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HOUSE BILL 18-1174

BY REPRESENTATIVE(S) Arndt and Gray, Van Winkle, Winter, Becker K., Kraft-Tharp, Lontine, Rosenthal;
also SENATOR(S) Priola, Crowder.

CONCERNING THE CONTINUATION UNDER THE SUNSET LAW OF THE BOARD OF MORTGAGE LOAN ORIGINATORS, AND, IN CONNECTION THEREWITH, ADOPTING THE LEGISLATIVE RECOMMENDATIONS OF THE DEPARTMENT OF REGULATORY AGENCIES AS CONTAINED IN THE DEPARTMENT'S SUNSET REPORT.

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

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (15)(a)(V); and **add** (30) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (15) (a) The following agencies, functions, or both, will repeal on September 1, 2018:

(V) ~~The licensing of mortgage loan originators and the registration of mortgage companies in accordance with part 9 of article 61 of title 12, C.R.S.;~~

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(30) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2029:

(II) THE LICENSING OF MORTGAGE LOAN ORIGINATORS AND THE REGISTRATION OF MORTGAGE COMPANIES IN ACCORDANCE WITH PART 9 OF ARTICLE 61 OF TITLE 12.

(b) THIS SUBSECTION (30) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2031.

SECTION 2. In Colorado Revised Statutes, 12-61-919, **amend** (1) as follows:

12-61-919. Repeal of part. (1) This part 9 is repealed, effective September 1, 2018 2029.

SECTION 3. In Colorado Revised Statutes, 12-61-903, **amend** (3)(a) and (7) as follows:

12-61-903. License required - rules. (3) (a) In addition to the requirements imposed by subsection (2) of this section, on or after August 5, 2009, each individual applicant for initial licensing as a mortgage loan originator must have satisfactorily completed: ~~a mortgage lending fundamentals course approved by the board and consisting of at least nine hours of instruction in subjects related to mortgage lending. In addition, the applicant must have satisfactorily completed~~

(I) AT LEAST TWENTY HOURS OF EDUCATION AS ADMINISTERED AND APPROVED BY THE NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY OR ITS SUCCESSOR; AND

(II) A written examination approved by the board. For the portion of the examination that represents the state-specific test required in the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008", 12 U.S.C. sec. 5101 et seq., the board may adopt the uniform state test administered through the Nationwide ~~mortgage~~ MULTISTATE Licensing System AND REGISTRY or its successor.

(7) The board shall issue or deny a license within sixty days after:

(a) The applicant has submitted the requisite information to the board and the Nationwide ~~mortgage~~ MULTISTATE Licensing System and Registry, including ~~but not limited to~~, the completed application AND ANY NECESSARY SUPPLEMENTARY INFORMATION, the application fee, and proof that the applicant has posted a surety bond and obtained errors and omissions insurance; and

(b) The board receives the completed criminal history record check and all other relevant information or documents necessary to reasonably ascertain facts underlying the applicant's criminal history.

SECTION 4. In Colorado Revised Statutes, 12-61-905, **amend** (1.5) as follows:

12-61-905. Powers and duties of the board. (1.5) The board shall deny an application for a license, refuse to renew, or revoke the license of an applicant or licensee who has:

(a) (I) Had a mortgage loan originator license or similar license revoked in any jurisdiction.

(II) If a revocation is subsequently formally nullified, the license is not revoked for purposes of this ~~paragraph (a)~~ SUBSECTION (1.5)(a).

(b) (I) At any time ~~preceding the date of application for a license~~, been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(II) If the individual obtains a pardon of the conviction, the board shall not deem the individual convicted for purposes of this ~~paragraph (b)~~ SUBSECTION (1.5)(b).

(c) Been convicted of, or pled guilty or nolo contendere to, a felony within the IMMEDIATELY PRECEDING seven years. ~~immediately preceding the date of application for a license.~~

SECTION 5. In Colorado Revised Statutes, 12-61-902.5, **amend** (1) as follows:

12-61-902.5. Board of mortgage loan originators - creation - compensation - enforcement of part after board creation - immunity.

(1) (a) There is hereby created in the division a board of mortgage loan originators, consisting of five members appointed by the governor with the consent of the senate.

(b) Of the members OF THE BOARD:

(I) Three ~~shall~~ MUST be licensed mortgage loan originators. ~~and~~ THE GENERAL ASSEMBLY ENCOURAGES THE GOVERNOR TO APPOINT TO AT LEAST ONE OF THESE THREE POSITIONS A LICENSED MORTGAGE LOAN ORIGINATOR WHO IS AN EMPLOYEE OR EXCLUSIVE AGENT OF, OR WORKS AS AN INDEPENDENT CONTRACTOR FOR, A COLORADO-BASED MORTGAGE COMPANY.

(II) Two ~~shall~~ MUST be members of the public at large not engaged in mortgage loan origination or mortgage lending.

(c) Of the members of the board appointed for terms beginning on and after August 11, 2010, two of the members appointed as mortgage loan originators and one of the members appointed as a member of the public at large shall be appointed for terms of two years, and one of the members appointed as a mortgage loan originator and one of the members appointed as a member of the public at large shall serve for terms of four years. Thereafter, members of the board shall hold office for a term of four years.

(d) In the event of a vacancy by death, resignation, removal, or otherwise, the governor shall appoint a member to fill the unexpired term. The governor ~~shall have~~ HAS the authority to remove any member for misconduct, neglect of duty, or incompetence.

SECTION 6. Act subject to petition - effective date - applicability.

(1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the

official declaration of the vote thereon by the governor.

(2) This act applies to applications received on or after the applicable effective date of this act.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

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PRESIDENT OF
THE SENATE

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CHIEF CLERK OF THE HOUSE
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Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO