

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-1157.01 Duane Gall x4335

HOUSE BILL 17-1358

HOUSE SPONSORSHIP

Rosenthal,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TRANSPARENCY IN THE FEES TO BE PAID TO THE PARTIES'**
102 **AGENTS IN A REAL ESTATE TRANSACTION.**

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>.)

The bill requires that, in any sale or lease of real estate, the amounts payable to anyone acting as a broker in the transaction (e.g., buyer's agent, seller's agent, transaction-broker) be disclosed in writing, either as part of the contract or otherwise, and accounted for. If the amount payable is allocated between the parties, the portion for which each party is responsible must be separately stated.

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.

Brokers are required to disclose their fees or the basis for calculating their fees on all marketing materials relating to any specific property, including on-line multiple listing services.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-61-808, **add** (3)
3 as follows:

4 **12-61-808. Broker disclosures - rules.** (3) (a) AT OR BEFORE THE
5 CLOSING OF ANY TRANSACTION IN WHICH THE SERVICES OF A BROKER ARE
6 PROVIDED, THE AMOUNT OF ANY FEE, COMMISSION, OR OTHER CHARGE
7 THAT IS PAID OR OWED TO EACH BROKER MUST BE SET FORTH IN WRITING
8 AND SEPARATELY ACCOUNTED FOR, EITHER AS PART OF THE CONTRACT OR
9 IN A CONTEMPORANEOUS DOCUMENT FURNISHED TO ALL PARTIES. IF THE
10 AMOUNT PAID OR OWED TO ANY BROKER IS ALLOCATED BETWEEN OR
11 AMONG THE PARTIES TO THE TRANSACTION, THE PORTION FOR WHICH EACH
12 PARTY IS RESPONSIBLE MUST BE SEPARATELY STATED.

13 (b) WHENEVER A BROKER ADVERTISES OR MARKETS THE BROKER'S
14 SERVICES IN CONNECTION WITH A SPECIFIC PROPERTY, WHETHER IN PRINT,
15 BROADCAST, OR ON-LINE, INCLUDING AS PART OF A MULTIPLE LISTING
16 SERVICE, THE BROKER SHALL DISCLOSE THE BROKER'S FEE OR THE BASIS
17 FOR CALCULATING THE BROKER'S FEE FOR SERVICES RENDERED IN
18 CONNECTION WITH THAT PROPERTY.

19 (c) THE REAL ESTATE COMMISSION MAY ADOPT RULES AND
20 PROMULGATE FORMS TO IMPLEMENT THIS SUBSECTION (3).

21 **SECTION 2.** In Colorado Revised Statutes, 12-61-810, **amend**
22 (6) and (7) as follows:

23 **12-61-810. Compensation.** (6) (a) ~~Prior to~~ BEFORE entering into
24 a brokerage or listing agreement or a contract to buy, sell, or lease, the

1 identity of those parties, persons, or entities paying compensation or
2 commissions to any broker shall be disclosed to the parties to the
3 transaction.

4 (b) AT OR BEFORE THE CLOSING OF ANY SALE OR LEASE, THE
5 AMOUNTS DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION SHALL BE
6 ACCOUNTED FOR, EITHER IN THE CONTRACT OR IN A CONTEMPORANEOUS
7 WRITING, AS REQUIRED BY SECTION 12-61-808 (3).

8 (7) A broker may be compensated by more than one party for
9 services in a transaction, if those parties have consented in writing to such
10 multiple payments prior to entering into a contract to buy, sell, or lease.
11 THE AMOUNTS PAYABLE BY EACH PARTY SHALL BE ACCOUNTED FOR,
12 EITHER IN THE CONTRACT OR IN A CONTEMPORANEOUS WRITING, AS
13 REQUIRED BY SECTION 12-61-808 (3).

14 **SECTION 3. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 9, 2017, if adjournment sine die is on May 10,
18 2017); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2018 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to real estate transactions closed on or after
25 the applicable effective date of this act.