

## CMLA – Legislative and Regulatory Affairs Committee

Topic: Mortgage Loan Originator and Mortgage Company Program Sunset Review Recommendations

Date: April 12, 2017

To: LARAC

From: LARAC MLO Subcommittee

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### Topic:

In 2017, the Colorado Department of Regulatory Agencies (the “DORA”) began the sunset process review of the Mortgage Loan Originator Licensing and Mortgage Company Registration Program. As such, the Office of Policy and Research, within DORA, is currently soliciting feedback from the industry and other stakeholders. Their final report is due in October of this year and will result in a new bill that will be introduced in the 2018 legislative session of the General Assembly. In order to participate in this important process, LARAC formed a subcommittee to discuss improvements and areas of interest regarding the existing program.

### Conclusions:

After several meetings of the MLO Subcommittee, the following recommendations were unanimously agreed on:

1. The Office of the Attorney General receives an annual appropriation of \$300,000.00 that is paid for by mortgage professionals through licensing and administrative fees. It was determined in 2007, at the height of the mortgage crisis and record levels of fraud in Colorado’s mortgage industry existed, that this appropriation was needed to fund the high level of mortgage complaints the Office of the Attorney General was receiving at the time. As of the date of this memo, it is our understanding that the number of mortgage complaints submitted to the Colorado Division of Real Estate have dramatically decreased over the past nine years. As such, we can only assume that the number of mortgage complaints filed with the Office of Attorney General have also significantly decreased.

Accordingly, we believe it is important for the level of complaints and work on mortgage issues at the Office of the Attorney General be reviewed as compared to volume received when this appropriation was requested. If the level of complaints and work on mortgage related issues at the Office of the Attorney General has in fact decreased, we believe their annual appropriation should be decreased accordingly. Furthermore, we believe it is important to ensure that all monies paid to the Office of the Attorney General, for the purpose of mortgage investigations and other related work, are in fact used for their intended purpose and that these monies are simply not being allocated to other areas or work within this agency. In summary, we believe it is important for the \$300,000.00 appropriation be reviewed to ensure it is being applied towards its intended use and to ensure it is commensurate with the level of work conducted on mortgage complaints and investigations.

2. In 2018, the Nationwide Mortgage Licensing Database (the “NMLS”) will be implementing what is called a FBI wrap back program. This program will eliminate the need for loan originators to submit future fingerprint card submissions. Rather than having to submit subsequent fingerprint cards, the FBI wrap back program will ensure that regulators are notified if licensees have any future criminal arrests. Currently in Colorado law, license applicants are required, pursuant to section 12-61-903(5), C.R.S., to submit fingerprint cards so the Colorado Bureau of Investigations for a criminal background check. Once the NMLS implements their FBI criminal wrap back program, there will be no need for Colorado to require the CBI criminal background checks as they can take much longer to process than FBI criminal background checks and will be

simply redundant at that point. As such, the MLO Subcommittee recommends repealing the requirement for the CBI criminal background check once the NMLS implements the FBI criminal wrap back program.

3. In Colorado, license applicants and licensees currently have to apply and maintain their licenses in two separate databases. They have to utilize a state licensing database and a national licensing database (the "NMLS"). Having two licensing databases is simply redundant and inefficient. It is also a waste of the licensing and administrative fees collected in order to maintain the state licensing database. The NMLS is a national database and contains all of the requisite functionality to comply with Colorado state law and the federal Secure and Fair Enforcement for Mortgage Licensing Act. The only reasons the state licensing database exists today is to help facilitate the collection of E&O insurance and surety bond information, along with managing the CBI criminal background check process. Once the NMLS implements their FBI criminal wrap back program in 2018, all of these areas can be effectively managed through the NMLS. As such, we are recommending that the Colorado state licensing database be eliminated by the end of 2018.
4. Lastly, although this final suggestion is not relevant to the Sunset process because it does not require statutory changes, we also recommend that the Board of Mortgage Loan Originators review the current Tangible Net Benefit disclosure form in hopes of making it more easily programmable by doc vendors and other technology providers. In its current form, it cannot be managed electronically and results in a manual entry form. We suggest that the Board review this form to ensure that it can be managed with other disclosures common in the mortgage industry.