

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 13-0153.01 Duane Gall x4335

SENATE BILL 13-156

SENATE SPONSORSHIP

Tochtrop,

HOUSE SPONSORSHIP

Williams,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CONTINUATION OF THE BOARD OF MORTGAGE LOAN**
102 **ORIGINATORS IN THE DIVISION OF REAL ESTATE, AND, IN**
103 **CONNECTION THEREWITH, IMPLEMENTING THE**
104 **RECOMMENDATIONS OF THE 2012 SUNSET REPORT BY THE**
105 **DEPARTMENT OF REGULATORY AGENCIES.**

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://www.leg.state.co.us/billsummaries>.)

Sunset Process - Senate Business, Labor, and Technology

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

SENATE
Amended 2nd Reading
March 12, 2013

Committee. The bill implements the recommendations of the sunset review and report on the board of mortgage loan originators (board) by:

- ! Extending the repeal date of the board for 5 years, until September 1, 2018 (*Recommendation 1, sections 1 and 2*);
- ! Requiring the board to deny, refuse to renew, or revoke the licenses of persons who commit specified offenses, bringing Colorado's statutes in line with federal law (*Recommendation 2, section 3*);
- ! Allowing the board to deny, refuse to renew, or revoke the licenses of, or to discipline, persons who commit specified offenses and receive a deferred judgment (*Recommendation 3, sections 3 and 5*);
- ! Eliminating a self-contradictory provision from current law (*Recommendation 4, section 6*); and
- ! Clarifying that a mortgage company may act only through individuals who are licensed or in the process of becoming licensed (*Recommendation 5, section 4*).

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

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

4 **12-61-919. Repeal of part.** (1) This part 9 is repealed, effective
5 ~~July 1, 2013~~ SEPTEMBER 1, 2018.

6 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
7 (44) introductory portion and (49.5) introductory portion; **repeal** (44) (p);
8 and **add** (49.5) (e) as follows:

9 **24-34-104. General assembly review of regulatory agencies**
10 **and functions for termination, continuation, or reestablishment.**

11 (44) The following agencies, functions, or both, ~~shall~~ terminate on July
12 1, 2013:

13 (p) ~~The licensing of mortgage loan originators and the registration~~
14 ~~of mortgage companies pursuant to part 9 of article 61 of title 12, C.R.S.;~~

15 (49.5) The following agencies, functions, or both, ~~shall~~ terminate
16 on September 1, 2018:

1 (e) THE LICENSING OF MORTGAGE LOAN ORIGINATORS AND THE
2 REGISTRATION OF MORTGAGE COMPANIES PURSUANT TO PART 9 OF
3 ARTICLE 61 OF TITLE 12, C.R.S.

4 **SECTION 3.** In Colorado Revised Statutes, 12-61-903, **amend**
5 **(1) (a); and repeal (5.7), as follows:**

6 **12-61-903. License required - rules.** (1) (a) ~~On or after August~~
7 ~~5, 2009, unless licensed by the board, an individual shall not originate a~~
8 ~~mortgage, offer to originate a mortgage, act as a mortgage loan originator,~~
9 ~~or offer to act as a mortgage loan originator. On or after December 31,~~
10 ~~2010; Unless licensed by the board and registered with the nationwide~~
11 ~~mortgage licensing system and registry as a state-licensed loan originator,~~
12 ~~an individual shall not originate or offer to originate a mortgage or act or~~
13 ~~offer to act as a mortgage loan originator.~~

14 ~~(5.7) Any individual who obtains a license pursuant to this part 9~~
15 ~~prior to January 1, 2010, shall furnish at least the following information~~
16 ~~concerning the individual's identity to the nationwide mortgage licensing~~
17 ~~system and registry:~~

18 ~~(a) Fingerprints for submission to the federal bureau of~~
19 ~~investigation and any government agency or entity authorized to receive~~
20 ~~fingerprints for a state, national, or international criminal history record~~
21 ~~check; and~~

22 ~~(b) Personal history and experience in a form prescribed by the~~
23 ~~nationwide mortgage licensing system and registry, including submission~~
24 ~~of authorization for the nationwide mortgage licensing system and~~
25 ~~registry to obtain:~~

26 ~~(f) An independent credit report from the consumer reporting~~
27 ~~agency described in the federal "Fair Credit Reporting Act", 15 U.S.C.~~

1 sec. 1681a (p); and

2 (H) Information related to any administrative, civil, or criminal
3 findings by a government jurisdiction.

4 **SECTION 4.** In Colorado Revised Statutes, 12-61-905,
5 **repeal** (1) (g), (1) (h), and (1) (i); and **add** (1.5) as follows:

6 **12-61-905. Powers and duties of the board.** (1) The board may
7 deny an application for a license, refuse to renew, or revoke the license
8 of an applicant or licensee who has:

9

10 (g) ~~Had a mortgage loan originator license or similar license~~
11 ~~revoked in any jurisdiction; except that a revocation that was~~
12 ~~subsequently formally nullified shall not be deemed a revocation for~~
13 ~~purposes of this section;~~

14 (h) ~~At any time preceding the date of application for a license or~~
15 ~~registration, been convicted of, or pled guilty or nolo contendere to, a~~
16 ~~felony in a domestic, foreign, or military court if the felony involved an~~
17 ~~act of fraud, dishonesty, breach of trust, or money laundering; except that,~~
18 ~~if the individual obtains a pardon of the conviction, the individual shall~~
19 ~~not be deemed convicted for purposes of this paragraph (h);~~

20 (i) ~~Been convicted of, or pled guilty or nolo contendere to, a~~
21 ~~felony within the seven years immediately preceding the date of~~
22 ~~application for a license or registration;~~

23 (1.5) THE BOARD SHALL DENY AN APPLICATION FOR A LICENSE,
24 REFUSE TO RENEW, OR REVOKE THE LICENSE OF AN APPLICANT OR
25 LICENSEE WHO HAS:

26 (a) (I) HAD A MORTGAGE LOAN ORIGINATOR LICENSE OR SIMILAR
27 LICENSE REVOKED IN ANY JURISDICTION.

1 (II) IF A REVOCATION IS SUBSEQUENTLY FORMALLY NULLIFIED,
2 THE LICENSE IS NOT REVOKED FOR PURPOSES OF THIS PARAGRAPH (a).

3 (b) (I) AT ANY TIME PRECEDING THE DATE OF APPLICATION FOR A
4 LICENSE, BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO,
5 A FELONY IN A DOMESTIC, FOREIGN, OR MILITARY COURT IF THE FELONY
6 INVOLVED AN ACT OF FRAUD, DISHONESTY, BREACH OF TRUST, OR MONEY
7 LAUNDERING.

8 (II) IF THE INDIVIDUAL OBTAINS A PARDON OF THE CONVICTION,
9 THE BOARD SHALL NOT DEEM THE INDIVIDUAL CONVICTED FOR PURPOSES
10 OF THIS PARAGRAPH (b).

11 (c) BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE
12 TO, A FELONY WITHIN THE SEVEN YEARS IMMEDIATELY PRECEDING THE
13 DATE OF APPLICATION FOR A LICENSE.

14 **SECTION 5.** In Colorado Revised Statutes, 12-61-905.1, **amend**
15 (1) (c) as follows:

16 **12-61-905.1. Powers and duties of the board over mortgage**
17 **companies - fines - rules.** (1) With respect to mortgage companies, the
18 board may deny an application for registration; refuse to renew, suspend,
19 or revoke the registration; enter cease-and-desist orders; and impose fines
20 as set forth in this section as follows:

21 (c) If the mortgage company employs or ~~acts through~~ CONTRACTS
22 WITH individuals ~~subject to its control~~ who are ~~unlicensed at the time of~~
23 ~~hire and not in the process of becoming licensed, who are~~ required to be
24 licensed pursuant to this part 9 ~~or if the mortgage company, after notice,~~
25 ~~continues to employ or act through individuals subject to its control~~
26 ~~whose required licenses are not valid~~ AND WHO ARE NOT EITHER:

27 (I) LICENSED; OR

1 (II) IN THE PROCESS OF BECOMING LICENSED; or

2 ==

3 **SECTION 6.** In Colorado Revised Statutes, 12-61-911, **amend**

4 (1) (k) and (1) (l); and **repeal** (1) (m) as follows:

5 **12-61-911. Prohibited conduct - fraud - misrepresentation -**

6 **conflict of interest - rules.** (1) A mortgage loan originator, including a

7 mortgage loan originator otherwise exempted from this part 9 by section

8 12-61-904 (1) (b), shall not:

9 (k) Fail to pay a third-party provider, no later than thirty days after
10 the recording of the loan closing documents or ninety days after
11 completion of the third-party service, whichever comes first, unless
12 otherwise agreed or unless the third-party service provider has been
13 notified in writing that a bona fide dispute exists regarding the
14 performance or quality of the third-party service; OR

15 (l) Collect, charge, attempt to collect or charge, or use or propose
16 any agreement purporting to collect or charge any fee prohibited by
17 section 12-61-914 or 12-61-915. ~~or~~

18 ~~(m) Fail to comply with any provision of this part 9 or any rule~~
19 ~~adopted pursuant to this part 9.~~

20 **SECTION 7. Effective date.** This act takes effect July 1, 2013.

21 **SECTION 8. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.