

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0508.02 Thomas Morris x4218

HOUSE BILL 21-1282

HOUSE SPONSORSHIP

Weissman,

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs & Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL CONSUMER PROTECTIONS RESULTING FROM**
102 **THE REGULATION OF MORTGAGE SERVICERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill subjects mortgage servicers to regulation by an assistant attorney general, including the requirements of notification, record keeping, reporting, examinations, inspections, and enforcement. A violation of the requirements is an unfair or deceptive trade practice.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 21 to title
3 5 as follows:

4 **ARTICLE 21**

5 **Colorado Nonbank Mortgage Servicers Act**

6 **5-21-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 21 IS THE
7 "COLORADO NONBANK MORTGAGE SERVICERS ACT".

8 **5-21-102. Scope of article.** UNLESS OTHERWISE PROVIDED IN THIS
9 ARTICLE 21, THIS ARTICLE 21 APPLIES TO ANY PERSON ENGAGED IN
10 SERVICING A RESIDENTIAL MORTGAGE LOAN SECURED BY A DWELLING OR
11 RESIDENTIAL REAL PROPERTY LOCATED IN THIS STATE.

12 **5-21-103. Definitions.** AS USED IN THIS ARTICLE 21, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE
15 "UNIFORM CONSUMER CREDIT CODE", ARTICLES 1 TO 9 OF THIS TITLE 5,
16 DESIGNATED PURSUANT TO SECTION 5-6-103.

17 (2) "BORROWER" MEANS AN INDIVIDUAL OBLIGATED TO REPAY A
18 RESIDENTIAL MORTGAGE LOAN.

19 (3) "LOANS HELD FOR SALE" MEANS LOANS ORIGINATED AND HELD
20 FOR SALE FOR UP TO THREE HUNDRED SIXTY-FOUR DAYS AFTER EACH
21 LOAN'S ORIGINATION.

22 (4) "MORTGAGE SERVICER" MEANS A PERSON, WHEREVER
23 LOCATED, THAT IS RESPONSIBLE FOR SERVICING A COLORADO RESIDENTIAL
24 MORTGAGE LOAN. A MORTGAGE SERVICER INCLUDES A PERSON THAT
25 MAKES PAYMENTS TO A BORROWER UNDER A REVERSE MORTGAGE AS
26 DEFINED IN SECTION 11-38-102 (4). A MORTGAGE SERVICER DOES NOT
27 INCLUDE:

1 (a) A SUPERVISED FINANCIAL ORGANIZATION AS DEFINED IN
2 SECTION 5-1-301 (45);

3 (b) A MORTGAGE LOAN ORIGINATOR REGULATED BY THE DIVISION
4 OF REAL ESTATE OR AS DEFINED IN SECTION 12-10-702 (14)(a) OR A
5 MORTGAGE COMPANY REGULATED BY THE DIVISION OF REAL ESTATE OR
6 AS DEFINED IN SECTION 12-10-702 (12); EXCEPT THAT A MORTGAGE LOAN
7 ORIGINATOR OR MORTGAGE COMPANY THAT ALSO SERVICES A
8 RESIDENTIAL MORTGAGE LOAN IS A MORTGAGE SERVICER;

9 (c) A FEDERAL AGENCY OR DEPARTMENT;

10 (d) A COLLECTION AGENCY AS DEFINED IN SECTION 5-16-103 (3)
11 THAT IS LICENSED PURSUANT TO SECTION 5-16-120 OR IS EXEMPT FROM
12 LICENSURE UNDER SECTION 5-16-103 (3)(e) AND WHOSE MORTGAGE DEBT
13 COLLECTION BUSINESS INVOLVES COLLECTION OF RESIDENTIAL MORTGAGE
14 LOANS OBTAINED BY THE COLLECTION AGENCY AFTER DEFAULT; EXCEPT
15 THAT A COLLECTION AGENCY THAT ALSO SERVICES RESIDENTIAL
16 MORTGAGE LOANS ASSIGNED TO THE COLLECTION AGENCY BEFORE
17 DEFAULT IS A MORTGAGE SERVICER;

18 (e) AN AGENCY, INSTRUMENTALITY, OR POLITICAL SUBDIVISION OF
19 THIS STATE;

20 (f) A SUPERVISED LENDER AS DEFINED IN SECTION 5-1-301 (46);
21 EXCEPT THAT A SUPERVISED LENDER, OTHER THAN A SUPERVISED
22 FINANCIAL ORGANIZATION AS DEFINED IN SECTION 5-1-301 (45), THAT
23 ALSO SERVICES RESIDENTIAL MORTGAGE LOANS IS A MORTGAGE SERVICER;

24 (g) A SMALL SERVICER THAT SERVICES FEWER THAN FIVE
25 THOUSAND RESIDENTIAL MORTGAGE LOANS IN ANY CALENDAR YEAR,
26 EXCLUSIVE OF LOANS HELD FOR SALE, AS DETERMINED BY THE
27 ADMINISTRATOR, WHO SHALL APPLY THE CRITERIA IN 12 CFR 1026.41

1 (e)(4)(iii) OR ANY SUCCESSOR REGULATION;

2 (h) A PERSON THAT THE ADMINISTRATOR DESIGNATES BY RULE OR
3 ORDER AS EXEMPT, INCLUDING A NONPROFIT ORGANIZATION THAT
4 PROMOTES AFFORDABLE HOUSING OR FINANCING;

5 (i) AN ORIGINATOR OR SERVICER THAT UTILIZES A SUBSERVICER TO
6 CARRY OUT THE ADMINISTRATIVE FUNCTIONS OF SERVICING A MORTGAGE
7 UNLESS THE SUBSERVICER IS ACTING AT THE DIRECTION OF THE
8 ORIGINATOR OR SERVICER; OR

9 (j) A PERSON THAT SERVICES LOANS HELD FOR SALE.

10 (5) "NOTIFIER" MEANS A PERSON REQUIRED TO NOTIFY THE
11 ADMINISTRATOR OF THE PERSON'S ACTIVITIES AS A MORTGAGE SERVICER
12 PURSUANT TO THIS ARTICLE 21.

13 (6) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
14 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
15 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

16 (7) "RESIDENTIAL MORTGAGE LOAN" MEANS A LOAN THAT IS
17 PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE AND THAT IS
18 SECURED BY A MORTGAGE, DEED OF TRUST, OR OTHER EQUIVALENT,
19 CONSENSUAL SECURITY INTEREST ON A DWELLING OR RESIDENTIAL REAL
20 PROPERTY UPON WHICH IS CONSTRUCTED OR INTENDED TO BE
21 CONSTRUCTED A DWELLING AS DEFINED BY SECTION 5-1-301 (18).

22 (8) "SERVICING" MEANS RECEIVING ANY SCHEDULED PERIODIC
23 PAYMENTS FROM A BORROWER PURSUANT TO THE TERMS OF A
24 RESIDENTIAL MORTGAGE LOAN, INCLUDING AMOUNTS FOR ESCROW
25 ACCOUNTS, AND MAKING THE PAYMENTS TO THE OWNER OF THE LOAN OR
26 OTHER THIRD PARTIES OF PRINCIPAL AND INTEREST AND SUCH OTHER
27 PAYMENTS WITH RESPECT TO THE AMOUNTS RECEIVED FROM THE

1 BORROWER AS MAY BE REQUIRED PURSUANT TO THE TERMS OF THE
2 RESIDENTIAL MORTGAGE SERVICING LOAN DOCUMENTS OR SERVICING
3 CONTRACT. IN THE CASE OF A REVERSE MORTGAGE, SERVICING INCLUDES
4 MAKING PAYMENTS TO THE BORROWER.

5 **5-21-104. Notification required.** ON AND AFTER JANUARY 31,
6 2022, A PERSON SHALL NOT ACT AS A MORTGAGE SERVICER, DIRECTLY OR
7 INDIRECTLY, WITHOUT NOTIFYING THE ADMINISTRATOR PURSUANT TO
8 SECTION 5-21-105.

9 **5-21-105. Notification by mortgage servicers - rules.**

10 (1) **Notification.** (a) A PERSON ACTING AS A MORTGAGE SERVICER MUST
11 NOTIFY THE ADMINISTRATOR AND PAY THE FEE PRESCRIBED IN SECTION
12 5-21-106 WITHIN THIRTY DAYS AFTER COMMENCING SERVICING IN THE
13 STATE, AND, THEREAFTER, ON OR BEFORE JANUARY 31 OF EACH YEAR. THE
14 NOTIFICATION MUST STATE THE NOTIFIER'S LEGAL NAME AND ALL TRADE
15 NAMES USED, THE ADDRESS OF THE NOTIFIER'S PRINCIPAL OFFICE, WHICH
16 MAY BE OUTSIDE THIS STATE, AND SUCH OTHER INFORMATION AS THE
17 ADMINISTRATOR MAY REQUIRE.

18 (b) WITH EVERY RENEWAL NOTIFICATION OR AT A DATE
19 PRESCRIBED BY RULE BY THE ADMINISTRATOR, EACH NOTIFIER SHALL
20 SUBMIT AN ANNUAL REPORT RELATING TO MORTGAGE SERVICING BY THE
21 NOTIFIER IN THE FORM PRESCRIBED BY THE ADMINISTRATOR.
22 INFORMATION CONTAINED IN ANNUAL REPORTS IS CONFIDENTIAL, IS NOT
23 SUBJECT TO DISCLOSURE PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24,
24 AND MAY BE PUBLISHED ONLY IN COMPOSITE FORM.

25 (2) **Records retention - records request.** (a) A MORTGAGE
26 SERVICER SHALL MAINTAIN ADEQUATE RECORDS FOR NOT LESS THAN FOUR
27 YEARS FOLLOWING THE FINAL PAYMENT ON THE RESIDENTIAL MORTGAGE

1 LOAN, TRANSFER OF THE MORTGAGE SERVICING RIGHTS, OR THE
2 ASSIGNMENT OF THE LOAN, WHICHEVER OCCURS FIRST. UPON REQUEST BY
3 THE ADMINISTRATOR, A MORTGAGE SERVICER SHALL MAKE THE RECORDS
4 AVAILABLE OR SHALL SEND THE RECORDS TO THE ADMINISTRATOR BY
5 REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY
6 EXPRESS DELIVERY CARRIER THAT PROVIDES A DATED DELIVERY RECEIPT,
7 NOT LATER THAN THIRTY BUSINESS DAYS AFTER REQUESTED BY THE
8 ADMINISTRATOR OR OTHER METHOD OF DELIVERY AS AGREED TO IN
9 WRITING BY THE ADMINISTRATOR, INCLUDING SECURE ELECTRONIC
10 TRANSMISSION. UPON A NOTIFIER'S REQUEST, THE ADMINISTRATOR MAY
11 GRANT THE NOTIFIER ADDITIONAL TIME TO MAKE THE RECORDS
12 AVAILABLE OR TO SEND THE RECORDS TO THE ADMINISTRATOR.

13 (b) EVERY MORTGAGE SERVICER SHALL MAINTAIN RECORDS IN
14 CONFORMITY WITH THIS ARTICLE 21, RULES ADOPTED PURSUANT TO THIS
15 ARTICLE 21, AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND
16 PRACTICES IN A MANNER THAT WILL ENABLE THE ADMINISTRATOR TO
17 DETERMINE WHETHER THE SERVICER IS COMPLYING WITH THIS ARTICLE 21.
18 A MORTGAGE SERVICER'S RECORD-KEEPING SYSTEM IS SUFFICIENT IF THE
19 SERVICER MAKES THE REQUIRED INFORMATION REASONABLY AVAILABLE.
20 THE RECORDS NEED NOT BE KEPT IN THE PLACE OF BUSINESS WHERE
21 MORTGAGE LOANS ARE SERVICED IF THE ADMINISTRATOR IS GIVEN FREE
22 ACCESS TO THE RECORDS WHEREVER LOCATED.

23 **5-21-106. Fees.** (1) A NOTIFIER SHALL PAY THE FOLLOWING
24 NONREFUNDABLE FEES ESTABLISHED BY THE ADMINISTRATOR PURSUANT
25 TO SUBSECTION (3) OF THIS SECTION:

- 26 (a) AN INITIAL NOTIFICATION FEE; AND
- 27 (b) AN ANNUAL NOTIFICATION FEE.

1 (2) THE ADMINISTRATOR SHALL TRANSMIT THE FEES TO THE STATE
2 TREASURER, WHO SHALL CREDIT THEM TO THE UNIFORM CONSUMER
3 CREDIT CODE CASH FUND CREATED IN SECTION 5-6-204 (1).

4 (3) THE ADMINISTRATOR SHALL SET THE FEES REQUIRED BY
5 SUBSECTION (1) OF THIS SECTION IN AN AMOUNT ESTIMATED TO COVER
6 THE ADMINISTRATOR'S COSTS IN IMPLEMENTING THIS ARTICLE 21 AND MAY
7 PERIODICALLY REDUCE OR INCREASE THE AMOUNT OF ONE OR MORE OF
8 THE FEES IF NECESSARY PURSUANT TO SECTION 24-75-402 (3) AND (4) TO
9 REDUCE THE UNCOMMITTED RESERVES OF THE UNIFORM CONSUMER
10 CREDIT CODE CASH FUND.

11 **5-21-107. Federal laws.** (1) A MORTGAGE SERVICER SHALL
12 COMPLY WITH ALL APPLICABLE FEDERAL LAWS AND REGULATIONS
13 RELATING TO RESIDENTIAL MORTGAGE LOAN SERVICING, INCLUDING:

14 (a) THE FEDERAL "REAL ESTATE SETTLEMENT PROCEDURES ACT
15 OF 1974", 12 U.S.C. SEC. 2601 ET SEQ., AS AMENDED; AND

16 (b) THE "TRUTH IN LENDING ACT", 15 U.S.C. SEC. 1601 ET SEQ.,
17 AS AMENDED.

18 (2) IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY LAW, A
19 VIOLATION OF ANY FEDERAL LAW OR REGULATION RELATING TO
20 RESIDENTIAL MORTGAGE LOAN SERVICING SHALL BE DEEMED A VIOLATION
21 OF THIS ARTICLE 21.

22 (3) ALL FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS
23 ARTICLE 21 SHALL BE PRESUMED TO BE MET IF A MORTGAGE SERVICER IS
24 CURRENTLY APPROVED TO SERVICE LOANS BY THE FEDERAL NATIONAL
25 MORTGAGE ASSOCIATION, FEDERAL HOME LOAN MORTGAGE
26 CORPORATION, OR GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OR
27 IF IT MEETS PRUDENTIAL STANDARDS ESTABLISHED BY THE CONFERENCE

1 OF STATE BANK SUPERVISORS.

2 **5-21-108. Powers and duties of the administrator - rules.**

3 (1) THE ADMINISTRATOR MAY CONDUCT INVESTIGATIONS AND
4 EXAMINATIONS AS FOLLOWS:

5 (a) FOR PURPOSES OF GENERAL OR SPECIFIC INQUIRY OR
6 INVESTIGATION TO DETERMINE COMPLIANCE WITH THIS ARTICLE 21, THE
7 ADMINISTRATOR MAY ACCESS, RECEIVE, AND USE ANY RECORDS OR
8 INFORMATION BELONGING TO A NOTIFIER, APPLICANT, OR PERSON UNDER
9 EXAMINATION, INCLUDING CRIMINAL, CIVIL, AND ADMINISTRATIVE
10 HISTORY INFORMATION; PERSONAL HISTORY AND EXPERIENCE
11 INFORMATION, INCLUDING INDEPENDENT CREDIT REPORTS OBTAINED FROM
12 A CONSUMER REPORTING AGENCY DESCRIBED IN SECTION 603 (p) OF THE
13 FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681a, AS
14 AMENDED; AND ANY OTHER RECORDS OR INFORMATION THE
15 ADMINISTRATOR CONSIDERS RELEVANT TO THE INQUIRY OR
16 INVESTIGATION REGARDLESS OF THE LOCATION, POSSESSION, CONTROL, OR
17 CUSTODY OF THE RECORDS OR INFORMATION.

18 (b) THE ADMINISTRATION MAY INITIATE AN INVESTIGATION OR
19 EXAMINATION WHERE THERE IS REASON TO BELIEVE THAT THERE IS A
20 POTENTIAL VIOLATION THAT RISKS CONSUMER HARM, WHERE A PERSON
21 WHO MAY BE SUBJECT TO THIS ARTICLE 21 MAY HAVE FAILED TO NOTIFY
22 THE ADMINISTRATOR, OR BASED ON A SUBSTANTIATED COMPLAINT. THE
23 ADMINISTRATOR MAY REVIEW, INVESTIGATE, OR EXAMINE ANY NOTIFIER
24 OR PERSON SUBJECT TO THIS ARTICLE 21 AS OFTEN AS NECESSARY IN
25 ORDER TO CARRY OUT THE PURPOSES OF THIS ARTICLE 21. THE
26 ADMINISTRATOR MAY DIRECT, SUBPOENA, OR ORDER THE ATTENDANCE OF
27 AND EXAMINE UNDER OATH ANY PERSON WHOSE TESTIMONY MAY BE

1 REQUIRED ABOUT THE RESIDENTIAL MORTGAGE LOAN, RESIDENTIAL
2 MORTGAGE LOAN SERVICING, OR THE BUSINESS OR SUBJECT MATTER OF AN
3 EXAMINATION OR INVESTIGATION AND MAY DIRECT, SUBPOENA, OR ORDER
4 THE PERSON TO PRODUCE RECORDS THE ADMINISTRATOR CONSIDERS
5 RELEVANT TO THE INQUIRY. NOTHING LIMITS THE SCOPE OF THE
6 ADMINISTRATOR'S AUTHORITY TO REVIEW AND INVESTIGATE POTENTIAL
7 VIOLATIONS OR HARM DISCOVERED IN THE COURSE OF AN INVESTIGATION.

8 (c) (I) IN MAKING AN EXAMINATION OR INVESTIGATION
9 AUTHORIZED BY THIS SECTION, THE ADMINISTRATOR MAY CONTROL
10 ACCESS TO ANY RECORDS OF THE NOTIFIER OR PERSON UNDER
11 EXAMINATION OR INVESTIGATION. THE ADMINISTRATOR MAY TAKE
12 POSSESSION OF THE RECORDS OR PLACE A PERSON IN EXCLUSIVE CHARGE
13 OF THE RECORDS IN THE PLACE WHERE THEY ARE USUALLY KEPT.

14 (II) DURING THE PERIOD OF CONTROL, A PERSON MAY NOT REMOVE
15 OR ATTEMPT TO REMOVE ANY OF THE RECORDS EXCEPT PURSUANT TO A
16 COURT ORDER OR WITH THE WRITTEN CONSENT OF THE ADMINISTRATOR.
17 UNLESS THE ADMINISTRATOR HAS REASONABLE GROUNDS TO BELIEVE THE
18 RECORDS OF THE NOTIFIER OR PERSON HAVE BEEN, OR ARE AT RISK OF
19 BEING, ALTERED OR DESTROYED FOR PURPOSES OF CONCEALING A
20 VIOLATION OF THIS ARTICLE 21, THE NOTIFIER OR OWNER OF THE RECORDS
21 MAY HAVE ACCESS TO THE RECORDS AS NECESSARY TO CONDUCT ITS
22 ORDINARY BUSINESS AFFAIRS.

23 (2) IN ORDER TO CARRY OUT THE PURPOSES OF THIS SECTION, THE
24 ADMINISTRATOR MAY:

25 (a) RETAIN ATTORNEYS, ACCOUNTANTS, OR OTHER PROFESSIONALS
26 AND SPECIALISTS AS EXAMINERS, AUDITORS, OR INVESTIGATORS TO
27 CONDUCT OR ASSIST IN CONDUCTING EXAMINATIONS OR INVESTIGATIONS;

1 (b) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER
2 GOVERNMENT OFFICIALS OR REGULATORY ASSOCIATIONS IN ORDER TO
3 IMPROVE EFFICIENCIES AND REDUCE REGULATORY BURDEN BY SHARING
4 RESOURCES, STANDARDIZED OR UNIFORM METHODS OR PROCEDURES, AND
5 RECORDS OR INFORMATION OBTAINED UNDER THIS SECTION;

6 (c) USE, HIRE, CONTRACT FOR, OR EMPLOY PUBLICLY OR
7 PRIVATELY AVAILABLE ANALYTICAL SYSTEMS, METHODS, OR SOFTWARE
8 TO EXAMINE OR INVESTIGATE THE NOTIFIER OR PERSON SUBJECT TO THIS
9 ARTICLE 21;

10 (d) ACCEPT AND RELY ON EXAMINATION OR INVESTIGATION
11 REPORTS MADE BY OTHER GOVERNMENT OFFICIALS WITHIN OR OUTSIDE
12 THIS STATE; AND


13 (e) ACCEPT AUDIT REPORTS MADE BY AN INDEPENDENT CERTIFIED
14 PUBLIC ACCOUNTANT FOR THE NOTIFIER OR PERSON SUBJECT TO THIS
15 ARTICLE 21 IN THE COURSE OF THAT PART OF THE EXAMINATION COVERING
16 THE SAME GENERAL SUBJECT MATTER AS THE AUDIT AND MAY
17 INCORPORATE THE AUDIT REPORT IN A REPORT OF EXAMINATION, REPORT
18 OF INVESTIGATION, OR OTHER WRITING OF THE ADMINISTRATOR.

19 (3) A PERSON SUBJECT TO INVESTIGATION OR EXAMINATION UNDER
20 THIS SECTION MAY NOT KNOWINGLY WITHHOLD, ABSTRACT, REMOVE,
21 MUTILATE, OR DESTROY ANY RECORDS OR OTHER INFORMATION RELATING
22 TO INFORMATION REGULATED UNDER THIS ARTICLE 21.

23 (4) WHENEVER IT APPEARS TO THE ADMINISTRATOR THAT A
24 PERSON HAS VIOLATED, IS VIOLATING, OR IS ABOUT TO VIOLATE THIS
25 SECTION OR A RULE ADOPTED PURSUANT TO THIS ARTICLE 21 OR THAT A
26 NOTIFIER OR AN OWNER, DIRECTOR, OFFICER, MEMBER, PARTNER,
27 SHAREHOLDER, TRUSTEE, EMPLOYEE, OR AGENT OF THE NOTIFIER HAS

1 COMMITTED FRAUD, ENGAGED IN DISHONEST ACTIVITIES, OR MADE A
2 MISREPRESENTATION, THE ADMINISTRATOR MAY TAKE ACTION AGAINST
3 THE PERSON OR NOTIFIER IN ACCORDANCE WITH THIS ARTICLE 21.

4 (5) THE ADMINISTRATOR SHALL ADOPT RULES AS NECESSARY TO
5 IMPLEMENT THIS ARTICLE 21.

6 
7 **5-21-109. Application of administrative procedures.** EXCEPT AS
8 OTHERWISE PROVIDED IN THIS ARTICLE 21, SECTIONS 24-4-102 TO
9 24-4-106 APPLY TO AND GOVERN ALL RULES PROMULGATED AND ALL
10 ADMINISTRATIVE ACTION TAKEN BY THE ADMINISTRATOR PURSUANT TO
11 THIS ARTICLE 21; EXCEPT THAT SECTION 24-4-104 (3) DOES NOT APPLY TO
12 ANY SUCH ACTION.

13 **5-21-110. Administrative enforcement orders.** (1) AFTER
14 NOTICE AND HEARING, THE ADMINISTRATOR MAY ORDER A MORTGAGE
15 SERVICER OR A PERSON ACTING IN THE MORTGAGE SERVICER'S BEHALF TO
16 CEASE AND DESIST FROM ENGAGING IN VIOLATIONS OF THIS ARTICLE 21 OR
17 ANY RULE OR ORDER LAWFULLY MADE PURSUANT TO THIS ARTICLE 21.
18 THE ORDER ISSUED BY THE ADMINISTRATOR MAY ALSO REQUIRE THE
19 MORTGAGE SERVICER OR PERSON TO MAKE REFUNDS TO INDIVIDUALS OF
20 UNLAWFUL CHARGES UNDER THIS ARTICLE 21 AND A CIVIL PENALTY OF UP
21 TO ONE THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION, ALL OR PART
22 OF WHICH MAY BE SPECIFICALLY DESIGNATED FOR CONSUMER AND
23 CREDITOR EDUCATIONAL PURPOSES.

24 (2) A MORTGAGE SERVICER AGGRIEVED BY AN ORDER OF THE
25 ADMINISTRATOR MAY OBTAIN JUDICIAL REVIEW OF THE ORDER IN THE
26 COLORADO COURT OF APPEALS. THE ADMINISTRATOR MAY OBTAIN AN
27 ORDER OF THE COURT FOR ENFORCEMENT OF THE ADMINISTRATOR'S ORDER

1 IN THE DISTRICT COURT UNDER SECTION 24-4-106. ALL PROCEEDINGS
2 UNDER THIS SECTION ARE GOVERNED BY SECTIONS 24-4-105 AND
3 24-4-106.

4 **5-21-111. Assurance of discontinuance.** IF IT IS CLAIMED THAT
5 A PERSON HAS VIOLATED THIS ARTICLE 21, THE ADMINISTRATOR MAY
6 ACCEPT AN ASSURANCE IN WRITING THAT THE PERSON WILL NOT ENGAGE
7 IN THE CONDUCT IN THE FUTURE. THE ASSURANCE MAY ALSO REQUIRE THE
8 PERSON TO MAKE REFUNDS TO INDIVIDUALS OF UNLAWFUL CHARGES
9 UNDER THIS ARTICLE 21, PAY A PENALTY AUTHORIZED IN SECTION
10 **5-21-110**, ALL OR PART OF WHICH MAY BE SPECIFICALLY DESIGNATED FOR
11 CONSUMER AND CREDITOR EDUCATIONAL PURPOSES, AND REIMBURSE THE
12 ADMINISTRATOR FOR THE ADMINISTRATOR'S REASONABLE COSTS
13 INCURRED IN INVESTIGATING THE CONDUCT. IF A PERSON GIVING AN
14 ASSURANCE OF DISCONTINUANCE FAILS TO COMPLY WITH ITS TERMS, THE
15 ASSURANCE IS EVIDENCE THAT PRIOR TO THE ASSURANCE, THAT PERSON
16 ENGAGED IN THE CONDUCT DESCRIBED IN THE ASSURANCE.

17 **5-21-112. Injunctions.** THE ADMINISTRATOR MAY BRING A CIVIL
18 ACTION TO RESTRAIN A PERSON FROM VIOLATING THIS ARTICLE 21 OR
19 RULES PROMULGATED PURSUANT TO THIS ARTICLE 21 AND FOR OTHER
20 APPROPRIATE RELIEF, INCLUDING SUCH ORDERS OR JUDGMENTS AS MAY BE
21 NECESSARY TO COMPLETELY COMPENSATE OR RESTORE TO THE
22 INDIVIDUAL'S ORIGINAL POSITION ANY INDIVIDUAL AFFECTED BY THE
23 VIOLATION. THE ADMINISTRATOR MAY ALSO APPLY FOR A TEMPORARY
24 RESTRAINING ORDER OR A PRELIMINARY INJUNCTION AGAINST A
25 RESPONDENT PENDING FINAL DETERMINATION OF PROCEEDINGS. NO BOND
26 OR OTHER SECURITY IS REQUIRED OF THE ADMINISTRATOR BEFORE RELIEF
27 UNDER THIS SECTION MAY BE GRANTED.

1 **5-21-113. Civil actions by the administrator.** (1) THE
2 ADMINISTRATOR MAY BRING A CIVIL ACTION AGAINST A MORTGAGE
3 SERVICER OR ANY OTHER PERSON FOR ANY VIOLATIONS OF THIS ARTICLE
4 21. AN ACTION MAY RELATE TO TRANSACTIONS WITH MORE THAN ONE
5 INDIVIDUAL. THE COURT MAY ORDER A MORTGAGE SERVICER TO REFUND
6 TO INDIVIDUALS ANY CHARGES COLLECTED IN VIOLATION OF THIS ARTICLE
7 21 AND MAY ALSO ASSESS CIVIL PENALTIES AGAINST THE MORTGAGE
8 SERVICER AS SET FORTH IN SECTION 5-21-110. IF THE ADMINISTRATOR
9 PREVAILS IN AN ACTION BROUGHT UNDER THIS SECTION, THE
10 ADMINISTRATOR MAY RECOVER REASONABLE COSTS IN INVESTIGATING
11 AND BRINGING THE ACTION AND MAY RECOVER REASONABLE ATTORNEY
12 FEES. WHEN DETERMINING WHETHER TO SEEK PENALTIES UNDER THIS
13 SECTION, THE ADMINISTRATOR SHALL CONSIDER WHETHER THE FEDERAL
14 CONSUMER FINANCIAL PROTECTION BUREAU HAS IMPOSED PENALTIES ON
15 THE SAME SERVICER FOR THE SAME VIOLATION, IN ORDER TO AVOID
16 DUPLICATIVE PENALTIES.

17 (2) IN ADDITION TO THE REMEDIES SPECIFIED IN SUBSECTION (1) OF
18 THIS SECTION, A MORTGAGE SERVICER WHO FAILS TO MAKE GOOD-FAITH
19 EFFORTS TO COMPLY WITH ANY REQUIREMENT IMPOSED UNDER THIS
20 ARTICLE 21 WITH RESPECT TO A BORROWER IS LIABLE IN AN AMOUNT
21 EQUAL TO THE SUM OF:

22 (a) ACTUAL DAMAGES SUSTAINED BY THE BORROWER AS A RESULT
23 OF THE FAILURE;

24 (b) A MONETARY AWARD EQUAL TO THREE TIMES THE TOTAL
25 AMOUNT THE MORTGAGE SERVICER COLLECTED FROM THE BORROWER IN
26 VIOLATION OF THIS ARTICLE 21; AND

27 (c) PUNITIVE DAMAGES AS THE COURT MAY ALLOW.

1 (3) NOTHING IN THIS ARTICLE 21:
2 (a) CREATES A PRIVATE RIGHT OF ACTION; OR
3 (b) AFFECTS ANY REMEDY THAT A BORROWER MAY HAVE
4 PURSUANT TO LAW OTHER THAN THIS ARTICLE 21.

5 **5-21-114. Limitations.** NOTWITHSTANDING ARTICLE 80 OF TITLE
6 13, ALL ACTIONS BROUGHT UNDER THIS ARTICLE 21 MUST BE COMMENCED
7 WITHIN FOUR YEARS AFTER THE DATE ON WHICH ANY VIOLATION OF THIS
8 ARTICLE 21 OCCURRED OR THE DATE ON WHICH THE LAST IN A SERIES OF
9 THE ACTS OR PRACTICES OCCURRED OR WITHIN FOUR YEARS AFTER THE
10 PLAINTIFF DISCOVERED OR IN THE EXERCISE OF REASONABLE DILIGENCE
11 SHOULD HAVE DISCOVERED THE OCCURRENCE OF A VIOLATION OF THIS
12 ARTICLE 21; EXCEPT THAT THE PERIOD OF LIMITATION PROVIDED IN THIS
13 SECTION MAY BE EXTENDED FOR A PERIOD OF ONE YEAR IF THE PLAINTIFF
14 PROVES THAT FAILURE TO TIMELY COMMENCE THE ACTION WAS CAUSED
15 BY THE DEFENDANT ENGAGING IN CONDUCT CALCULATED TO INDUCE THE
16 PLAINTIFF TO REFRAIN FROM OR POSTPONE THE COMMENCEMENT OF THE
17 ACTION.

18 **5-21-115. Confidential information.** (1) THE ADMINISTRATOR
19 SHALL NOT MAKE PUBLIC THE NAME OR IDENTITY OF A PERSON WHOSE
20 ACTS OR CONDUCT THE ADMINISTRATOR INVESTIGATES OR EXAMINES
21 PURSUANT TO THIS ARTICLE 21 OR THE FACTS DISCLOSED IN THE
22 INVESTIGATION OR EXAMINATION.

23 (2) THE ADMINISTRATOR MAY DISCLOSE NOTIFICATION RECORDS
24 PROVIDED TO THE ADMINISTRATOR AND OTHER CONTENTS OF THE
25 RECORDS MAINTAINED PURSUANT TO THIS ARTICLE 21, BUT THE
26 ADMINISTRATOR SHALL NOT MAKE PUBLIC THE CONFIDENTIAL
27 INFORMATION CONTAINED IN THE RECORDS.

1 (3) THE RESTRICTIONS ON THE DISCLOSURE OF INFORMATION IN
2 SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO DISCLOSURES
3 BY THE ADMINISTRATOR IN ACTIONS OR ENFORCEMENT PROCEEDINGS
4 PURSUANT TO THIS ARTICLE 21.

5 **5-21-116. Reporting.** (1) THE DEPARTMENT OF LAW SHALL
6 INCLUDE IN ITS ANNUAL PRESENTATIONS HELD PURSUANT TO SECTION
7 2-7-203 UPDATES CONCERNING THE ADMINISTRATION OF THIS ARTICLE 21,
8 INCLUDING:

9 (a) COMPLAINTS DATA, ENFORCEMENT ACTIONS, AND OTHER
10 RELEVANT REGULATORY DATA; AND

11 (b) THE USE OF FEES COLLECTED BY THE ADMINISTRATOR
12 PURSUANT TO THIS ARTICLE 21.

13
14 **SECTION 2.** In Colorado Revised Statutes, 13-4-102, **add**
15 (2)(nn) as follows:

16 **13-4-102. Jurisdiction.** (2) The court of appeals has initial
17 jurisdiction to:

18 (nn) REVIEW FINAL DECISIONS OR ORDERS OF THE ADMINISTRATOR
19 AS PROVIDED IN ARTICLE 21 OF TITLE 5.

20 **SECTION 3. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect January 1, 2022; except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within the ninety-day period after final adjournment of the general
25 assembly, then the act, item, section, or part will not take effect unless
26 approved by the people at the general election to be held in November
27 2022 and, in such case, will take effect on the date of the official

- 1 declaration of the vote thereon by the governor.
- 2 (2) This act applies to conduct occurring on or after the applicable
- 3 effective date of this act.