

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 18-0389.01 Duane Gall x4335

HOUSE BILL 18-1174

HOUSE SPONSORSHIP

Arndt and Gray, Van Winkle, Winter

SENATE SPONSORSHIP

Priola,

House Committees

Business Affairs and Labor
Finance

Senate Committees

A BILL FOR AN ACT

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

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/>.)

Sunset Process - House Business Affairs and Labor Committee. The bill implements the recommendations of the department

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.

of regulatory agencies in its sunset review of the board of mortgage loan originators.

Sections 1 and 2 (*Recommendation 1*) of the bill continue the board for 11 years, until September 1, 2029.

Section 3 (*Recommendation 2*) commences the 60-day period within which the board must act on a license application on the date when all information, including supplementary information, necessary to process the application has been received rather than on the date when the application is first received.

Section 3 (*Recommendation 3*) also aligns the educational requirements for initial licensure as an MLO with the educational requirements of the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" (the "SAFE Act").

Section 4 (*Recommendation 4*) aligns the standards for disqualifying prior convictions with the corresponding standards in the SAFE Act and applies those standards to renewal and revocation as well as initial licensure.

Section 5 (*Recommendation 5*) allocates one of the 3 seats on the board that is assigned to mortgage loan originators (MLOs) to an MLO representing a small Colorado-based mortgage company that primarily brokers mortgage loans.

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

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

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (15) (a) The following agencies, functions, or both,
7 will repeal on September 1, 2018:

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

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

13 (I) THE LICENSING OF MORTGAGE LOAN ORIGINATORS AND THE

1 REGISTRATION OF MORTGAGE COMPANIES IN ACCORDANCE WITH PART 9
2 OF ARTICLE 61 OF TITLE 12.

3 (b) THIS SUBSECTION (30) IS REPEALED, EFFECTIVE SEPTEMBER 1,
4 2031.

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

7 **12-61-919. Repeal of part.** (1) This part 9 is repealed, effective
8 September 1, ~~2018~~ 2029.

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

11 **12-61-903. License required - rules.** (3) (a) In addition to the
12 requirements imposed by subsection (2) of this section, on or after August
13 5, 2009, each individual applicant for initial licensing as a mortgage loan
14 originator must have satisfactorily completed: ~~a mortgage lending~~
15 ~~fundamentals course approved by the board and consisting of at least nine~~
16 ~~hours of instruction in subjects related to mortgage lending. In addition,~~
17 ~~the applicant must have satisfactorily completed~~

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

21 (II) A written examination approved by the board. For the portion
22 of the examination that represents the state-specific test required in the
23 federal "Secure and Fair Enforcement for Mortgage Licensing Act of
24 2008", 12 U.S.C. sec. 5101 et seq., the board may adopt the uniform state
25 test administered through the Nationwide ~~mortgage~~ MULTISTATE
26 Licensing System AND REGISTRY or its successor.

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

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

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

10 **SECTION 4.** In Colorado Revised Statutes, 12-61-905, **amend**
11 (1.5) as follows:

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

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

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

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

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

26 (c) Been convicted of, or pled guilty or nolo contendere to, a
27 felony within the IMMEDIATELY PRECEDING seven years. ~~immediately~~

1 preceding the date of application for a license.

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

4 **12-61-902.5. Board of mortgage loan originators - creation -**
5 **compensation - enforcement of part after board creation - immunity.**

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

9 (b) Of the members OF THE BOARD:

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

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

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

26 (d) In the event of a vacancy by death, resignation, removal, or
27 otherwise, the governor shall appoint a member to fill the unexpired term.

1 The governor ~~shall have~~ HAS the authority to remove any member for
2 misconduct, neglect of duty, or incompetence.

3 **SECTION 6. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
5 the expiration of the ninety-day period after final adjournment of the
6 general assembly (August 8, 2018, if adjournment sine die is on May 9,
7 2018); except that, if a referendum petition is filed pursuant to section 1
8 (3) of article V of the state constitution against this act or an item, section,
9 or part of this act within such period, then the act, item, section, or part
10 will not take effect unless approved by the people at the general election
11 to be held in November 2018 and, in such case, will take effect on the
12 date of the official declaration of the vote thereon by the governor.

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