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR
17 CORPORATION TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF SAID
18 MORTGAGE BROKER, WHETHER OR NOT THE DESIGNATED MORTGAGE
19 BROKER HAD PERSONAL KNOWLEDGE THEREOF AND WHETHER OR NOT THE
20 DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF SAID
21 MORTGAGE BROKER.

22 (3) UPON REQUEST OF THE DIRECTOR, WHEN ANY MORTGAGE
23 BROKER IS A PARTY TO ANY SUIT OR PROCEEDING, EITHER CIVIL OR
24 CRIMINAL, ARISING OUT OF ANY TRANSACTION INVOLVING A RESIDENTIAL
25 MORTGAGE LOAN AND WHEN SUCH MORTGAGE BROKER PARTICIPATED IN
26 SUCH TRANSACTION IN HIS OR HER CAPACITY AS A LICENSED MORTGAGE
27 BROKER, IT SHALL BE THE DUTY OF SUCH MORTGAGE BROKER TO SUPPLY TO

Page 16 of 25

1 THE DIRECTOR A COPY OF THE COMPLAINT, INDICTMENT, INFORMATION,
2 OR OTHER INITIATING PLEADING AND THE ANSWER FILED, IF ANY, AND TO
3 ADVISE THE DIRECTOR OF THE DISPOSITION OF THE CASE AND OF THE
4 NATURE AND AMOUNT OF ANY JUDGMENT, VERDICT, FINDING, OR
5 SENTENCE THAT MAY BE MADE, ENTERED, OR IMPOSED THEREIN.

6 (4) THIS PART 9 SHALL NOT BE CONSTRUED TO RELIEVE ANY
7 PERSON FROM CIVIL LIABILITY OR CRIMINAL PROSECUTION UNDER THE
8 LAWS OF THIS STATE.

9 (5) COMPLAINTS OF RECORD IN THE OFFICE OF THE DIRECTOR AND
10 THE RESULTS OF STAFF INVESTIGATIONS MAY, IN THE DISCRETION OF THE
11 DIRECTOR, BE CLOSED TO PUBLIC INSPECTION, EXCEPT AS PROVIDED BY
12 COURT ORDER, DURING THE INVESTIGATORY PERIOD AND UNTIL DISMISSED
13 OR UNTIL NOTICE OF HEARING AND CHARGES ARE SERVED ON A LICENSEE.

14 (6) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
15 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
16 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
17 BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A
18 LETTER OF ADMONITION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
19 TO THE LICENSEE AGAINST WHOM A COMPLAINT WAS MADE AND A COPY
20 THEREOF TO THE PERSON MAKING THE COMPLAINT, BUT THE LETTER SHALL
21 ADVISE THE LICENSEE THAT THE LICENSEE HAS THE RIGHT TO REQUEST IN
22 WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT, THAT FORMAL
23 DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY
24 OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF
25 SUCH REQUEST IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE
26 DEEMED VACATED, AND THE MATTER SHALL BE PROCESSED BY MEANS OF
27 FORMAL DISCIPLINARY PROCEEDINGS.

Page 17 of 25

1 (7) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS
2 SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL

3 CREDIT THE SAME TO THE MORTGAGE BROKER LICENSING CASH FUND
4 CREATED IN SECTION [12-61-908](#).

5 (8) (a) THE DIRECTOR SHALL NOT CONSIDER AN APPLICATION FOR
6 LICENSURE FROM A PERSON WHOSE LICENSE HAS BEEN REVOKED UNTIL
7 TWO YEARS AFTER THE DATE OF REVOCATION.

8 (b) IF A PERSON'S LICENSE WAS SUSPENDED OR REVOKED DUE TO
9 CONDUCT THAT RESULTED IN FINANCIAL LOSS TO ANOTHER PERSON, NO
10 NEW LICENSE SHALL BE GRANTED, NOR SHALL A SUSPENDED LICENSE BE
11 REINSTATED, UNTIL FULL RESTITUTION HAS BEEN MADE TO THE PERSON
12 SUFFERING SUCH FINANCIAL LOSS. THE AMOUNT OF RESTITUTION SHALL
13 INCLUDE INTEREST, REASONABLE ATTORNEY FEES, AND COSTS OF ANY SUIT
14 OR OTHER PROCEEDING UNDERTAKEN IN AN EFFORT TO RECOVER THE
15 LOSS.

16 (9) WHEN THE DIRECTOR OR THE DIVISION BECOMES AWARE OF
17 FACTS OR CIRCUMSTANCES THAT FALL WITHIN THE JURISDICTION OF A
18 CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITY UPON
19 INVESTIGATION OF THE ACTIVITIES OF A LICENSEE, THE DIRECTOR OR
20 DIVISION SHALL, IN ADDITION TO THE EXERCISE OF ITS AUTHORITY UNDER
21 THIS PART 9, REFER AND TRANSMIT SUCH INFORMATION, WHICH MAY
22 INCLUDE ORIGINALS OR COPIES OF DOCUMENTS AND MATERIALS, TO ONE
23 OR MORE CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITIES
24 FOR INVESTIGATION AND PROSECUTION AS AUTHORIZED BY LAW.

25 **[12-61-905.6](#). Hearing - administrative law judge - review -**
26 **rules.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL
27 PROCEEDINGS BEFORE THE DIRECTOR WITH RESPECT TO DISCIPLINARY

Page 18 of 25

1 ACTIONS AND DENIAL OF LICENSURE UNDER THIS PART 9, AT THE
2 DISCRETION OF THE DIRECTOR, MAY BE CONDUCTED BY AN
3 ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTIONS [24-4-104](#) AND
4 [24-4-105](#), C.R.S.

5 (2) PROCEEDINGS SHALL BE HELD IN THE COUNTY WHERE THE
6 DIRECTOR HAS HIS OR HER OFFICE OR IN SUCH OTHER PLACE AS THE
7 DIRECTOR MAY DESIGNATE. IF THE LICENSEE IS EMPLOYED BY ANOTHER
8 LICENSED MORTGAGE BROKER OR BY A REAL ESTATE BROKER, THE
9 DIRECTOR SHALL ALSO NOTIFY THE LICENSEE'S EMPLOYER BY MAILING, BY
10 FIRST-CLASS MAIL, A COPY OF THE WRITTEN NOTICE REQUIRED UNDER
11 SECTION [24-4-104](#) (3), C.R.S., TO THE EMPLOYER'S LAST-KNOWN
12 BUSINESS ADDRESS.

13 (3) AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT ALL
14 HEARINGS FOR DENYING, SUSPENDING, OR REVOKING A LICENSE OR
15 CERTIFICATE ON BEHALF OF THE DIRECTOR, SUBJECT TO APPROPRIATIONS
16 MADE TO THE DEPARTMENT OF PERSONNEL. EACH ADMINISTRATIVE LAW
17 JUDGE SHALL BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF
18 TITLE 24, C.R.S. THE ADMINISTRATIVE LAW JUDGE SHALL CONDUCT THE
19 HEARING IN ACCORDANCE WITH SECTIONS [24-4-104](#) AND [24-4-105](#), C.R.S.
20 NO LICENSE SHALL BE DENIED, SUSPENDED, OR REVOKED UNTIL THE
21 DIRECTOR HAS MADE HIS OR HER DECISION.

22 (4) THE DECISION OF THE DIRECTOR IN ANY DISCIPLINARY ACTION
23 OR DENIAL OF LICENSURE UNDER THIS SECTION IS SUBJECT TO JUDICIAL
24 REVIEW UNDER SECTION [24-4-106](#), C.R.S. IN ORDER TO EFFECTUATE THE
25 PURPOSES OF THIS PART 9, THE DIRECTOR HAS THE POWER TO
26 PROMULGATE RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

27 (5) IN A JUDICIAL REVIEW PROCEEDING, THE COURT MAY STAY THE

Page 19 of 25

1 EXECUTION OR EFFECT OF ANY FINAL ORDER OF THE DIRECTOR; BUT A
2 HEARING SHALL BE HELD AFFORDING THE PARTIES AN OPPORTUNITY TO BE
3 HEARD FOR THE PURPOSE OF DETERMINING WHETHER THE PUBLIC HEALTH,
4 SAFETY, AND WELFARE WOULD BE ENDANGERED BY STAYING THE
5 DIRECTOR'S ORDER. IF THE COURT DETERMINES THAT THE ORDER SHOULD
6 BE STAYED, IT SHALL ALSO DETERMINE AT THE HEARING THE AMOUNT OF
7 THE BOND AND ADEQUACY OF THE SURETY, WHICH BOND SHALL BE
8 CONDITIONED UPON THE FAITHFUL PERFORMANCE BY SUCH PETITIONER OF
9 ALL OBLIGATIONS AS A MORTGAGE BROKER AND UPON THE PROMPT
10 PAYMENT OF ALL DAMAGES ARISING FROM OR CAUSED BY THE DELAY IN
11 THE TAKING EFFECT OF OR ENFORCEMENT OF THE ORDER COMPLAINED OF
12 AND FOR ALL COSTS THAT MAY BE ASSESSED OR REQUIRED TO BE PAID IN
13 CONNECTION WITH SUCH PROCEEDINGS.

14 (6) IN ANY HEARING CONDUCTED BY THE DIRECTOR IN WHICH
15 THERE IS A POSSIBILITY OF THE DENIAL, SUSPENSION, OR REVOCATION OF
16 A LICENSE BECAUSE OF THE CONVICTION OF A FELONY OR OF A CRIME
17 INVOLVING MORAL TURPITUDE, THE DIRECTOR SHALL BE GOVERNED BY
18 SECTION [24-5-101](#), C.R.S.

19 **[12-61-905.7](#). Subpoena - misdemeanor.** (1) THE DIRECTOR OR
20 THE ADMINISTRATIVE LAW JUDGE APPOINTED FOR HEARINGS MAY ISSUE A
21 SUBPOENA COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES
22 AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS PURSUANT TO AN
23 INVESTIGATION OR HEARING OF THE DIRECTOR. SUCH SUBPOENAS SHALL
24 BE SERVED IN THE SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT
25 COURTS AND SHALL BE ISSUED WITHOUT DISCRIMINATION BETWEEN PUBLIC
26 OR PRIVATE PARTIES REQUIRING THE ATTENDANCE OF WITNESSES AND THE
27 PRODUCTION OF DOCUMENTS AT HEARINGS. IF A PERSON FAILS OR

Page 20 of 25

1 REFUSES TO OBEY A SUBPOENA ISSUED BY THE DIRECTOR OR THE
2 APPOINTED ADMINISTRATIVE LAW JUDGE, THE DIRECTOR MAY PETITION
3 THE DISTRICT COURT HAVING JURISDICTION FOR ISSUANCE OF A SUBPOENA
4 IN THE PREMISES, AND THE COURT SHALL, IN A PROPER CASE, ISSUE ITS
5 SUBPOENA.

6 (2) ANY PERSON WHO WILLFULLY FAILS OR NEGLECTS TO APPEAR
7 AND TESTIFY OR TO PRODUCE BOOKS, PAPERS, OR RECORDS REQUIRED BY
8 SUBPOENA, DULY SERVED UPON HIM OR HER IN ANY MATTER CONDUCTED
9 UNDER THIS PART 9, IS GUILTY OF A MISDEMEANOR AND, UPON
10 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF ONE HUNDRED
11 DOLLARS, OR IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN
12 THIRTY DAYS FOR EACH SUCH OFFENSE, OR BY BOTH SUCH FINE AND

13 IMPRISONMENT. EACH DAY SUCH PERSON SO REFUSES OR NEGLECTS
14 CONSTITUTES A SEPARATE OFFENSE.

15 **12-61-910.3. Rule-making authority.** THE DIRECTOR SHALL
16 HAVE THE AUTHORITY TO PROMULGATE RULES AS NECESSARY TO ENABLE
17 THE DIRECTOR TO CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS PART
18 9.

19 **SECTION 9.** 12-61-907 (1), Colorado Revised Statutes, is
20 amended to read:

21 **12-61-907. Bond required.** (1) ~~Prior to registration~~ BEFORE
22 RECEIVING A LICENSE, an applicant ~~for registration~~ shall post with the
23 director a surety bond, or an alternative authorized by article 35 of title 11,
24 C.R.S., of twenty-five thousand dollars. A ~~registered~~ LICENSED mortgage
25 broker shall maintain such bond at all times.

26 **SECTION 10.** 12-61-908, Colorado Revised Statutes, is amended
27 to read:

Page 21 of 25

1 **12-61-908. Fees.** (1) The director may set the ~~fee~~ FEES for
2 ~~registration~~ ISSUANCE AND RENEWAL OF LICENSES under this part 9. The
3 ~~fee~~ FEES shall be set in an amount, ~~not to exceed two hundred dollars,~~
4 AMOUNTS that ~~offsets~~ OFFSET the direct and indirect costs of
5 implementing this part 9 AND SECTION 38-40-105, C.R.S. The moneys
6 collected pursuant to this section shall be transferred to the state treasurer,
7 who shall credit them to the mortgage broker ~~registration~~ LICENSING cash
8 fund.

9 (2) There is hereby created in the state treasury the mortgage
10 broker ~~registration~~ LICENSING cash fund. Moneys in the fund shall be spent
11 only to implement this part 9 AND SECTION 38-40-105, C.R.S., and shall
12 not revert to the general fund at the end of the fiscal year. The fund shall
13 be subject to annual appropriation by the general assembly.

14 **SECTION 11.** 12-61-910 (1) and (2), Colorado Revised Statutes,
15 are amended to read:

16 **12-61-910. Violations - injunctions.** (1) (a) ~~Brokering a~~
17 ~~mortgage or practicing as a mortgage broker without registering under this~~
18 ~~part 9 shall be~~ ANY NATURAL PERSON, FIRM, PARTNERSHIP, LIMITED
19 LIABILITY COMPANY, OR ASSOCIATION OR ANY CORPORATION VIOLATING
20 THIS PART 9 BY ACTING AS A MORTGAGE BROKER IN THIS STATE WITHOUT
21 HAVING OBTAINED A LICENSE OR BY ACTING AS A MORTGAGE BROKER
22 AFTER THAT PERSON'S LICENSE HAS BEEN REVOKED OR DURING ANY PERIOD
23 FOR WHICH SAID LICENSE MAY HAVE BEEN SUSPENDED IS GUILTY OF a class
24 1 misdemeanor and shall be punished as provided in section 18-1.3-501,
25 C.R.S.; EXCEPT THAT, IF THE VIOLATOR IS NOT A NATURAL PERSON, THE
26 VIOLATOR SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE
27 THOUSAND DOLLARS.

Page 22 of 25

1 (b) Each mortgage brokered by an ~~unregistered~~ UNLICENSED person
2 shall be a separate violation of this subsection (1).

3 (2) ~~The director may forward information concerning possible~~
4 ~~violations of the law committed by or complaints filed against a mortgage~~
5 ~~broker to the attorney general, a district attorney, or a state or federal law~~
6 ~~enforcement agency.~~

7

8 **SECTION 12.** [12-61-911](#) (1) and (2), Colorado Revised Statutes,
9 are amended to read:

10 **[12-61-911.](#) Repeal.** (1) The provisions of section [24-34-104](#),
11 C.R.S., concerning the termination schedule for regulatory bodies of the
12 state unless extended, apply to the ~~registration~~ LICENSING of mortgage
13 brokers under this part 9.

14 (2) The sunset review, performed pursuant to section [24-34-104](#),
15 C.R.S., shall include an analysis of the number and types of complaints and
16 whether the ~~registration~~ LICENSING of mortgage brokers correlates with
17 the public being protected from fraudulent activities.

18 **SECTION 13.** Part 9 of article 61 of title 12, Colorado Revised
19 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

20 **[12-61-911.5.](#) Acts of employee - mortgage broker's liability.**
21 AN UNLAWFUL ACT OR VIOLATION OF THIS PART 9 UPON THE PART OF AN
22 EMPLOYEE, OFFICER, OR MEMBER OF A LICENSED MORTGAGE BROKER SHALL
23 NOT BE CAUSE FOR DISCIPLINARY ACTION AGAINST A MORTGAGE BROKER
24 UNLESS IT APPEARS THAT THE MORTGAGE BROKER KNEW OR SHOULD
25 HAVE KNOWN OF THE UNLAWFUL ACT OR VIOLATION OR HAD BEEN
26 NEGLIGENT IN THE SUPERVISION OF THE EMPLOYEE.

27 **SECTION 14.** [38-40-105](#) (1), Colorado Revised Statutes, is

Page 23 of 25

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **[38-40-105.](#) Prohibited acts by originators of certain mortgage**
3 **loans.** (1) The following acts by any mortgage broker or mortgage
4 originator with respect to any loan that is secured by a first or subordinate
5 mortgage or deed or trust lien against a dwelling are prohibited:

6 (e) TO KNOWINGLY FACILITATE THE CONSUMMATION OF A
7 MORTGAGE LOAN TRANSACTION THAT VIOLATES, OR THAT IS CONNECTED
8 WITH A VIOLATION OF, SUBSECTION (1.5) OF THIS SECTION.

9

10 **SECTION 15.** [38-40-105](#), Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A NEW SUBSECTION to read:

12 **38-40-105. Prohibited acts by originators of certain mortgage**
13 **loans - definitions.** (1.5) (a) A MORTGAGE BROKER OR THE BROKER'S
14 AGENT SHALL PROVIDE THE BORROWER WITH DRAFT COPIES OF THE
15 MORTGAGE LOAN AGREEMENT AND ALL OTHER DOCUMENTS MATERIAL TO
16 THE TRANSACTION, COMPLETED TO THE EXTENT POSSIBLE IN
17 ACCORDANCE WITH GOOD-FAITH ESTIMATES, AT LEAST ONE BUSINESS DAY
18 BEFORE CLOSING. THERE SHALL BE NO BLANK SPACES REMAINING ON THE
19 AGREEMENT FORM AND NO CHANGE TO ANY MATERIAL TERM OF THE
20 AGREEMENT OR OF ANY ACCOMPANYING DOCUMENT DURING THIS TIME.

21

22 (b) AS USED IN THIS SUBSECTION (1.5), "DOCUMENTS MATERIAL TO
23 THE TRANSACTION" INCLUDE, WITHOUT LIMITATION, THE DEED OF
24 CONVEYANCE, EXCEPT IN THE CASE OF A REFINANCING, THE LOAN
25 AGREEMENT, AND THE TITLE DOCUMENTS IF REQUESTED BY THE
26 BORROWER.

27 **SECTION 16. Appropriation.** In addition to any other

Page 24 of 25

1 appropriation, there is hereby appropriated, out of any moneys in the
2 mortgage broker registration cash fund created in Section [12-61-908](#) (2),
3 Colorado Revised Statutes, not otherwise appropriated, to the department
4 of regulatory agencies, for the fiscal year beginning July 1, 2007, the sum
5 of four hundred twenty-two thousand four hundred sixty-three dollars
6 (\$422,463), cash funds, and 1.8 FTE, or so much thereof as may be
7 necessary, for the implementation of this act. Of said sum, fifty-nine
8 thousand two hundred ninety-nine dollars (\$59,299) shall be allocated to
9 the executive director's office for the purchase of legal services from the
10 department of law and three hundred sixty-three thousand one hundred
11 sixty-four dollars (\$363,164) and 1.8 FTE shall be allocated to the division
12 of real estate.

13 **SECTION 17. Appropriation.** (1) (a) In addition to any other
14 appropriation, there is hereby appropriated, to the department of law, for
15 the fiscal year beginning July 1, 2007, the sum of fifty-nine thousand two
16 hundred ninety-nine dollars (\$59,299) and 0.5 FTE, or so much thereof as
17 may be necessary, for the provision of legal services to the department of
18 regulatory agencies related to the implementation of this act. Said sum
19 shall be from cash funds exempt received from the department of
20 regulatory agencies, executive director's office out of the appropriation for
21 legal services in section 16 of this act.

22 (b) In addition to any other appropriation, there is hereby
23 appropriated, to the department of law, for the fiscal year beginning July 1,
24 2007, to the department of law, for allocation to the consumer protection
25 section, for the fiscal year beginning July 1, 2007, the sum of one hundred
26 eighty-six thousand three hundred forty-nine dollars (\$186,349) and 2.3
27 FTE, or so much thereof as may be necessary, for the implementation of

Page 25 of 25

1 this act. Said sum shall be from cash funds exempt received from the
2 department of regulatory agencies, executive director's office out of the
3 appropriation for to the division of real estate in section 16 of this act.

4 (2) In addition to any other appropriation, there is hereby
5 appropriated, to the department of public safety, Colorado bureau of
6 investigation, for the fiscal year beginning July 1, 2007, the sum of three
7 hundred seventy-nine thousand sixty-four dollars (\$379,064),
8 or so much thereof as may be necessary, for fingerprint processing
9 services related to the implementation of this act. Of this sum, one hundred
10 sixty-seven thousand eight hundred sixty-four dollars (\$167,864) shall be
11 cash funds from fingerprint and name check processing fees collected by
12 the department, and two hundred eleven thousand two hundred dollars
13 (\$211,200) shall be cash funds exempt from fingerprint and name check
14 processing fees collected by the department for transmittal to the federal
15 bureau of investigation.

16 **SECTION 18. Effective date - applicability.** (1) This act shall
17 take effect January 1, 2008; except that sections 1 and 2 of this act shall
18 take effect only if Senate Bill 07-085 is enacted at the First Regular
19 Session of the Sixty-sixth General Assembly and becomes law.

20 (2) This act shall apply to acts or omissions occurring, and
21 mortgage broker licenses issued or renewed, on or after the effective date
22 of this act.

23 **SECTION 19. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.