

CHAPTER 388

PROFESSIONS AND OCCUPATIONS

SENATE BILL 07-203

BY SENATOR(S) Groff, Kester, Boyd, Fitz-Gerald, Sandoval, Tochtrop, Tupa, Williams, and Romer;
also REPRESENTATIVE(S) Marshall, Buescher, Carroll M., Carroll T., Casso, Hodge, Jahn, Madden, McGihon, and Todd.

AN ACT

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

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

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

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

SECTION 2. 12-61-910.3, Colorado Revised Statutes, as enacted by Senate Bill 07-085, enacted at the First Regular Session of the Sixty-sixth General Assembly, is amended to read:

12-61-910.3. Rule-making authority. The director may ~~establish, and from time to time amend, such~~ ADOPT reasonable rules as ~~are~~ necessary to enable the director to carry out the director's duties under this part 9.

SECTION 3. 12-61-901, Colorado Revised Statutes, is amended to read:

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

12-61-901. Short title. This part 9 shall be known and may be cited as the "Mortgage Broker ~~Registration~~ LICENSING Act".

SECTION 4. 12-61-903, Colorado Revised Statutes, is amended to read:

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

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

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

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

(a) A criminal history ~~background~~ RECORD check in compliance with subsection ~~(3)~~ (5) of this section;

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

(c) The application fee established by the director in accordance with section 12-61-908.

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

(b) THE DIRECTOR MAY CONTRACT WITH ONE OR MORE INDEPENDENT TESTING SERVICES TO DEVELOP, ADMINISTER, AND GRADE THE EXAMINATIONS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3) AND TO MAINTAIN AND ADMINISTER LICENSEE RECORDS. THE CONTRACT MAY ALLOW THE TESTING SERVICE TO RECOVER FROM APPLICANTS ITS COSTS INCURRED IN CONNECTION WITH THESE FUNCTIONS. THE DIRECTOR MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND MAY ALLOW THE COSTS TO BE COLLECTED BY A SINGLE CONTRACTOR FOR DISTRIBUTION TO OTHER CONTRACTORS.

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

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

(b) THE RENEWAL FEE ESTABLISHED BY THE DIRECTOR IN ACCORDANCE WITH SECTION 12-61-908.

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

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

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

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

(b) CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS SHALL BE DETERMINED BY THE DIRECTOR; EXCEPT THAT LICENSEES SHALL NOT BE REQUIRED TO COMPLETE MORE THAN NINE CREDIT HOURS OF CONTINUING EDUCATION WITHIN A THREE-YEAR PERIOD. THE DIRECTOR MAY CONTRACT WITH ONE OR MORE INDEPENDENT SERVICE PROVIDERS TO DEVELOP, REVIEW, OR APPROVE CONTINUING EDUCATION COURSES. THE CONTRACT MAY ALLOW THE INDEPENDENT SERVICE PROVIDER TO RECOVER FROM LICENSEES ITS COSTS INCURRED IN CONNECTION WITH THESE FUNCTIONS. THE DIRECTOR MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND MAY ALLOW THE COSTS TO BE COLLECTED BY A SINGLE CONTRACTOR FOR DISTRIBUTION TO OTHER CONTRACTORS.

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

(b) THE DIRECTOR MAY SET FEES FOR THE INITIAL AND CONTINUING REVIEW OF COURSES FOR WHICH CREDIT HOURS WILL BE GRANTED. THE INITIAL FILING FEE FOR

REVIEW OF MATERIALS SHALL NOT EXCEED FIVE HUNDRED DOLLARS, AND THE FEE FOR CONTINUED REVIEW SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS PER YEAR PER COURSE OFFERED.

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

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

12-61-903.5. Errors and omissions insurance - duties of the director - certificate of coverage - when required - group plan made available - effect - rules. (1) EVERY LICENSEE UNDER THIS PART 9, EXCEPT AN INACTIVE MORTGAGE BROKER OR AN ATTORNEY LICENSEE WHO MAINTAINS A POLICY OF PROFESSIONAL MALPRACTICE INSURANCE THAT PROVIDES COVERAGE FOR ERRORS AND OMISSIONS FOR ACTIVITIES AS A LICENSEE UNDER THIS PART 9, SHALL MAINTAIN ERRORS AND OMISSIONS INSURANCE TO COVER ALL ACTIVITIES CONTEMPLATED UNDER THIS PART 9.

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

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

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

(e) ~~A federal housing administration approved mortgagee or an appointed federal housing administration correspondent, acting through officers, partners, members, exclusive agents, contractors, or employees of such entities when making or brokering any mortgage loan; or~~

(f) A person who:

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

(III) Does not participate in the negotiation of residential mortgage loans with the borrower, except for setting the terms under which a person may buy or fund a residential mortgage loan originated by a ~~registered~~ LICENSED or exempt person.

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

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

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

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

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

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

(b) If the director or an administrative law judge determines that an application contained a misstatement of fact or omitted a required disclosure due to an unintentional error, the director shall allow the applicant to correct the application. Upon receipt of the corrected and completed application, the director or administrative law judge shall not bar the applicant from being ~~registered~~ LICENSED on the basis of the unintentional misstatement or omission.

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

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

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

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

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

(10) THE DIRECTOR SHALL PROMULGATE RULES TO ALLOW LICENSED MORTGAGE BROKERS TO HIRE UNLICENSED MORTGAGE BROKERS UNDER TEMPORARY LICENSES.

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

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

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

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

(b) MAKING ANY PROMISE THAT INFLUENCES, PERSUADES, OR INDUCES ANOTHER PERSON TO DETRIMENTALLY RELY ON SUCH PROMISE WHEN THE LICENSEE COULD NOT OR DID NOT INTEND TO KEEP SUCH PROMISE;

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

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

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

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

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

BROKER-EMPLOYER;

(h) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE TIME, ANY MONEYS COMING INTO HIS OR HER POSSESSION THAT BELONG TO OTHERS, WHETHER ACTING AS A MORTGAGE BROKER, REAL ESTATE BROKER, SALESPERSON, OR OTHERWISE, AND FAILING TO KEEP RECORDS RELATIVE TO SAID MONEYS, WHICH RECORDS SHALL CONTAIN SUCH INFORMATION AS MAY BE PRESCRIBED BY THE RULES OF THE DIRECTOR RELATIVE THERETO AND SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

(i) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH THE LICENSEE'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS IN AN ESCROW OR A TRUSTEE ACCOUNT WITH A BANK OR RECOGNIZED DEPOSITORY IN THIS STATE, WHICH ACCOUNT MAY BE ANY TYPE OF CHECKING, DEMAND, PASSBOOK, OR STATEMENT ACCOUNT INSURED BY AN AGENCY OF THE UNITED STATES GOVERNMENT, AND TO SO KEEP RECORDS RELATIVE TO THE DEPOSIT THAT CONTAIN SUCH INFORMATION AS MAY BE PRESCRIBED BY THE RULES OF THE DIRECTOR RELATIVE THERETO, WHICH RECORDS SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

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

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

(l) PAYING A COMMISSION OR VALUABLE CONSIDERATION FOR PERFORMING ANY OF THE FUNCTIONS OF A MORTGAGE BROKER, AS DESCRIBED IN THIS PART 9, TO ANY PERSON NOT LICENSED UNDER THIS PART 9; EXCEPT THAT A LICENSED MORTGAGE BROKER MAY PAY A FINDER'S FEE OR A SHARE OF ANY COMMISSION ON A COOPERATIVE SALE WHEN SUCH PAYMENT IS MADE TO A MORTGAGE BROKER LICENSED IN ANOTHER STATE OR COUNTRY. IF SUCH STATE OR COUNTRY DOES NOT LICENSE MORTGAGE BROKERS, THEN THE PAYEE SHALL BE A CITIZEN OR RESIDENT OF SAID STATE OR COUNTRY AND REPRESENT THAT THE PAYEE IS IN THE MORTGAGE BROKERAGE BUSINESS IN SAID STATE OR COUNTRY.

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

(n) CONVICTION OF, ENTERING A PLEA OF GUILTY TO, OR ENTERING A PLEA OF NOLO CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18, C.R.S., IN PARTS 1 TO 4 OF ARTICLE 4 OF TITLE 18, C.R.S., IN ARTICLE 5 OF TITLE 18, C.R.S., IN PART 3 OF ARTICLE 8 OF TITLE 18, C.R.S., IN ARTICLE 15 OF TITLE 18, C.R.S., IN ARTICLE 17 OF TITLE 18, C.R.S., OR ANY OTHER LIKE CRIME UNDER COLORADO LAW, FEDERAL LAW, OR THE LAWS OF OTHER STATES. A CERTIFIED COPY OF THE JUDGMENT OF A COURT

OF COMPETENT JURISDICTION OF SUCH CONVICTION OR OTHER OFFICIAL RECORD INDICATING THAT SUCH PLEA WAS ENTERED SHALL BE CONCLUSIVE EVIDENCE OF SUCH CONVICTION OR PLEA IN ANY HEARING UNDER THIS PART 9.

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

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

(q) HAVING DEMONSTRATED UNWORTHINESS OR INCOMPETENCY TO ACT AS A MORTGAGE BROKER BY CONDUCTING BUSINESS IN SUCH A MANNER AS TO ENDANGER THE INTEREST OF THE PUBLIC;

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

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

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

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

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

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

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

(2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A MORTGAGE BROKER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF SAID FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR CORPORATION IS GUILTY OF ANY OF THE ACTS SET OUT IN SUBSECTION (1) OF THIS SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF THE FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR CORPORATION TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF SAID MORTGAGE BROKER, WHETHER OR NOT THE DESIGNATED MORTGAGE BROKER HAD PERSONAL KNOWLEDGE THEREOF AND WHETHER OR NOT THE DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF SAID MORTGAGE BROKER.

(3) UPON REQUEST OF THE DIRECTOR, WHEN ANY MORTGAGE BROKER IS A PARTY TO ANY SUIT OR PROCEEDING, EITHER CIVIL OR CRIMINAL, ARISING OUT OF ANY TRANSACTION INVOLVING A RESIDENTIAL MORTGAGE LOAN AND WHEN SUCH MORTGAGE BROKER PARTICIPATED IN SUCH TRANSACTION IN HIS OR HER CAPACITY AS A LICENSED MORTGAGE BROKER, IT SHALL BE THE DUTY OF SUCH MORTGAGE BROKER TO SUPPLY TO THE DIRECTOR A COPY OF THE COMPLAINT, INDICTMENT, INFORMATION, OR OTHER INITIATING PLEADING AND THE ANSWER FILED, IF ANY, AND TO ADVISE THE DIRECTOR OF THE DISPOSITION OF THE CASE AND OF THE NATURE AND AMOUNT OF ANY JUDGMENT, VERDICT, FINDING, OR SENTENCE THAT MAY BE MADE, ENTERED, OR IMPOSED THEREIN.

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

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

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

(7) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE MORTGAGE BROKER LICENSING CASH FUND CREATED IN SECTION 12-61-908.

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

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

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

12-61-905.6. Hearing - administrative law judge - review - rules. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL PROCEEDINGS BEFORE THE DIRECTOR WITH RESPECT TO DISCIPLINARY ACTIONS AND DENIAL OF LICENSURE UNDER THIS PART 9, AT THE DISCRETION OF THE DIRECTOR, MAY BE CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

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

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

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

(5) IN A JUDICIAL REVIEW PROCEEDING, THE COURT MAY STAY THE EXECUTION OR EFFECT OF ANY FINAL ORDER OF THE DIRECTOR; BUT A HEARING SHALL BE HELD AFFORDING THE PARTIES AN OPPORTUNITY TO BE HEARD FOR THE PURPOSE OF DETERMINING WHETHER THE PUBLIC HEALTH, SAFETY, AND WELFARE WOULD BE ENDANGERED BY STAYING THE DIRECTOR'S ORDER. IF THE COURT DETERMINES THAT

THE ORDER SHOULD BE STAYED, IT SHALL ALSO DETERMINE AT THE HEARING THE AMOUNT OF THE BOND AND ADEQUACY OF THE SURETY, WHICH BOND SHALL BE CONDITIONED UPON THE FAITHFUL PERFORMANCE BY SUCH PETITIONER OF ALL OBLIGATIONS AS A MORTGAGE BROKER AND UPON THE PROMPT PAYMENT OF ALL DAMAGES ARISING FROM OR CAUSED BY THE DELAY IN THE TAKING EFFECT OF OR ENFORCEMENT OF THE ORDER COMPLAINED OF AND FOR ALL COSTS THAT MAY BE ASSESSED OR REQUIRED TO BE PAID IN CONNECTION WITH SUCH PROCEEDINGS.

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

12-61-905.7. Subpoena - misdemeanor. (1) THE DIRECTOR OR THE ADMINISTRATIVE LAW JUDGE APPOINTED FOR HEARINGS MAY ISSUE A SUBPOENA COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS PURSUANT TO AN INVESTIGATION OR HEARING OF THE DIRECTOR. SUCH SUBPOENAS SHALL BE SERVED IN THE SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT COURTS AND SHALL BE ISSUED WITHOUT DISCRIMINATION BETWEEN PUBLIC OR PRIVATE PARTIES REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AT HEARINGS. IF A PERSON FAILS OR REFUSES TO OBEY A SUBPOENA ISSUED BY THE DIRECTOR OR THE APPOINTED ADMINISTRATIVE LAW JUDGE, THE DIRECTOR MAY PETITION THE DISTRICT COURT HAVING JURISDICTION FOR ISSUANCE OF A SUBPOENA IN THE PREMISES, AND THE COURT SHALL, IN A PROPER CASE, ISSUE ITS SUBPOENA.

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

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

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

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

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

12-61-908. Fees. (1) The director may set the ~~fee~~ FEES for ~~registration~~ ISSUANCE AND RENEWAL OF LICENSES under this part 9. The ~~fee~~ FEES shall be set in ~~an~~

~~amount, not to exceed two hundred dollars; AMOUNTS that offsets~~ OFFSET the direct and indirect costs of implementing this part 9 AND SECTION 38-40-105, C.R.S. The moneys collected pursuant to this section shall be transferred to the state treasurer, who shall credit them to the mortgage broker ~~registration~~ LICENSING cash fund.

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

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

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

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

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

SECTION 12. 12-61-911 (1) and (2), Colorado Revised Statutes, are amended to read:

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

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

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

12-61-911.5. Acts of employee - mortgage broker's liability. AN UNLAWFUL ACT OR VIOLATION OF THIS PART 9 UPON THE PART OF AN EMPLOYEE, OFFICER, OR MEMBER OF A LICENSED MORTGAGE BROKER SHALL NOT BE CAUSE FOR DISCIPLINARY ACTION AGAINST A MORTGAGE BROKER UNLESS IT APPEARS THAT THE MORTGAGE

BROKER KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR VIOLATION OR HAD BEEN NEGLIGENT IN THE SUPERVISION OF THE EMPLOYEE.

SECTION 14. 38-40-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

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

SECTION 15. 38-40-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

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

SECTION 16. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the mortgage broker registration cash fund created in Section 12-61-908 (2), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2007, the sum of four hundred twenty-two thousand four hundred sixty-three dollars (\$422,463), cash funds, and 1.8 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said sum, fifty-nine thousand two hundred ninety-nine dollars (\$59,299) shall be allocated to the executive director's office for the purchase of legal services from the department of law and three hundred sixty-three thousand one hundred sixty-four dollars (\$363,164) and 1.8 FTE shall be allocated to the division of real estate.

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

appropriation for legal services in section 16 of this act.

(b) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2007, to the department of law, for allocation to the consumer protection section, for the fiscal year beginning July 1, 2007, the sum of one hundred eighty-six thousand three hundred forty-nine dollars (\$186,349) and 2.3 FTE, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies, executive director's office out of the appropriation for to the division of real estate in section 16 of this act.

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

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

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

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

Approved: June 1, 2007