

# STATE OF COLORADO

**Division of Real Estate**  
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**Department of Regulatory Agencies**  
D. Rico Munn  
Executive Director



Bill Ritter, Jr.  
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## Department of Regulatory Agencies

### Division of Real Estate

#### Position Statement

#### MLO 1.2 – Mortgage Loan Originator Contracts

- Section 1. Scope and Purpose
- Section 2. Applicability
- Section 3. Position Statement
- Section 4. Issuance Date

#### Section 1. Scope and Purpose

The Director of the Division of Real Estate finds that a position statement regarding section 12-61-913(1) and (2), C.R.S. is necessary to provide clarification to the mortgage industry. Section 12-61-913(1), C.R.S. states that every contract between a mortgage loan originator and a borrower shall be in writing and shall contain the entire agreement of the parties. Section 12-61-913(2), C.R.S. states that a mortgage loan originator shall have a written correspondent or loan broker agreement with a lender before any solicitation of, or contracting with, any member of the public. After consulting with industry leaders, the Director has learned there is uncertainty within the mortgage industry regarding these provisions. Specifically, if the aforementioned provisions mandate a contract between the mortgage loan originator and borrower and if an individual mortgage loan originator needs to maintain a correspondent or loan originator agreement with a lender prior to soliciting a, or contracting with, any member of the public. The purpose of this position statement is to clarify the uncertainties regarding mortgage loan originator contracts.

#### Section 2. Applicability

This position statement concerns individuals who originate a mortgage, offer to originate a mortgage, act as a mortgage loan originator, or offer to act as a mortgage loan originator and the requirements of section 12-61-913, C.R.S.

#### Section 3. Position Statement – MLO 1.2 – Mortgage Loan Originator Contracts

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1. The Director's position on the above matter is that section 12-61-913(1), C.R.S. does not require or mandate a contract between a mortgage loan originator and a borrower. Rather that if a contract does exist, it must be in writing and contain the entire agreement of the parties.
2. The Director's position regarding section 12-61-913(2), C.R.S. is that mortgage loan originators are compliant if they adhere to one of the following requirements:
  - i. They individually have a written correspondent or loan originator agreement with a lender before any solicitation of, or contracting with, any member of the public;
  - ii. They are an officer, partner, member, exclusive agent, or employee of a company that has a written correspondent or loan originator agreement with a lender before any solicitation of, or contracting with, any member of the public; or
  - iii. They are acting as an independent contractor and maintain a contractual agreement with a company that has a written correspondent or loan originator agreement with a lender before any solicitation of, or contracting with, any member of the public.

#### Section 4. Issuance Date

The Director of the Division of Real Estate issues this position statement Friday, November 2, 2007.

The Division of Real Estate revised this position statement and re-issued this position statement on Friday, September 11, 2009.