

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

SB07-249 be amended as follows:

1 Strike the Labor and Technology Committee Report, dated April 9, 2007.

2 Amend printed bill, strike everything below the enacting clause and
3 substitute the following:

4 **"SECTION 1. Legislative declaration.** (1) The general
5 assembly finds, determines, and declares that:

6 (a) Real estate brokers, mortgage brokers, and title insurance
7 companies are all subject to licensing or registration by state agencies,
8 and therefore they practice "regulated professions or occupations" within
9 the accepted meaning of that term;

10 (b) Real estate closing and settlement services, including the
11 handling of escrow accounts and the preparation of closing documents,
12 have traditionally constituted a distinct but closely related part of the
13 practice of these regulated professionals and have been offered only in
14 connection with the other services offered by these professionals;

15 (c) Closing and settlement services are provided when the money
16 of those purchasing real estate, the money to be used to pay off an
17 existing mortgage, the money to pay the previously agreed-upon fees of
18 licensed professionals, and other transaction costs are handled by a
19 settlement service provider whose responsibility it is to disburse such
20 funds and in whose name funds are made payable;

1 (d) Certain individuals and entities have begun offering real estate
2 closing and settlement services on an independent basis, thus splitting off
3 these services into an unregulated market that is not subject to oversight
4 by any regulatory agency;

5 (e) These independent vendors are entrusted with large sums of
6 money; and

7 (f) It is appropriate to once again regulate the providers of closing
8 and settlement services.

9 (2) Accordingly, the general assembly finds that the extension of
10 existing regulatory requirements for the closing and settlement service
11 functions provided through existing comprehensive services of licensed
12 entities, so as to cover the identical services provided by independent
13 vendors, does not constitute the regulation of a previously unregulated
14 profession or occupation, and therefore no sunrise review is necessary
15 before such reregulation can proceed.

16 **SECTION 2.** 6-1-105 (1), Colorado Revised Statutes, is amended
17 BY THE ADDITION OF A NEW PARAGRAPH to read:

18 **6-1-105. Deceptive trade practices.** (1) A person engages in a
19 deceptive trade practice when, in the course of such person's business,
20 vocation, or occupation, such person:

21 (yy) KNOWINGLY VIOLATES SECTION 10-11-108 (1) (c) OR (1) (d)
22 OR 10-11-124, C.R.S., OR ANY RULE OF THE INSURANCE COMMISSIONER IN
23 FURTHERANCE OF SUCH SECTIONS, INCLUDING A KNOWING VIOLATION
24 THROUGH THE CREATION OR OPERATION OF AN IMPROPER AFFILIATED
25 BUSINESS ARRANGEMENT.

26 **SECTION 3.** 10-3-1104 (1) (ee), Colorado Revised Statutes, is
27 amended to read:

28 **10-3-1104. Unfair methods of competition and unfair or**
29 **deceptive acts or practices.** (1) The following are defined as unfair
30 methods of competition and unfair or deceptive acts or practices in the
31 business of insurance:

32 (ee) Willfully or repeatedly violating section 10-11-108 (1) (c) or

1 (1) (d) OR 10-11-124, OR ANY RULE OF THE INSURANCE COMMISSIONER IN
2 FURTHERANCE OF SUCH SECTIONS, including a willful or repeated
3 violation through the creation or operation of an improper affiliated
4 business arrangement.

5 **SECTION 4.** 10-11-102, Colorado Revised Statutes, is amended
6 BY THE ADDITION OF A NEW SUBSECTION to read:

7 **10-11-102. Definitions.** As used in this article, unless the context
8 otherwise requires:

9 (7.5) "TITLE ENTITY" INCLUDES A TITLE INSURANCE AGENT, A
10 TITLE INSURANCE AGENCY, AND A TITLE INSURANCE COMPANY.

11 **SECTION 5.** Article 11 of title 10, Colorado Revised Statutes, is
12 amended BY THE ADDITION OF THE FOLLOWING NEW
13 SECTIONS to read:

14 **10-11-127. Periodic examinations - public disclosures - rules**
15 **- coordination with attorney general - cash fund - repeal.** (1) IN
16 ACCORDANCE WITH RULES OF THE COMMISSIONER, PROMULGATED
17 THROUGH RULE-MAKING HEARINGS COMMENCED ON OR BEFORE AUGUST
18 1, 2007, THE DIVISION SHALL:

19 (a) (I) ON AND AFTER JANUARY 1, 2008, CREATE AND IMPLEMENT
20 A PLAN OF EXAMINATIONS OF TITLE ENTITIES AS TO WHICH, IN THE
21 DIVISION'S JUDGMENT, THERE EXISTS REASONABLE CAUSE TO BELIEVE
22 THAT SUCH TITLE ENTITIES EITHER ARE NOT IN COMPLIANCE WITH THIS
23 ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE OR ARE
24 ENGAGING IN ACTIONS OR CONDUCT THAT MAY LEAD TO SUCH
25 NONCOMPLIANCE.

26 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a),
27 THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH GROUNDS FOR
28 REASONABLE CAUSE TO SUSPECT NONCOMPLIANCE OR ACTIONS OR
29 CONDUCT THAT MAY LEAD TO NONCOMPLIANCE. SUCH GROUNDS SHALL
30 INCLUDE:

31 (A) AN INVALID CURRENT BUSINESS ADDRESS;

32 (B) DELINQUENT STANDING AS A BUSINESS ENTITY, AS SHOWN BY



1 RECORDS ON FILE WITH THE SECRETARY OF STATE;

2 (C) INACCURATE OR INCOMPLETE INFORMATION RELATING TO THE
3 APPROPRIATE LICENSE STATUS OF THE TITLE ENTITY AND ANY OF ITS
4 PRODUCERS;

5 (D) COMPLAINTS FILED AGAINST THE TITLE ENTITY OR ANY OF ITS
6 PRODUCERS;

7 (E) INFORMATION ACQUIRED BY THE DIVISION THROUGH ANY
8 PRIOR EXAMINATION OR DATA COLLECTED ON TITLE ENTITIES BY THE
9 DIVISION;

10 (F) INFORMATION PROVIDED TO THE DIVISION BY THE DIVISION OF
11 REAL ESTATE OR THE ATTORNEY GENERAL; AND

12 (G) INFORMATION PROVIDED TO THE DIVISION BY OTHER STATE OR
13 NATIONAL REGULATORY AGENCIES, GOVERNMENTAL ENTITIES, OR OTHER
14 SOURCES.

15 (b) EXAMINE TITLE ENTITIES WITH SUFFICIENT FREQUENCY THAT
16 THE RATE OF COMPLIANCE WITH THIS ARTICLE, AND WITH ALL APPLICABLE
17 RULES ADOPTED PURSUANT TO THIS ARTICLE, MAY REASONABLY BE
18 PREDICTED TO EQUAL OR EXCEED THE AVERAGE COMPLIANCE RATE OF
19 STATES WITH COMPARABLE REGULATORY SCHEMES. SUCH EXAMINATIONS,
20 AND ENFORCEMENT ACTIONS TAKEN BASED ON THE RESULTS OF THOSE
21 EXAMINATIONS, SHALL BE DESIGNED TO PROVIDE A SIGNIFICANT
22 DETERRENT TO INAPPROPRIATE BEHAVIORS OR ACTIONS OF TITLE ENTITIES
23 THAT WOULD INDICATE NONCOMPLIANCE WITH THIS ARTICLE OR WITH
24 APPLICABLE RULES ADOPTED PURSUANT TO THIS ARTICLE.

25 (c) BEGINNING JANUARY 1, 2008, ENSURE THAT ALL NEWLY
26 LICENSED TITLE ENTITIES WILL HAVE AN APPROPRIATE EXAMINATION NO
27 SOONER THAN TWELVE MONTHS AFTER INITIAL LICENSURE AND NO LATER
28 THAN TWENTY-FOUR MONTHS AFTER INITIAL LICENSURE. A TITLE ENTITY
29 EXAMINED UNDER THIS PARAGRAPH (c) SHALL NOT BE SUBJECT TO
30 FURTHER EXAMINATION FOR AT LEAST THREE YEARS UNLESS IT IS
31 IDENTIFIED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1).

32 (d) BEGINNING JANUARY 1, 2008:

1 (I) REQUIRE EACH TITLE ENTITY TO FILE AN ANNUAL REPORT WITH
2 THE DIVISION CONTAINING CURRENT INFORMATION AS REQUIRED BY THE
3 DIVISION, INCLUDING, WITHOUT LIMITATION:

4 (A) VERIFICATION OF THE ENTITY'S CURRENT BUSINESS ADDRESS;

5 (B) VERIFICATION OF THE ENTITY'S STANDING AS A BUSINESS
6 ENTITY, AS SHOWN BY RECORDS ON FILE WITH THE SECRETARY OF STATE;

7 (C) VERIFICATION THAT ALL OF THE ENTITY'S PRODUCERS ARE
8 APPROPRIATELY LICENSED; AND

9 (D) VERIFICATION OF THE ENTITY'S COMPLIANCE WITH ANNUAL
10 LICENSING REQUIREMENTS;

11 (II) MAKE THE ANNUAL REPORTS AND OTHER INFORMATION
12 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) PUBLICLY
13 ACCESSIBLE IN A MANNER THAT ALLOWS READY IDENTIFICATION OF THE
14 LICENSE STATUS OF, AND ASSOCIATION BETWEEN, INDIVIDUAL PRODUCERS,
15 TITLE AGENTS, AND TITLE INSURERS. IN DETERMINING THE FORM AND
16 METHODS FOR DISPLAY OF SUCH INFORMATION, THE DIVISION IS
17 ENCOURAGED TO USE SAMPLE FORMATS DEVELOPED BY OTHER STATES,
18 INCLUDING, WITHOUT LIMITATION, THOSE USED BY THE STATE OF UTAH AS
19 OF MARCH 30, 2007.

20 (2) WHEN CONDUCTING AN EXAMINATION OF A TITLE ENTITY
21 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DIVISION SHALL
22 APPLY A TYPE AND METHOD OF EXAMINATION THAT:

23 (a) BALANCES THE NEED FOR INFORMATION TO ASSESS THE TITLE
24 ENTITY'S COMPLIANCE AGAINST THE DANGER OF IMPOSING AN UNDUE
25 FINANCIAL BURDEN UPON THE TITLE ENTITY. A TITLE ENTITY SUBJECT TO
26 A PENDING EXAMINATION SHALL BE GIVEN THE OPPORTUNITY TO REQUEST
27 A CHANGE IN THE TYPE OF EXAMINATION TO BE APPLIED. THE DIVISION
28 SHALL DETERMINE ANY SUCH REQUEST BASED UPON EVIDENCE, ADDUCED
29 AT A PUBLIC HEARING, TENDING TO INDICATE THAT THE TITLE ENTITY
30 WOULD SUFFER IRREPARABLE FINANCIAL HARDSHIP UNLESS THE REQUEST
31 FOR A CHANGE WERE GRANTED.

32 (b) CONSERVES, TO THE EXTENT POSSIBLE, THE RESOURCES IN THE
33 TITLE INSURANCE ENFORCEMENT CASH FUND CREATED IN SUBSECTION (5)

1 OF THIS SECTION WITHOUT COMPROMISING THE EFFICACY OF THE
2 EXAMINATION.

3 (3) THE DIVISION SHALL COOPERATE WITH THE DEPARTMENT OF
4 LAW AND THE DIVISION OF REAL ESTATE IN INVESTIGATING AND
5 REFERRING FOR ENFORCEMENT ACTION BY THE ATTORNEY GENERAL,
6 WHERE APPROPRIATE, ANY SUSPECTED VIOLATIONS OF THIS ARTICLE OR OF
7 THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6,
8 C.R.S. IN ADDITION, THE COMMISSIONER SHALL HAVE THE POWER AND
9 DUTY TO ASSIST IN THE COLLECTION OF INFORMATION AND THE
10 INVESTIGATION AND PROSECUTION OF VIOLATIONS USING ALL AUTHORITY
11 GRANTED TO THE COMMISSIONER UNDER SECTION 10-1-108 AND PART 2 OF
12 THIS ARTICLE.

13 (4) (a) THE COSTS INCURRED BY THE DIVISION AND THE
14 DEPARTMENT OF LAW IN CONNECTION WITH THE IMPLEMENTATION OF THIS
15 SECTION, INCLUDING EXAMINATIONS AND ENFORCEMENT ACTIONS AND
16 THE CREATION OF THE REPORTS REQUIRED BY SECTION 10-11-128 SHALL
17 BE RECOVERED THROUGH THE ASSESSMENT OF A SURCHARGE UPON
18 PERSONS LICENSED UNDER THIS ARTICLE, CALCULATED AS A PRO RATA
19 SHARE OF THE TOTAL PREMIUMS DERIVED FROM THEIR TITLE INSURANCE
20 BUSINESS CONDUCTED IN COLORADO FOR THE YEAR IMMEDIATELY
21 PRECEDING THE ASSESSMENT. THE AMOUNT AND MANNER OF COLLECTION
22 OF SUCH SURCHARGE SHALL BE ESTABLISHED BY THE COMMISSIONER,
23 SUBJECT TO SECTION 24-75-402, C.R.S.; EXCEPT THAT THE TOTAL
24 AMOUNT COLLECTED FROM ALL TITLE ENTITIES UNDER THIS SUBSECTION
25 (4) SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS PER FISCAL
26 YEAR.

27 (b) (I) FOR THE PURPOSE OF COVERING STARTUP COSTS FOR THE
28 IMPLEMENTATION OF THIS SECTION AND TO FUND ENFORCEMENT
29 ACTIVITIES UNDERTAKEN BETWEEN JULY 1, 2007, AND MARCH 1, 2008,
30 THE COMMISSIONER SHALL ASSESS A ONE-TIME SURCHARGE UPON ALL
31 TITLE ENTITIES, CALCULATED AS A PRO RATA SHARE OF THE TOTAL
32 PREMIUMS DERIVED FROM THEIR TITLE INSURANCE BUSINESS CONDUCTED
33 IN COLORADO, THAT WERE SUBJECT TO SECTION 10-3-207 ON OR AFTER
34 MARCH 1, 2007. THE SURCHARGE SHALL BE PAYABLE ON OR BEFORE
35 SEPTEMBER 1, 2007, AND CALCULATED SO AS TO GENERATE TWO
36 HUNDRED FIFTY THOUSAND DOLLARS IN REVENUE.

37 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2008.



1 (5) NOTWITHSTANDING ANY PROVISION OF SECTION 10-1-108 (9)
2 TO THE CONTRARY, ALL FEES COLLECTED PURSUANT TO THIS SECTION
3 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT
4 THE SAME IN THE TITLE INSURANCE ENFORCEMENT CASH FUND, WHICH
5 FUND IS HEREBY ESTABLISHED IN THE STATE TREASURY. AT THE END OF
6 EACH FISCAL YEAR, ANY UNEXPENDED AND UNENCUMBERED MONEYS
7 REMAINING IN THE FUND, TOGETHER WITH ANY INTEREST EARNED ON THE
8 DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND, SHALL REMAIN IN THE
9 FUND AND SHALL NOT REVERT TO THE GENERAL FUND. MONEYS IN THE
10 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION TO THE DIVISION AND
11 TO THE DEPARTMENT OF LAW FOR THE PURPOSES SET FORTH IN THIS
12 SECTION AND IN SECTION 10-11-128.

13 **10-11-128. Analysis - biennial reports - repeal.** (1) THE
14 DIVISION SHALL CONDUCT AN ANALYSIS OF MARKET TRENDS, THE DATA
15 COLLECTED AS REQUIRED BY SECTION 10-11-127, REGULATORY
16 ENFORCEMENT ACTIONS, AND CONSUMER COMPLAINTS RELATED TO TITLE
17 INSURANCE IN COLORADO. THE ANALYSIS SHALL EVALUATE DATA
18 COLLECTED FROM JANUARY 1, 2008, THROUGH DECEMBER 31, 2008, AND
19 FOR EVERY TWO-YEAR PERIOD THEREAFTER, BEGINNING JANUARY 1, 2009,
20 INCLUDING DATA COLLECTED PURSUANT TO SECTION 10-11-127 AND, TO
21 THE EXTENT PERMISSIBLE BY LAW, INFORMATION ON ANY PENDING
22 INVESTIGATIONS OR REGULATORY ACTIONS. THE DIVISION SHALL REPORT
23 ITS FINDINGS BASED ON SUCH ANALYSIS, INCLUDING THE DIVISION'S
24 RECOMMENDATIONS, IF ANY, FOR LEGISLATION DEALING WITH THE
25 REGULATION OF TITLE ENTITIES, TO THE BUSINESS AFFAIRS AND LABOR
26 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE BUSINESS,
27 LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY
28 SUCCESSOR COMMITTEES, ON OR BEFORE MARCH 15, 2009, AND ON OR
29 BEFORE MARCH 15 OF EACH ODD-NUMBERED YEAR THEREAFTER.

30 (2) TO THE EXTENT FEASIBLE AND APPROPRIATE, THE DIVISION
31 SHALL INCORPORATE IN ITS ANALYSIS AND REPORT ANY INFORMATION
32 GATHERED BY THE REAL ESTATE COMMISSION THROUGH INVESTIGATIONS
33 PURSUANT TO SECTION 12-61-113.2, C.R.S., AND ANY INFORMATION
34 GATHERED BY THE DIVISION OR THE DEPARTMENT OF LAW THROUGH
35 EXAMINATIONS AND INVESTIGATIONS PURSUANT TO SECTION 10-11-127.

36 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

37 **SECTION 6.** Article 11 of title 10, Colorado Revised Statutes, is



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

2 PART 2
3 INDEPENDENT CLOSING/SETTLEMENT
4 SERVICE PROVIDERS

5 **10-11-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY
6 BE CITED AS THE "CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING
7 ACT".

8 **10-11-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "CLOSING AND SETTLEMENT SERVICES" MEANS SERVICES
11 PROVIDED FOR THE BENEFIT OF ALL NECESSARY PARTIES IN CONNECTION
12 WITH SELLING, LEASING, ENCUMBERING, MORTGAGING, OR CREATING A
13 SECURED INTEREST IN AND TO REAL PROPERTY AND THE RECEIPT AND
14 DISBURSEMENT OF MONEY IN CONNECTION WITH ANY SALE, LEASE,
15 ENCUMBRANCE, OR MORTGAGE OF, OR DEED OF TRUST TO, SUCH
16 PROPERTY.

17 (2) "CLOSING/SETTLEMENT SERVICE PROVIDER" MEANS AN ENTITY
18 THAT IS ENGAGED IN THE BUSINESS OF PROVIDING CLOSING AND
19 SETTLEMENT SERVICES.

20 **10-11-203. License required.** (1) (a) ON OR AFTER JULY 1, 2007,
21 UNLESS DULY LICENSED UNDER THIS PART 2, A PERSON SHALL NOT ACT OR
22 OFFER TO ACT AS A CLOSING/SETTLEMENT SERVICE PROVIDER.

23 (b) A CLOSING/SETTLEMENT SERVICE PROVIDER SHALL APPLY FOR
24 LICENSING IN SUBSTANTIALLY THE MANNER PROVIDED FOR THE LICENSING
25 OF INSURANCE PRODUCERS UNDER PART 4 OF ARTICLE 2 OF THIS TITLE.

26 **10-11-204. Exemptions.** (1) THIS PART 2 SHALL NOT APPLY TO:

27 (a) (I) AN INDIVIDUAL OR ENTITY THAT IS LICENSED AS A REAL
28 ESTATE BROKER, MORTGAGE BROKER, ATTORNEY, BANK, TITLE ENTITY, OR
29 OTHER PRACTITIONER OF A REGULATED PROFESSION OR OCCUPATION THAT
30 PROVIDES CLOSING AND SETTLEMENT SERVICES AS PART OF ITS PRACTICE
31 OF THAT REGULATED PROFESSION OR OCCUPATION.

1 (II) AS USED IN THIS PARAGRAPH (a), "BANK" MEANS ANY BANK,
2 SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, BUILDING AND LOAN
3 ASSOCIATION, OR CREDIT UNION AND ANY BANK OR SAVINGS ASSOCIATION
4 HOLDING COMPANY, BANK HOLDING COMPANY ORGANIZED UNDER THE
5 LAWS OF ANY STATE, THE DISTRICT OF COLUMBIA, OR ANY TERRITORY OR
6 PROTECTORATE OF THE UNITED STATES OR THE UNITED STATES, SUBJECT
7 TO REGULATION AND SUPERVISORY BY A STATE OR FEDERAL AGENCY, AND
8 ANY OPERATING SUBSIDIARY, AFFILIATE, EMPLOYEE, OR EXCLUSIVE AGENT
9 THEREOF.

10 (b) AN AFFILIATE OR ANY OFFICER, EMPLOYEE, OR INDEPENDENT
11 CONTRACTOR OF ANY ENTITY LISTED IN PARAGRAPH (a) OF THIS
12 SUBSECTION (1) WHILE ACTING WITHIN THE SCOPE OF HIS OR HER
13 EMPLOYMENT;

14 (c) AN EMPLOYEE OF A REAL ESTATE DEVELOPMENT ENTITY
15 REGISTERED AND IN GOOD STANDING WITH THE SECRETARY OF STATE;

16 (d) A COMMISSIONED COLORADO NOTARY PUBLIC WHOSE ACTIONS
17 ARE LIMITED TO PRESENTING DOCUMENTS FOR EXECUTION OR WITNESSING
18 EXECUTION OF SUCH DOCUMENTS; EXCEPT THAT THIS EXEMPTION SHALL
19 NOT APPLY TO A NOTARY PUBLIC WHO DISBURSES SETTLEMENT FUNDS
20 UNLESS OTHERWISE EXEMPTED IN ACCORDANCE WITH PARAGRAPH (a) OF
21 THIS SUBSECTION (1);

22 (e) AN INDIVIDUAL OR ENTITY THAT IS PROVIDING CLOSING AND
23 SETTLEMENT SERVICES IN CONNECTION WITH A TRANSACTION INVOLVING
24 OIL, GAS, OR OTHER MINERALS AND ANY ASSOCIATED EASEMENTS, RIGHTS
25 OF WAY, OR SURFACE USES.

26 (2) THE EXEMPTIONS IN SUBSECTION (1) OF THIS SECTION SHALL
27 NOT APPLY TO PERSONS ACTING BEYOND THE SCOPE OF SUCH EXEMPTIONS.

28 **10-11-205. Enforcement - cease and desist orders - fines.**

29 (1) (a) IF THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE THAT
30 A PERSON IS VIOLATING OR HAS VIOLATED THIS PART 2, THE
31 COMMISSIONER MAY ENTER AN ORDER REQUIRING SUCH PERSON TO CEASE
32 AND DESIST SUCH VIOLATIONS.

33 (b) THE COMMISSIONER, UPON HIS OR HER OWN MOTION OR UPON
34 THE COMPLAINT IN WRITING OF ANY PERSON, MAY INVESTIGATE THE



1 ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO ASSUMES TO ACT IN
2 SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER PENALTY
3 THAT MAY BE IMPOSED PURSUANT TO THIS PART 2, A PERSON VIOLATING
4 ANY PROVISION OF THIS PART 2 OR ANY RULES PROMULGATED PURSUANT
5 TO THIS ARTICLE MAY BE FINED UPON A FINDING OF MISCONDUCT BY THE
6 COMMISSIONER AS FOLLOWS:

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

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

12 (c) ALL FINES COLLECTED PURSUANT TO THIS PART 2 SHALL BE
13 TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
14 TO THE CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING CASH FUND
15 CREATED IN SECTION 10-11-207.

16 (2) THE COMMISSIONER SHALL KEEP RECORDS OF THE PERSONS
17 LICENSED AS CLOSING/SETTLEMENT SERVICE PROVIDERS AND OF
18 DISCIPLINARY PROCEEDINGS. THE RECORDS KEPT BY THE COMMISSIONER
19 SHALL BE OPEN TO PUBLIC INSPECTION IN A REASONABLE TIME AND
20 MANNER DETERMINED BY THE COMMISSIONER.

21 (3) (a) THE COMMISSIONER SHALL MAINTAIN A SYSTEM, WHICH
22 MAY INCLUDE, WITHOUT LIMITATION, A HOTLINE OR WEB SITE, THAT GIVES
23 CONSUMERS A REASONABLY EASY METHOD FOR MAKING COMPLAINTS
24 ABOUT A CLOSING/SETTLEMENT SERVICE PROVIDER.

25 (b) THE COMMISSIONER MAY REVIEW THE COMPLAINTS ANNUALLY
26 AND PREPARE A REPORT TO BE ISSUED TO THE COMMITTEE OF THE
27 GENERAL ASSEMBLY THAT HAS OVERSIGHT OF CLOSING/SETTLEMENT
28 SERVICE PROVIDERS. SUCH REPORT SHALL CONTAIN THE TRENDS IN
29 COMPLAINTS AND INVESTIGATIONS UNDER THIS PART 2.

30 **10-11-206. Immunity.** A PERSON PARTICIPATING IN GOOD FAITH
31 IN THE FILING OF A COMPLAINT OR REPORT OR PARTICIPATING IN AN
32 INVESTIGATION OR HEARING BEFORE THE COMMISSIONER OR AN
33 ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS PART 2 SHALL BE IMMUNE
34 FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT



1 BY REASON OF SUCH ACTION.

2 **10-11-207. Fees - closing/settlement service provider licensing**
3 **cash fund - creation.** (1) THE COMMISSIONER MAY SET THE FEE FOR
4 LICENSES UNDER THIS PART 2. THE FEE SHALL BE SET IN AN AMOUNT
5 SUFFICIENT TO OFFSET THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING
6 THIS PART 2. THE MONEYS COLLECTED PURSUANT TO THIS SECTION SHALL
7 BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE
8 SAME TO THE CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING CASH
9 FUND.

10 (2) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
11 CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING CASH FUND.
12 MONEYS IN THE FUND, INCLUDING INTEREST DERIVED FROM THE
13 INVESTMENT OF REVENUES IN THE FUND, SHALL BE SPENT ONLY TO
14 IMPLEMENT THIS PART 2 AND SHALL NOT REVERT TO THE GENERAL FUND
15 AT THE END OF THE FISCAL YEAR. THE FUND SHALL BE SUBJECT TO
16 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

17 **10-11-208. Attorney general - district attorney - jurisdiction.**
18 THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH
19 THE DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE
20 ALLEGATIONS OF CRIMINAL VIOLATIONS OF THIS PART 2.

21 **10-11-209. Violations - injunctions.** (1) (a) ANY NATURAL
22 PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
23 ASSOCIATION OR ANY CORPORATION VIOLATING THIS PART 2 BY ACTING AS
24 A CLOSING/SETTLEMENT SERVICE PROVIDER IN THIS STATE WITHOUT
25 HAVING BEEN LICENSED OR BY ACTING AS A CLOSING/SETTLEMENT
26 SERVICE PROVIDER AFTER THAT PERSON'S OR ENTITY'S LICENSE HAS BEEN
27 REVOKED OR DURING ANY PERIOD FOR WHICH SAID LICENSE MAY HAVE
28 BEEN SUSPENDED IS GUILTY OF A CLASS 1 MISDEMEANOR AND SHALL BE
29 PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.; EXCEPT THAT, IF
30 THE VIOLATOR IS NOT A NATURAL PERSON, THE VIOLATOR SHALL BE
31 PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS.

32 (b) EACH CLOSING AND SETTLEMENT SERVICE PROVIDED BY AN
33 UNLICENSED PERSON SHALL BE A SEPARATE VIOLATION OF THIS
34 SUBSECTION (1).

35 (2) THE COMMISSIONER MAY FORWARD INFORMATION



1 CONCERNING POSSIBLE VIOLATIONS OF THE LAW COMMITTED BY OR
2 COMPLAINTS FILED AGAINST A CLOSING/SETTLEMENT SERVICE PROVIDER
3 TO THE ATTORNEY GENERAL, A DISTRICT ATTORNEY, OR A STATE OR
4 FEDERAL LAW ENFORCEMENT AGENCY.

5 (3) THE COMMISSIONER MAY REQUEST THAT AN ACTION BE
6 BROUGHT IN THE NAME OF THE PEOPLE OF THE STATE OF COLORADO BY
7 THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY OF THE DISTRICT IN
8 WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED TO ENJOIN A
9 PERSON FROM ENGAGING IN OR CONTINUING THE VIOLATION OR FROM
10 DOING ANY ACT THAT FURTHERS THE VIOLATION. IN SUCH AN ACTION, AN
11 ORDER OR JUDGMENT MAY BE ENTERED AWARDING SUCH PRELIMINARY OR
12 FINAL INJUNCTION AS IS DEEMED PROPER BY THE COURT. THE NOTICE,
13 HEARING, OR DURATION OF AN INJUNCTION OR RESTRAINING ORDER SHALL
14 BE MADE IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL
15 PROCEDURE.

16 (4) A VIOLATION OF THIS PART 2 SHALL NOT AFFECT THE VALIDITY
17 OR ENFORCEABILITY OF ANY REAL ESTATE CONTRACT, MORTGAGE, OR
18 DEED.

19 (5) AN UNLAWFUL ACT OR VIOLATION OF THIS PART 2 ON THE PART
20 OF AN EMPLOYEE, OFFICER, OR MEMBER OF A LICENSED
21 CLOSING/SETTLEMENT SERVICE PROVIDER SHALL NOT BE CAUSE FOR
22 DISCIPLINARY ACTION AGAINST A CLOSING/SETTLEMENT SERVICE
23 PROVIDER UNLESS IT APPEARS THAT THE CLOSING/SETTLEMENT SERVICE
24 PROVIDER KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR
25 VIOLATION OR HAD BEEN NEGLIGENT IN THE SUPERVISION OF THE
26 EMPLOYEE.

27 **10-11-210. Repeal of part.** (1) THE PROVISIONS OF SECTION
28 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR
29 REGULATORY BODIES OF THE STATE UNLESS EXTENDED, APPLY TO THE
30 LICENSING OF CLOSING/SETTLEMENT SERVICE PROVIDERS UNDER THIS
31 PART 2.

32 (2) THE SUNSET REVIEW PERFORMED PURSUANT TO SECTION
33 24-34-104, C.R.S., SHALL INCLUDE AN ANALYSIS OF THE NUMBER AND
34 TYPES OF COMPLAINTS AND WHETHER THE LICENSING OF
35 CLOSING/SETTLEMENT SERVICE PROVIDERS CORRELATES WITH THE PUBLIC
36 BEING PROTECTED FROM FRAUDULENT ACTIVITIES.



1 (3) THIS PART 2 IS REPEALED, EFFECTIVE JULY 1, 2017.

2 SECTION 7. 10-11-108 (1), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **10-11-108. Prohibitions.** (1) A title ~~insurance company or title~~
5 ~~insurance agent~~ ENTITY shall not:

6 (e) EMPLOY, OR USE THE SERVICES OF, AN INDEPENDENT
7 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS
8 REQUIRED BY PART 2 OF THIS ARTICLE.

9 SECTION 8. Part 3 of article 105 of title 11, Colorado Revised
10 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
11 read:

12 **11-105-306. Mortgage loans - closing and settlement services**
13 **- use of unlicensed closing/settlement service provider prohibited.** IN
14 CONNECTION WITH THE CLOSING OF A REAL ESTATE TRANSACTION, A
15 STATE BANK SHALL NOT EMPLOY, OR USE THE SERVICES OF, A
16 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS
17 REQUIRED BY PART 2 OF ARTICLE 11 OF TITLE 10, C.R.S.

18 SECTION 9. 12-61-113 (1), Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

20 **12-61-113. Investigation - revocation - actions against licensee**
21 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
22 complaint in writing of any person, shall, investigate the activities of any
23 licensee or any person who assumes to act in such capacity within the
24 state, and the commission, after the holding of a hearing pursuant to
25 section 12-61-114, has the power to impose an administrative fine not to
26 exceed two thousand five hundred dollars for each separate offense and
27 to censure a licensee, to place the licensee on probation and to set the
28 terms of probation, or to temporarily suspend or permanently revoke a
29 license when the licensee has performed, is performing, or is attempting
30 to perform any of the following acts and is guilty of:

31 (y) EMPLOYING, OR USING THE SERVICES OF, A
32 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS
33 REQUIRED BY PART 2 OF ARTICLE 11 OF TITLE 10, C.R.S.

1 **SECTION 10.** 12-61-905.5 (1), Colorado Revised Statutes, as
2 enacted by Senate Bill 07-203, enacted at the first regular session of the
3 sixty-sixth general assembly, is amended BY THE ADDITION OF A
4 NEW PARAGRAPH to read:

5 **12-61-905.5. Disciplinary actions - grounds - procedures -**
6 **rules.** (1) The commissioner, upon his or her own motion, may, and,
7 upon the complaint in writing of any person, shall, investigate the
8 activities of any mortgage broker, and the commissioner has the power to
9 impose an administrative fine in accordance with section 12-61-905 and
10 to censure a licensee, to place the licensee on probation and to set the
11 terms of probation, or to suspend or revoke a license when the
12 commissioner finds that the licensee has performed, is performing, or is
13 attempting to perform any of the following acts:

14 (y) EMPLOYING, OR USING THE SERVICES OF, A
15 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS
16 REQUIRED BY PART 2 OF ARTICLE 11 OF TITLE 10, C.R.S.

17 **SECTION 11.** 24-34-104, Colorado Revised Statutes, is amended
18 BY THE ADDITION OF A NEW SUBSECTION to read:

19 **24-34-104. General assembly review of regulatory agencies**
20 **and functions for termination, continuation, or reestablishment.**
21 (49) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE
22 ON JULY 1, 2018: THE LICENSING OF CLOSING/SETTLEMENT SERVICE
23 PROVIDERS BY THE DIVISION OF INSURANCE IN ACCORDANCE WITH PART 2
24 OF ARTICLE 11 OF TITLE 10, C.R.S.

25 **SECTION 12.** 38-40-105 (1), Colorado Revised Statutes, is
26 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

27 **38-40-105. Prohibited acts by originators of certain mortgage**
28 **loans.** (1) The following acts by any mortgage broker or mortgage
29 originator with respect to any loan that is secured by a first or subordinate
30 mortgage or deed or trust lien against a dwelling are prohibited:

31 (e) TO EMPLOY, OR USE THE SERVICES OF, A CLOSING/SETTLEMENT
32 SERVICE PROVIDER THAT IS NOT LICENSED AS REQUIRED BY PART 2 OF
33 ARTICLE 11 OF TITLE 10, C.R.S.

1 **SECTION 13. Effective date - applicability.** This act shall take
2 effect July 1, 2007, and shall apply to closing and settlement services
3 provided on or after said date; except that Section 10 of this act shall take
4 effect only if Senate Bill 07-203 is enacted and becomes law.

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

8 Page 1, line 104, strike "**REGISTRATION**" and substitute "**LICENSING**".

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