



## Mortgage Broker Registration Act

HB 1161 makes mortgage broker registration mandatory in Colorado

The following information was compiled from the Colorado Division of Real Estate, the Colorado Mortgage Lenders Association, and the Colorado Association of Mortgage Broker websites:

- <http://www.dora.state.co.us/real-estate/mb/Index.htm>
- <http://www.CMLA.com>
- <http://www.CAMB.org>

This information is for general informational purposes only. Any person or company affected by mortgage broker registration should seek advice from the State of Colorado or an attorney.

### Introduction

The Mortgage Broker Registration Act (HB 1161) was signed into law on June 2, 2006. Under the new law, mortgage brokers, meaning individual loan originators, must be registered with the State of Colorado by January 1, 2007.

### The Registration Process

The process for registration begins with fingerprinting and a background check through the Colorado Bureau of Investigations (CBI). The Division of Real Estate says this process takes three months to complete and is advising mortgage brokers to start the process as soon as possible. CMLA is telling mortgage brokers to consider September 1 the deadline to submit fingerprints and apply for the required CBI background check in order to meet the January 1 deadline.

In addition to fingerprinting and a background check, mortgage brokers need to apply for a \$25,000 surety bond through a bonding company.

The background check/fingerprinting and the surety bond need to be obtained *prior* to submitting an application. Applications

can be submitted online on or after October 1, 2006, at [www.dora.state.co.us/real-estate/mb](http://www.dora.state.co.us/real-estate/mb). The Division of Real Estate says it may take up to 21 days to process completed applications, and processing will not begin until an application is complete. A complete application consists of the following items:

- 1) criminal background check,
- 2) surety bond,
- 3) application, and
- 4) fee.

The Division of Real Estate fee to register as a Mortgage Broker is \$200. (The criminal background check, fingerprinting, and surety bond are an additional cost, which must be paid for by the applicant.)

### Who must register?

All persons who broker a mortgage, offer to broker a mortgage, act as a mortgage broker, or offer to act as a mortgage broker are required to register with the Division of Real Estate.

The state requires registration of individual brokers, so each broker must individually meet the registration requirements.

Section 12-61-904, C.R.S., exempts certain persons from this registration requirement and should be consulted for a complete list of exemptions. The Division of Real Estate lists the following as a summary of the exemptions:

- Federal and state agencies and political subdivisions of the state;
- Owner who finances a purchase of real property;
- Bank, saving bank, savings and loan association, industrial bank, industrial loan company, credit union, or bank or savings association hold company organized under federal law, and subsidiary or employee of the above;
- Attorney who renders legal advice but

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who is not in the primary business of brokering a mortgage

- FHA-approved mortgagee;
- Person who funds a mortgage but does not solicit a borrower and does not participate in negotiation of the residential mortgage.

Commercial mortgage brokers do not have to register; the new law covers only those persons who solicit borrowers in Colorado for the purpose of making a residential mortgage loan.

### Frequently Asked Questions

A complete list of FAQs can be found at the CMLA website, including the following:

#### How will the State of Colorado know who must register as a mortgage broker?

The state of Colorado is not required to know who must register. That responsibility falls to non-exempt mortgage brokers who must complete the registration process by January 1, 2007.

Any active, non-exempt mortgage broker who fails to complete the registration process by January 1, 2007, would be committing a class one misdemeanor each time they attempt to originate a residential mortgage loan in Colorado.

Each violation is punishable by up to 180 days in a county jail. The CMLA recommends that mortgage brokers consult with an attorney to determine if they are required to register.

#### Are wholesale lenders or title companies obligated to collect registration information?

No. The new law could not include regulatory requirements for anyone who is not a mortgage broker. Thus, there were no requirements placed on wholesale lenders or title companies. Non-exempt mortgage brokers are responsible for their own registration.

#### Can wholesale lenders, title companies, bonding agents, or other entities require a mortgage broker to require registration information?

Yes, if they so choose. Business entities may require mortgage brokers to provide evidence of registration in order to conduct business with that company. Such requirements are private business-to-business matters and are not part of the new law.

#### What are the underwriting requirements for the \$25,000 surety bond?

At present, bonding companies are finalizing their underwriting requirements for mortgage broker bonding. One bonding company has related to CMLA that obtaining the bond will be akin to qualifying for a credit card with a \$25,000 limit. In some cases, an applicant with limited or poor credit may be required to secure assets or provide a co-signer to qualify for the bond. CMLA anticipates, as with mortgage underwriting, that there will be "A Paper" and "Sub-prime" underwriting and pricing alternatives.

#### Will licensed real estate agents who originate mortgage loans be required to apply for mortgage broker registration?

Yes. A real estate license does not permit an individual from acting as an appraiser, mortgage broker, automobile salesperson, or any other regulated profession. A new set of fingerprints and a new CBI criminal background check will be required of licenses real estate agents in order to obtain registration as a mortgage broker.

#### Are mortgage brokers registered in other states still required to register in Colorado?

Yes. A license or registration from another state does not exempt a mortgage broker from the new law.

#### Is there a requirement for the number of loans originated before having to register?

No. Effective January 1, 2007, non-exempt mortgage brokers are required to register before originating even *one* residential mortgage loan in Colorado.

#### Where can I get a copy of HB 1161?

Visit the Colorado General Assembly website to download a copy of the bill:  
<http://www.leg.state.co.us/>

- Under the heading "HOUSE," click "Bills."
- Under "Select Bill Range," click "House Bills 1151-1200" and click the "GO" button.
- Scroll down to "HB06-1161.pdf" and click on the link, which will open with Acrobat Reader.

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