

## TITLE 12

### DIVISION OF REAL ESTATE

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**Draft Real Estate and Conservation Easement Provisions**

**ARTICLE 10  
Real Estate**

**PART 1**

**COMMON DEFINITIONS**

1           **12-10-101. Definitions.** AS USED IN THIS ARTICLE 10, UNLESS THE  
2 CONTEXT OTHERWISE REQUIRES:

3           (1) **[Similar to 12-61-702 (1)]** (a) "APPRAISAL", "APPRAISAL  
4 REPORT", OR "REAL ESTATE APPRAISAL" MEANS A WRITTEN OR ORAL  
5 ANALYSIS, OPINION, OR CONCLUSION RELATING TO THE NATURE, QUALITY,  
6 VALUE, OR UTILITY OF SPECIFIED INTERESTS IN, OR ASPECTS OF, IDENTIFIED  
7 REAL ESTATE THAT IS TRANSMITTED TO THE CLIENT UPON THE  
8 COMPLETION OF AN ASSIGNMENT. THESE TERMS INCLUDE A VALUATION,  
9 WHICH IS AN OPINION OF THE VALUE OF REAL ESTATE, AND AN ANALYSIS,  
10 WHICH IS A GENERAL STUDY OF REAL ESTATE NOT SPECIFICALLY  
11 PERFORMED ONLY TO DETERMINE VALUE; EXCEPT THAT THE TERMS  
12 INCLUDE A VALUATION COMPLETED BY AN APPRAISER EMPLOYEE OF A  
13 COUNTY ASSESSOR AS DEFINED IN SECTION 39-1-102 (2).

14           (b) THE TERMS DO NOT INCLUDE AN ANALYSIS, VALUATION,  
15 OPINION, CONCLUSION, NOTATION, OR COMPILATION OF DATA BY AN  
16 OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE OF A FINANCIAL  
17 INSTITUTION OR ITS AFFILIATE, MADE FOR INTERNAL USE ONLY BY THE  
18 FINANCIAL INSTITUTION OR AFFILIATE, CONCERNING AN INTEREST IN REAL  
19 ESTATE THAT IS OWNED OR HELD AS COLLATERAL BY THE FINANCIAL  
20 INSTITUTION OR AFFILIATE AND THAT IS NOT REPRESENTED OR DEEMED TO  
21 BE AN APPRAISAL EXCEPT TO THE FINANCIAL INSTITUTION, THE AGENCIES  
22 REGULATING THE FINANCIAL INSTITUTION, AND ANY SECONDARY MARKETS  
23 THAT PURCHASE REAL ESTATE SECURED LOANS. AN APPRAISAL PREPARED  
24 BY AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE OF A  
25 FINANCIAL INSTITUTION WHO IS NOT LICENSED OR CERTIFIED UNDER THIS  
26 ARTICLE 10 SHALL CONTAIN A WRITTEN NOTICE THAT THE PREPARER IS  
27 NOT LICENSED OR CERTIFIED AS AN APPRAISER UNDER THIS ARTICLE 10.

28           (2) **[Similar to former 12-61-1001 (2) (2017)]** "CCIOA" MEANS  
29 THE "COLORADO COMMON INTEREST OWNERSHIP ACT", ARTICLE 33.3 OF  
30 TITLE 38, C.R.S.

31           (3) (a) **[Similar to former 12-61-1001 (3) (2017)]** "COMMON  
32 INTEREST COMMUNITY" HAS THE MEANING SET FORTH IN SECTION  
33 38-33-103 (8); EXCEPT THAT "COMMON INTEREST COMMUNITY DOES NOT  
34 INCLUDE:

35           (I) A COMMUNITY MANAGED BY AN ASSOCIATION OR UNIT OWNERS'  
36 ASSOCIATION IN WHICH A MAJORITY OF UNITS THAT ARE DESIGNATED FOR  
37 RESIDENTIAL USE ARE TIME SHARE UNITS, AS DEFINED IN SECTION  
38 38-33-110 (7) OR CONSIST OF TIME SHARE INTERESTS; OR

39           (II) A COMMUNITY, RESORT, OR DEVELOPMENT REGISTERED WITH  
40 THE COLORADO DIVISION OF REAL ESTATE AS A TIME SHARE SUBDIVISION.

1                    (b) AS USED IN THIS SUBSECTION (3), "MAJORITY OF UNITS" MEANS  
2 THE UNITS TO WHICH ARE ALLOCATED MORE THAN FIFTY PERCENT OF THE  
3 ALLOCATED INTERESTS IN THE COMMON INTEREST COMMUNITY  
4 APPURTENANT TO ALL UNITS THAT ARE DESIGNATED FOR RESIDENTIAL  
5 USE.

6                    (4) [Similar to 12-61-401 (2)] "DEVELOPER" MEANS ANY PERSON,  
7 AS DEFINED IN SECTION 2-4-401 (8), THAT PARTICIPATES AS OWNER,  
8 PROMOTER, OR SALES AGENT IN THE PROMOTION, SALE, OR LEASE OF A  
9 SUBDIVISION OR ANY PART THEREOF.

10                   (5) [Similar to 12-61-702 (7) and 12-61-902 (3)] "DIRECTOR"  
11 MEANS THE DIRECTOR OF THE DIVISION OF REAL ESTATE.

12                   (6) [Similar to 12-61-702 (8) and 12-61-902 (4)] "DIVISION"  
13 MEANS THE DIVISION OF REAL ESTATE.

14                   (7) [Similar to 12-61-101 (1.2) and 12-61-401 (2.5)] "HOA" OR  
15 "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION OR UNIT OWNERS'  
16 ASSOCIATION FORMED BEFORE, ON, OR AFTER JULY 1, 1992, AS PART OF A  
17 COMMON INTEREST COMMUNITY, AS DEFINED IN SECTION 38-33.3-103.

18                   (8) "INDIVIDUAL" MEANS A NATURAL PERSON.

19                   (9) [Similar to 12-61-902 (6)] (a) "MORTGAGE LOAN  
20 ORIGINATOR" MEANS AN INDIVIDUAL WHO:

- 21                    (I) TAKES A RESIDENTIAL MORTGAGE LOAN APPLICATION; OR
- 22                    (II) OFFERS OR NEGOTIATES TERMS OF A RESIDENTIAL MORTGAGE

23 LOAN.

24                    (b) "MORTGAGE LOAN ORIGINATOR" DOES NOT INCLUDE:

25                    (I) AN INDIVIDUAL ENGAGED SOLELY AS A LOAN PROCESSOR OR  
26 UNDERWRITER;

27                    (II) A PERSON THAT ONLY PERFORMS REAL ESTATE BROKERAGE OR  
28 SALES ACTIVITIES AND IS LICENSED OR REGISTERED PURSUANT TO PART 2  
29 OF THIS ARTICLE 10, UNLESS THE PERSON IS COMPENSATED BY A  
30 MORTGAGE LENDER OR A MORTGAGE LOAN ORIGINATOR;

31                    (III) A PERSON SOLELY INVOLVED IN EXTENSIONS OF CREDIT  
32 RELATING TO TIME SHARE PLANS, AS DEFINED IN 11 U.S.C. SEC. 101 (53D);

33                    (IV) AN INDIVIDUAL WHO IS SERVICING A MORTGAGE LOAN; OR

34                    (V) A PERSON THAT ONLY PERFORMS THE SERVICES AND  
35 ACTIVITIES OF A DEALER, AS DEFINED IN SECTION 24-32-3302.

36                    (10) [Similar to 12-61-602 (3) and 12-61-902 (7.5)] "PERSON"  
37 MEANS A NATURAL PERSON, CORPORATION, COMPANY, LIMITED LIABILITY  
38 COMPANY, PARTNERSHIP, FIRM, ASSOCIATION, OR OTHER LEGAL ENTITY.

39                    (11) [Similar to 12-61-702 (11)] (a) "REAL ESTATE APPRAISER"  
40 OR "APPRAISER" MEANS A PERSON WHO PROVIDES AN ESTIMATE OF THE  
41 NATURE, QUALITY, VALUE, OR UTILITY OF AN INTEREST IN, OR ASPECT OF,  
42 IDENTIFIED REAL ESTATE AND INCLUDES ONE WHO ESTIMATES VALUE AND  
43 WHO POSSESSES THE NECESSARY QUALIFICATIONS, ABILITY, AND  
44 EXPERIENCE TO EXECUTE OR DIRECT THE APPRAISAL OF REAL PROPERTY.

45                    (b) "REAL ESTATE APPRAISER" DOES NOT INCLUDE:

46                    (I) A PERSON WHO CONDUCTS APPRAISALS STRICTLY OF PERSONAL  
47 PROPERTY;

48                    (II) A PERSON LICENSED AS A BROKER PURSUANT TO PART 2 OF  
49 THIS ARTICLE 10 WHO PROVIDES AN OPINION OF VALUE THAT IS NOT  
50 REPRESENTED AS AN APPRAISAL AND IS NOT USED FOR PURPOSES OF  
51 OBTAINING FINANCING;

52                    (III) A PERSON LICENSED AS A CERTIFIED PUBLIC ACCOUNTANT

1 PURSUANT TO **ARTICLE 100 OF THIS TITLE 12**, AND OTHERWISE REGULATED,  
2 AS LONG AS THE PERSON DOES NOT REPRESENT HIS OR HER OPINIONS OF  
3 VALUE FOR REAL ESTATE AS AN APPRAISAL;

4 (IV) A CORPORATION, ACTING THROUGH ITS OFFICERS OR REGULAR  
5 SALARIED EMPLOYEES, WHEN CONDUCTING A VALUATION OF REAL ESTATE  
6 PROPERTY RIGHTS OWNED, TO BE PURCHASED, OR SOLD BY THE  
7 CORPORATION;

8 (V) A PERSON WHO CONDUCTS APPRAISALS STRICTLY OF WATER  
9 RIGHTS OR OF MINERAL RIGHTS;

10 (VI) A RIGHT-OF-WAY ACQUISITION AGENT EMPLOYED BY A  
11 PUBLIC ENTITY WHO PROVIDES AN OPINION OF VALUE THAT IS NOT  
12 REPRESENTED AS AN APPRAISAL WHEN THE PROPERTY BEING VALUED IS  
13 TWENTY-FIVE THOUSAND DOLLARS OR LESS, AS PERMITTED BY FEDERAL  
14 LAW;

15 (VII) AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE  
16 OF A FINANCIAL INSTITUTION OR ITS AFFILIATE WHO MAKES, FOR INTERNAL  
17 USE ONLY BY THE FINANCIAL INSTITUTION OR AFFILIATE, AN ANALYSIS,  
18 EVALUATION, OPINION, CONCLUSION, NOTATION, OR COMPILATION OF  
19 DATA WITH RESPECT TO AN APPRAISAL SO LONG AS THE PERSON DOES NOT  
20 MAKE A WRITTEN ADJUSTMENT OF THE APPRAISAL'S CONCLUSION AS TO  
21 THE VALUE OF THE SUBJECT REAL PROPERTY;

22 (VIII) AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE  
23 OF A FINANCIAL INSTITUTION OR ITS AFFILIATE WHO MAKES AN INTERNAL  
24 ANALYSIS, VALUATION, OPINION, CONCLUSION, NOTATION, OR  
25 COMPILATION OF DATA CONCERNING AN INTEREST IN REAL ESTATE THAT  
26 IS OWNED OR HELD AS COLLATERAL BY THE FINANCIAL INSTITUTION OR ITS  
27 AFFILIATE; OR

28 (IX) A PERSON WHO REPRESENTS PROPERTY OWNERS AS AN  
29 ADVOCATE IN TAX OR VALUATION PROTESTS AND APPEALS PURSUANT TO  
30 TITLE 39.

31 (12) [Similar to 12-61-101 (2)] (a) "REAL ESTATE BROKER" OR  
32 "BROKER" MEANS ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY  
33 COMPANY, ASSOCIATION, OR CORPORATION THAT, IN CONSIDERATION OF  
34 COMPENSATION BY FEE, COMMISSION, SALARY, OR ANYTHING OF VALUE OR  
35 WITH THE INTENTION OF RECEIVING OR COLLECTING SUCH COMPENSATION,  
36 ENGAGES IN OR OFFERS OR ATTEMPTS TO ENGAGE IN, EITHER DIRECTLY OR  
37 INDIRECTLY, BY A CONTINUING COURSE OF CONDUCT OR BY ANY SINGLE  
38 ACT OR TRANSACTION, ANY OF THE FOLLOWING ACTS:

39 (I) SELLING, EXCHANGING, BUYING, RENTING, OR LEASING REAL  
40 ESTATE, OR INTEREST THEREIN, OR IMPROVEMENTS AFFIXED THEREON;

41 (II) OFFERING TO SELL, EXCHANGE, BUY, RENT, OR LEASE REAL  
42 ESTATE, OR INTEREST THEREIN, OR IMPROVEMENTS AFFIXED THEREON;

43 (III) SELLING OR OFFERING TO SELL OR EXCHANGE AN EXISTING  
44 LEASE OF REAL ESTATE, OR INTEREST THEREIN, OR IMPROVEMENTS  
45 AFFIXED THEREON;

46 (IV) NEGOTIATING THE PURCHASE, SALE, OR EXCHANGE OF REAL  
47 ESTATE, OR INTEREST THEREIN, OR IMPROVEMENTS AFFIXED THEREON;

48 (V) LISTING, OFFERING, ATTEMPTING, OR AGREEING TO LIST REAL  
49 ESTATE, OR INTEREST THEREIN, OR IMPROVEMENTS AFFIXED THEREON FOR  
50 SALE, EXCHANGE, RENT, OR LEASE;

51 (VI) AUCTIONING OR OFFERING, ATTEMPTING, OR AGREEING TO  
52 AUCTION REAL ESTATE, OR INTEREST THEREIN, OR IMPROVEMENTS



1 AFFIXED THEREON;

2 (VII) BUYING, SELLING, OFFERING TO BUY OR SELL, OR OTHERWISE  
3 DEALING IN OPTIONS ON REAL ESTATE, OR INTEREST THEREIN, OR  
4 IMPROVEMENTS AFFIXED THEREON, OR ACTING AS AN "OPTION DEALER";

5 (VIII) PERFORMING ANY OF THE FOREGOING ACTS AS AN  
6 EMPLOYEE OF, OR ON BEHALF OF, THE OWNER OF REAL ESTATE, OR  
7 INTEREST THEREIN, OR IMPROVEMENTS AFFIXED THEREON AT A SALARY OR  
8 FOR A FEE, COMMISSION, OR OTHER CONSIDERATION;

9 (IX) NEGOTIATING OR ATTEMPTING OR OFFERING TO NEGOTIATE  
10 THE LISTING, SALE, PURCHASE, EXCHANGE, OR LEASE OF A BUSINESS OR  
11 BUSINESS OPPORTUNITY OR THE GOODWILL THEREOF OR ANY INTEREST  
12 THEREIN WHEN THE ACT OR TRANSACTION INVOLVES, DIRECTLY OR  
13 INDIRECTLY, ANY CHANGE IN THE OWNERSHIP OR INTEREST IN REAL  
14 ESTATE, OR IN A LEASEHOLD INTEREST OR ESTATE, OR IN A BUSINESS OR  
15 BUSINESS OPPORTUNITY THAT OWNS AN INTEREST IN REAL ESTATE OR IN  
16 A LEASEHOLD UNLESS THE ACT IS PERFORMED BY ANY BROKER-DEALER  
17 LICENSED UNDER THE PROVISIONS OF ARTICLE 51 OF TITLE 11, WHO IS  
18 ACTUALLY ENGAGED GENERALLY IN THE BUSINESS OF OFFERING, SELLING,  
19 PURCHASING, OR TRADING IN SECURITIES OR ANY OFFICER, PARTNER,  
20 SALESPERSON, EMPLOYEE, OR OTHER AUTHORIZED REPRESENTATIVE OR  
21 AGENT THEREOF; OR

22 (X) SOLICITING A FEE OR VALUABLE CONSIDERATION FROM A  
23 PROSPECTIVE TENANT FOR FURNISHING INFORMATION CONCERNING THE  
24 AVAILABILITY OF REAL PROPERTY, INCLUDING APARTMENT HOUSING THAT  
25 MAY BE LEASED OR RENTED AS A PRIVATE DWELLING, ABODE, OR PLACE OF  
26 RESIDENCE. ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY  
27 COMPANY, ASSOCIATION, OR CORPORATION OR ANY EMPLOYEE OR  
28 AUTHORIZED AGENT THEREOF ENGAGED IN THE ACT OF SOLICITING A FEE  
29 OR VALUABLE CONSIDERATION FROM ANY PERSON OTHER THAN A  
30 PROSPECTIVE TENANT FOR FURNISHING INFORMATION CONCERNING THE  
31 AVAILABILITY OF REAL PROPERTY, INCLUDING APARTMENT HOUSING THAT  
32 MAY BE LEASED OR RENTED AS A PRIVATE DWELLING, ABODE, OR PLACE OF  
33 RESIDENCE, IS EXEMPT FROM THIS DEFINITION OF "REAL ESTATE BROKER"  
34 OR "BROKER". THIS EXEMPTION APPLIES ONLY IN RESPECT TO THE  
35 FURNISHING OF INFORMATION CONCERNING THE AVAILABILITY OF REAL  
36 PROPERTY.

37 (b) "REAL ESTATE BROKER" OR "BROKER" DOES NOT APPLY TO ANY  
38 OF THE FOLLOWING:

39 (I) ANY ATTORNEY-IN-FACT ACTING WITHOUT COMPENSATION  
40 UNDER A POWER OF ATTORNEY, DULY EXECUTED BY AN OWNER OF REAL  
41 ESTATE, AUTHORIZING THE CONSUMMATION OF A REAL ESTATE  
42 TRANSACTION;

43 (II) ANY PUBLIC OFFICIAL IN THE CONDUCT OF HIS OR HER OFFICIAL  
44 DUTIES;

45 (III) ANY RECEIVER, TRUSTEE, ADMINISTRATOR, CONSERVATOR,  
46 EXECUTOR, OR GUARDIAN ACTING UNDER PROPER AUTHORIZATION;

47 (IV) ANY INDIVIDUAL, FIRM, PARTNERSHIP, LIMITED LIABILITY  
48 COMPANY, OR ASSOCIATION ACTING PERSONALLY, OR A CORPORATION  
49 ACTING THROUGH ITS OFFICERS OR REGULAR SALARIED EMPLOYEES, ON  
50 BEHALF OF THAT PERSON OR ON ITS OWN BEHALF AS PRINCIPAL IN  
51 ACQUIRING OR IN NEGOTIATING TO ACQUIRE ANY INTEREST IN REAL  
52 ESTATE;

1 (V) AN ATTORNEY-AT-LAW IN CONNECTION WITH HIS OR HER  
2 REPRESENTATION OF CLIENTS IN THE PRACTICE OF LAW;

3 (VI) ANY INDIVIDUAL, FIRM, PARTNERSHIP, LIMITED LIABILITY  
4 COMPANY, ASSOCIATION, OR CORPORATION, OR ANY EMPLOYEE OR  
5 AUTHORIZED AGENT THEREOF, ENGAGED IN THE ACT OF NEGOTIATING,  
6 ACQUIRING, PURCHASING, ASSIGNING, EXCHANGING, SELLING, LEASING, OR  
7 DEALING IN OIL AND GAS OR OTHER MINERAL LEASES OR INTERESTS  
8 THEREIN OR OTHER SEVERED MINERAL OR ROYALTY INTERESTS IN REAL  
9 PROPERTY, INCLUDING EASEMENTS, RIGHTS-OF-WAY, PERMITS, LICENSES,  
10 AND ANY OTHER INTERESTS IN REAL PROPERTY FOR OR ON BEHALF OF A  
11 THIRD PARTY, FOR THE PURPOSE OF, OR FACILITIES RELATED TO,  
12 INTRASTATE AND INTERSTATE PIPELINES FOR OIL, GAS, AND OTHER  
13 PETROLEUM PRODUCTS, FLOW LINES, GAS GATHERING SYSTEMS, AND  
14 NATURAL GAS STORAGE AND DISTRIBUTION;

15 (VII) AN INDIVIDUAL ACTING PERSONALLY WITH RESPECT TO  
16 PROPERTY OWNED OR LEASED BY THAT PERSON OR AN INDIVIDUAL WHO IS  
17 A GENERAL PARTNER OF A PARTNERSHIP, A MANAGER OF A LIMITED  
18 LIABILITY COMPANY, OR AN OWNER OF TWENTY PERCENT OR MORE OF  
19 SUCH PARTNERSHIP OR LIMITED LIABILITY COMPANY, AND AUTHORIZED TO  
20 SELL OR LEASE PROPERTY OWNED BY THE PARTNERSHIP OR LIMITED  
21 LIABILITY COMPANY, EXCEPT AS PROVIDED IN SECTION 12-10-201 (3);

22 (VIII) A CORPORATION WITH RESPECT TO PROPERTY OWNED OR  
23 LEASED BY IT, ACTING THROUGH ITS OFFICERS OR REGULAR SALARIED  
24 EMPLOYEES, WHEN SUCH ACTS ARE INCIDENTAL AND NECESSARY IN THE  
25 ORDINARY COURSE OF THE CORPORATION'S BUSINESS ACTIVITIES OF A  
26 NON-REAL ESTATE NATURE, BUT ONLY IF THE CORPORATION IS NOT  
27 ENGAGED IN THE BUSINESS OF LAND TRANSACTIONS, EXCEPT AS PROVIDED  
28 IN SECTION 12-10-201 (3). FOR THE PURPOSES OF THIS SUBSECTION  
29 (10)(b)(VIII), THE TERM "OFFICERS OR REGULAR SALARIED EMPLOYEES"  
30 MEANS PERSONS REGULARLY EMPLOYED WHO DERIVE NOT LESS THAN  
31 SEVENTY-FIVE PERCENT OF THEIR COMPENSATION FROM THE  
32 CORPORATION IN THE FORM OF SALARIES.

33 (IX) A PRINCIPAL OFFICER OF ANY CORPORATION WITH RESPECT TO  
34 PROPERTY OWNED BY IT WHEN THE PROPERTY IS LOCATED WITHIN THE  
35 STATE OF COLORADO AND WHEN THE PRINCIPAL OFFICER IS THE OWNER OF  
36 TWENTY PERCENT OR MORE OF THE OUTSTANDING STOCK OF THE  
37 CORPORATION, EXCEPT AS PROVIDED IN SECTION 12-10-201 (3), BUT THIS  
38 EXEMPTION DOES NOT INCLUDE ANY CORPORATION SELLING PREVIOUSLY  
39 OCCUPIED ONE-FAMILY AND TWO-FAMILY DWELLINGS;

40 (X) A SOLE PROPRIETOR, CORPORATION, PARTNERSHIP, OR LIMITED  
41 LIABILITY COMPANY, ACTING THROUGH ITS OFFICERS, PARTNERS, OR  
42 REGULARLY SALARIED EMPLOYEES, WITH RESPECT TO PROPERTY OWNED  
43 OR LEASED BY THE SOLE PROPRIETOR, CORPORATION, PARTNERSHIP, OR  
44 LIMITED LIABILITY COMPANY ON WHICH HAS BEEN OR WILL BE ERRECTED A  
45 COMMERCIAL, INDUSTRIAL, OR RESIDENTIAL BUILDING THAT HAS NOT  
46 BEEN PREVIOUSLY OCCUPIED AND WHERE THE CONSIDERATION PAID FOR  
47 THE PROPERTY INCLUDES THE COST OF THE BUILDING, PAYABLE, LESS  
48 DEPOSIT OR DOWN PAYMENT, AT THE TIME OF CONVEYANCE OF THE  
49 PROPERTY AND BUILDING;

50 (XI) (A) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY  
51 COMPANY ACTING THROUGH ITS OFFICERS, PARTNERS, MANAGERS, OR  
52 REGULARLY SALARIED EMPLOYEES RECEIVING NO ADDITIONAL

1 COMPENSATION THEREFOR, OR ITS WHOLLY OWNED SUBSIDIARY OR  
2 OFFICERS, PARTNERS, MANAGERS, OR REGULAR SALARIED EMPLOYEES  
3 THEREOF RECEIVING NO ADDITIONAL COMPENSATION, WITH RESPECT TO  
4 PROPERTY LOCATED IN COLORADO THAT IS OWNED OR LEASED BY THE  
5 CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY AND ON  
6 WHICH HAS BEEN OR WILL BE ERECTED A SHOPPING CENTER, OFFICE  
7 BUILDING, OR INDUSTRIAL PARK WHEN SUCH SHOPPING CENTER, OFFICE  
8 BUILDING, OR INDUSTRIAL PARK IS SOLD, LEASED, OR OTHERWISE OFFERED  
9 FOR SALE OR LEASE IN THE ORDINARY COURSE OF THE BUSINESS OF THE  
10 CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR WHOLLY  
11 OWNED SUBSIDIARY.

12 (B) FOR THE PURPOSES OF THIS SUBSECTION (12)(b)(XI),  
13 "SHOPPING CENTER" MEANS LAND ON WHICH BUILDINGS ARE OR WILL BE  
14 CONSTRUCTED THAT ARE USED FOR COMMERCIAL AND OFFICE PURPOSES  
15 AROUND OR ADJACENT TO WHICH OFF-STREET PARKING IS PROVIDED;  
16 "OFFICE BUILDING" MEANS A BUILDING USED PRIMARILY FOR OFFICE  
17 PURPOSES; AND "INDUSTRIAL PARK" MEANS LAND ON WHICH BUILDINGS  
18 ARE OR WILL BE CONSTRUCTED FOR WAREHOUSE, RESEARCH,  
19 MANUFACTURING, PROCESSING, OR FABRICATION PURPOSES.

20 (XII) A REGULARLY SALARIED EMPLOYEE OF AN OWNER OF AN  
21 APARTMENT BUILDING OR COMPLEX WHO ACTS AS AN ON-SITE MANAGER  
22 OF SUCH AN APARTMENT BUILDING OR COMPLEX. THIS EXEMPTION APPLIES  
23 ONLY IN RESPECT TO THE CUSTOMARY DUTIES OF AN ON-SITE MANAGER  
24 PERFORMED FOR HIS OR HER EMPLOYER.

25 (XIII) A REGULARLY SALARIED EMPLOYEE OF AN OWNER OF  
26 CONDOMINIUM UNITS WHO ACTS AS AN ON-SITE MANAGER OF SUCH UNITS.  
27 FOR PURPOSES OF THIS SUBSECTION (12)(b)(XIII) ONLY, THE TERM  
28 "OWNER" INCLUDES A HOMEOWNERS' ASSOCIATION FORMED AND ACTING  
29 PURSUANT TO ITS RECORDED CONDOMINIUM DECLARATION AND BYLAWS.  
30 THIS EXEMPTION APPLIES ONLY IN RESPECT TO THE CUSTOMARY DUTIES OF  
31 AN ON-SITE MANAGER PERFORMED FOR HIS OR HER EMPLOYER.

32 (XIV) A REAL ESTATE BROKER LICENSED IN ANOTHER STATE WHO  
33 RECEIVES A SHARE OF A COMMISSION OR FINDER'S FEE ON A COOPERATIVE  
34 TRANSACTION FROM A LICENSED COLORADO REAL ESTATE BROKER;

35 (XV) A SOLE PROPRIETOR, CORPORATION, PARTNERSHIP, OR  
36 LIMITED LIABILITY COMPANY, ACTING THROUGH ITS OFFICERS, PARTNERS,  
37 OR REGULARLY SALARIED EMPLOYEES, WITH RESPECT TO PROPERTY  
38 LOCATED IN COLORADO, WHERE THE PURCHASER OF THE PROPERTY IS IN  
39 THE BUSINESS OF DEVELOPING LAND FOR RESIDENTIAL, COMMERCIAL, OR  
40 INDUSTRIAL PURPOSES;

41 (XVI) ANY INDIVIDUAL, FIRM, PARTNERSHIP, LIMITED LIABILITY  
42 COMPANY, ASSOCIATION, OR CORPORATION, OR ANY EMPLOYEE OR  
43 AUTHORIZED AGENT THEREOF, ENGAGED IN THE ACT OF NEGOTIATING,  
44 PURCHASING, ASSIGNING, EXCHANGING, SELLING, LEASING, OR ACQUIRING  
45 RIGHTS-OF-WAY, PERMITS, LICENSES, AND ANY OTHER INTERESTS IN REAL  
46 PROPERTY FOR, OR ON BEHALF OF, A THIRD PARTY FOR THE PURPOSE OF, OR  
47 FACILITIES RELATED TO:

- 48 (A) TELECOMMUNICATION LINES;
- 49 (B) WIRELESS COMMUNICATION FACILITIES;
- 50 (C) CATV;
- 51 (D) ELECTRIC GENERATION, TRANSMISSION, AND DISTRIBUTION  
52 LINES;

1 (E) WATER DIVERSION, COLLECTION, DISTRIBUTION, TREATMENT,  
2 AND STORAGE OR USE; AND

3 (F) TRANSPORTATION, SO LONG AS THE INDIVIDUAL, FIRM,  
4 PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR  
5 CORPORATION, INCLUDING ANY EMPLOYEE OR AUTHORIZED AGENT  
6 THEREOF, DOES NOT REPRESENT ANY DISPLACED PERSON OR ENTITY AS AN  
7 AGENT THEREOF IN THE PURCHASE, SALE, OR EXCHANGE OF REAL ESTATE,  
8 OR AN INTEREST THEREIN, RESULTING FROM RESIDENTIAL OR COMMERCIAL  
9 RELOCATIONS REQUIRED UNDER ANY TRANSPORTATION PROJECT,  
10 REGARDLESS OF THE SOURCE OF PUBLIC FUNDING.

11 (13) [Similar to 12-61-401 (3)] (a) "SUBDIVISION" MEANS ANY  
12 REAL PROPERTY DIVIDED INTO TWENTY OR MORE INTERESTS INTENDED  
13 SOLELY FOR RESIDENTIAL USE AND OFFERED FOR SALE, LEASE, OR  
14 TRANSFER.

15 (b) (I) THE TERM "SUBDIVISION" ALSO INCLUDES:

16 (A) THE CONVERSION OF AN EXISTING STRUCTURE INTO A COMMON  
17 INTEREST COMMUNITY, AS DEFINED IN ARTICLE 33.3 OF TITLE 38, OF  
18 TWENTY OR MORE RESIDENTIAL UNITS;

19 (B) A GROUP OF TWENTY OR MORE TIME SHARES INTENDED FOR  
20 RESIDENTIAL USE; AND

21 (C) A GROUP OF TWENTY OR MORE PROPRIETARY LEASES IN A  
22 COOPERATIVE HOUSING CORPORATION, AS DEFINED IN ARTICLE 33.5 OF  
23 TITLE 38.

24 (II) THE TERM "SUBDIVISION" DOES NOT INCLUDE:

25 (A) THE SELLING OF MEMBERSHIPS IN CAMPGROUNDS;

26 (B) BULK SALES AND TRANSFERS BETWEEN DEVELOPERS;

27 (C) PROPERTY UPON WHICH THERE HAS BEEN OR UPON WHICH  
28 THERE WILL BE ERECTED RESIDENTIAL BUILDINGS THAT HAVE NOT BEEN  
29 PREVIOUSLY OCCUPIED AND WHERE THE CONSIDERATION PAID FOR THE  
30 PROPERTY INCLUDES THE COST OF SUCH BUILDINGS;

31 (D) LOTS THAT, AT THE TIME OF CLOSING OF A SALE OR  
32 OCCUPANCY UNDER A LEASE, ARE SITUATED ON A STREET OR ROAD AND  
33 STREET OR ROAD SYSTEM IMPROVED TO STANDARDS AT LEAST EQUAL TO  
34 STREETS AND ROADS MAINTAINED BY THE COUNTY, CITY, OR TOWN IN  
35 WHICH THE LOTS ARE LOCATED; HAVE A FEASIBLE PLAN TO PROVIDE  
36 POTABLE WATER AND SEWAGE DISPOSAL; AND HAVE TELEPHONE AND  
37 ELECTRICITY FACILITIES AND SYSTEMS ADEQUATE TO SERVE THE LOTS,  
38 WHICH FACILITIES AND SYSTEMS ARE INSTALLED AND IN PLACE ON THE  
39 LOTS OR IN A STREET, ROAD, OR EASEMENT ADJACENT TO THE LOTS AND  
40 WHICH FACILITIES AND SYSTEMS COMPLY WITH APPLICABLE STATE,  
41 COUNTY, MUNICIPAL, OR OTHER LOCAL LAWS, RULES, AND REGULATIONS;  
42 OR ANY SUBDIVISION THAT HAS BEEN OR IS REQUIRED TO BE APPROVED  
43 AFTER SEPTEMBER 1, 1972, BY A REGIONAL, COUNTY, OR MUNICIPAL  
44 PLANNING AUTHORITY PURSUANT TO ARTICLE 28 OF TITLE 30 OR ARTICLE  
45 23 OF TITLE 31;

46 (E) SALES BY PUBLIC OFFICIALS IN THE OFFICIAL CONDUCT OF  
47 THEIR DUTIES.

48 (14) [Similar to 12-61-401 (4)] "TIME SHARE" MEANS A TIME  
49 SHARE ESTATE, AS DEFINED IN SECTION 38-33-110 (5), OR A TIME SHARE  
50 USE, BUT THE TERM DOES NOT INCLUDE GROUP RESERVATIONS MADE FOR  
51 CONVENTION PURPOSES AS A SINGLE TRANSACTION WITH A HOTEL, MOTEL,  
52 OR CONDOMINIUM OWNER OR ASSOCIATION. FOR THE PURPOSES OF THIS

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SUBSECTION (14), "TIME SHARE USE" MEANS A CONTRACTUAL OR MEMBERSHIP RIGHT OF OCCUPANCY, THAT CANNOT BE TERMINATED AT THE WILL OF THE OWNER, FOR LIFE OR FOR A TERM OF YEARS, TO THE RECURRENT, EXCLUSIVE USE OR OCCUPANCY OF A LOT, PARCEL, UNIT, OR SPECIFIC OR NONSPECIFIC SEGMENT OF REAL PROPERTY, ANNUALLY OR ON SOME OTHER PERIODIC BASIS, FOR A PERIOD OF TIME THAT HAS BEEN OR WILL BE ALLOTTED FROM THE USE OR OCCUPANCY PERIODS INTO WHICH THE PROPERTY HAS BEEN DIVIDED.

PART 2  
BROKERS AND SALESPERSONS

**12-10-201. [Formerly 12-61-101] Definitions.** As used in this part + 2, unless the context otherwise requires:

(1) "Employing real estate broker" or "employing broker" means a broker who is shown in real estate commission records as employing or engaging another broker.

~~(1.2) "HOA" or "homeowners' association" means an association or unit owners' association formed before, on, or after July 1, 1992, as part of a common interest community as defined in section 38-33.3-103, C.R.S.~~

~~(1.3) (2) "Limited liability company" shall have the same meaning as it is given in section 7-80-102 (7). C.R.S.~~

~~(1.5) (3) "Option dealer" means any person INDIVIDUAL, firm, partnership, limited liability company, association, or corporation who, directly or indirectly, takes, obtains, or uses an option to purchase, exchange, rent, or lease real property or any interest therein with the intent or for the purpose of buying, selling, exchanging, renting, or leasing said THE real property or interest therein to another or others, whether or not said THE option is in that person's or its name and whether or not title to said property passes through the name of said person THE INDIVIDUAL, firm, partnership, limited liability company, association, or corporation in connection with the purchase, sale, exchange, rental, or lease of said THE real property or interest therein.~~

~~(1.7) (4) "Partnership" includes, but is not limited to, a registered limited liability partnership.~~

~~(2) (a) "Real estate broker" or "broker" means any person, firm, partnership, limited liability company, association, or corporation who, in consideration of compensation by fee, commission, salary, or anything of value or with the intention of receiving or collecting such compensation, engages in or offers or attempts to engage in, either directly or indirectly, by a continuing course of conduct or by any single act or transaction, any of the following acts:~~

~~(I) Selling, exchanging, buying, renting, or leasing real estate, or interest therein, or improvements affixed thereon;~~

~~(II) Offering to sell, exchange, buy, rent, or lease real estate, or interest therein, or improvements affixed thereon;~~

~~(III) Selling or offering to sell or exchange an existing lease of real estate, or interest therein, or improvements affixed thereon;~~

~~(IV) Negotiating the purchase, sale, or exchange of real estate, or interest therein, or improvements affixed thereon;~~

~~(V) Listing, offering, attempting, or agreeing to list real estate, or~~

1 interest therein, or improvements affixed thereon for sale, exchange, rent,  
2 or lease;

3 ~~(VI) Auctioning or offering, attempting, or agreeing to auction~~  
4 ~~real estate, or interest therein, or improvements affixed thereon;~~

5 ~~(VII) Buying, selling, offering to buy or sell, or otherwise dealing~~  
6 ~~in options on real estate, or interest therein, or improvements affixed~~  
7 ~~thereon or acting as an "option dealer";~~

8 ~~(VIII) Performing any of the foregoing acts as an employee of, or~~  
9 ~~in behalf of, the owner of real estate, or interest therein, or improvements~~  
10 ~~affixed thereon at a salary or for a fee, commission, or other~~  
11 ~~consideration;~~

12 ~~(IX) Negotiating or attempting or offering to negotiate the listing,~~  
13 ~~sale, purchase, exchange, or lease of a business or business opportunity~~  
14 ~~or the goodwill thereof or any interest therein when such act or~~  
15 ~~transaction involves, directly or indirectly, any change in the ownership~~  
16 ~~or interest in real estate, or in a leasehold interest or estate, or in a~~  
17 ~~business or business opportunity which owns an interest in real estate or~~  
18 ~~in a leasehold unless such act is performed by any broker-dealer licensed~~  
19 ~~under the provisions of article 51 of title 11, C.R.S., who is actually~~  
20 ~~engaged generally in the business of offering, selling, purchasing, or~~  
21 ~~trading in securities or any officer, partner, salesperson, employee, or~~  
22 ~~other authorized representative or agent thereof;~~

23 ~~(X) Soliciting a fee or valuable consideration from a prospective~~  
24 ~~tenant for furnishing information concerning the availability of real~~  
25 ~~property, including apartment housing which may be leased or rented as~~  
26 ~~a private dwelling, abode, or place of residence. Any person, firm,~~  
27 ~~partnership, limited liability company, association, or corporation or any~~  
28 ~~employee or authorized agent thereof engaged in the act of soliciting a fee~~  
29 ~~or valuable consideration from any person other than a prospective tenant~~  
30 ~~for furnishing information concerning the availability of real property,~~  
31 ~~including apartment housing which may be leased or rented as a private~~  
32 ~~dwelling, abode, or place of residence, is exempt from this definition of~~  
33 ~~"real estate broker" or "broker". This exemption applies only in respect~~  
34 ~~to the furnishing of information concerning the availability of real~~  
35 ~~property.~~

36 ~~(b) "Real estate broker" does not apply to any of the following:~~

37 ~~(I) Any attorney-in-fact acting without compensation under a~~  
38 ~~power of attorney, duly executed by an owner of real estate, authorizing~~  
39 ~~the consummation of a real estate transaction;~~

40 ~~(II) Any public official in the conduct of his or her official duties;~~

41 ~~(III) Any receiver, trustee, administrator, conservator, executor,~~  
42 ~~or guardian acting under proper authorization;~~

43 ~~(IV) Any person, firm, partnership, limited liability company, or~~  
44 ~~association acting personally or a corporation acting through its officers~~  
45 ~~or regular salaried employees, on behalf of that person or on its own~~  
46 ~~behalf as principal in acquiring or in negotiating to acquire any interest~~  
47 ~~in real estate;~~

48 ~~(V) An attorney-at-law in connection with his or her~~  
49 ~~representation of clients in the practice of law;~~

50 ~~(VI) Any person, firm, partnership, limited liability company,~~  
51 ~~association, or corporation, or any employee or authorized agent thereof,~~  
52 ~~engaged in the act of negotiating, acquiring, purchasing, assigning,~~

1 exchanging, selling, leasing, or dealing in oil and gas or other mineral  
2 leases or interests therein or other severed mineral or royalty interests in  
3 real property, including easements, rights-of-way, permits, licenses, and  
4 any other interests in real property for or on behalf of a third party, for the  
5 purpose of, or facilities related to, intrastate and interstate pipelines for  
6 oil, gas, and other petroleum products, flow lines, gas gathering systems,  
7 and natural gas storage and distribution;

8 (VII) A natural person acting personally with respect to property  
9 owned or leased by that person or a natural person who is a general  
10 partner of a partnership, a manager of a limited liability company, or an  
11 owner of twenty percent or more of such partnership or limited liability  
12 company, and authorized to sell or lease property owned by such  
13 partnership or limited liability company, except as provided in subsection  
14 (1.5) of this section;

15 (VIII) A corporation with respect to property owned or leased by  
16 it, acting through its officers or regular salaried employees, when such  
17 acts are incidental and necessary in the ordinary course of the  
18 corporation's business activities of a non-real estate nature (but only if the  
19 corporation is not engaged in the business of land transactions), except as  
20 provided in subsection (1.5) of this section. For the purposes of this  
21 subparagraph (VIII), the term "officers or regular salaried employees"  
22 means persons regularly employed who derive not less than seventy-five  
23 percent of their compensation from the corporation in the form of  
24 salaries.

25 (IX) A principal officer of any corporation with respect to  
26 property owned by it when such property is located within the state of  
27 Colorado and when such principal officer is the owner of twenty percent  
28 or more of the outstanding stock of such corporation, except as provided  
29 in subsection (1.5) of this section, but this exemption does not include any  
30 corporation selling previously occupied one-family and two-family  
31 dwellings;

32 (X) A sole proprietor, corporation, partnership, or limited liability  
33 company, acting through its officers or partners, or through regular  
34 salaried employees, with respect to property owned or leased by such sole  
35 proprietor, corporation, partnership, or limited liability company on which  
36 has been or will be erected a commercial, industrial, or residential  
37 building which has not been previously occupied and where the  
38 consideration paid for such property includes the cost of such building,  
39 payable, less deposit or down payment, at the time of conveyance of such  
40 property and building;

41 (XI) (A) A corporation, partnership, or limited liability company  
42 acting through its officers, partners, managers, or regularly salaried  
43 employees receiving no additional compensation therefor, or its wholly  
44 owned subsidiary or officers, partners, managers, or regular salaried  
45 employees thereof receiving no additional compensation, with respect to  
46 property located in Colorado which is owned or leased by such  
47 corporation, partnership, or limited liability company and on which has  
48 been or will be erected a shopping center, office building, or industrial  
49 park when such shopping center, office building, or industrial park is  
50 sold, leased, or otherwise offered for sale or lease in the ordinary course  
51 of the business of such corporation, partnership, limited liability  
52 company, or wholly owned subsidiary.

1 (B) For the purposes of this subparagraph (XI), "shopping center"  
2 means land on which buildings are or will be constructed which are used  
3 for commercial and office purposes around or adjacent to which off-street  
4 parking is provided; "office building" means a building used primarily for  
5 office purposes; and "industrial park" means land on which buildings are  
6 or will be constructed for warehouse, research, manufacturing,  
7 processing, or fabrication purposes.

8 (XII) A regularly salaried employee of an owner of an apartment  
9 building or complex who acts as an on-site manager of such an apartment  
10 building or complex. This exemption applies only in respect to the  
11 customary duties of an on-site manager performed for his or her  
12 employer.

13 (XIII) A regularly salaried employee of an owner of condominium  
14 units who acts as an on-site manager of such units. For purposes of this  
15 subparagraph (XIII) only, the term "owner" includes a homeowners'  
16 association formed and acting pursuant to its recorded condominium  
17 declaration and bylaws. This exemption applies only in respect to the  
18 customary duties of an on-site manager performed for his or her  
19 employer.

20 (XIV) A real estate broker licensed in another state who receives  
21 a share of a commission or finder's fee on a cooperative transaction from  
22 a licensed Colorado real estate broker;

23 (XV) A sole proprietor, corporation, partnership, or limited  
24 liability company, acting through its officers, partners, or regularly  
25 salaried employees, with respect to property located in Colorado, where  
26 the purchaser of such property is in the business of developing land for  
27 residential, commercial, or industrial purposes;

28 (XVI) Any person, firm, partnership, limited liability company,  
29 association, or corporation, or any employee or authorized agent thereof,  
30 engaged in the act of negotiating, purchasing, assigning, exchanging,  
31 selling, leasing, or acquiring rights-of-way, permits, licenses, and any  
32 other interests in real property for or on behalf of a third party for the  
33 purpose of, or facilities related to:

- 34 (A) Telecommunication lines;
- 35 (B) Wireless communication facilities;
- 36 (C) CATV;
- 37 (D) Electric generation, transmission, and distribution lines;
- 38 (E) Water diversion, collection, distribution, treatment, and  
39 storage or use; and

40 (F) Transportation, so long as such person, firm, partnership,  
41 limited liability company, association, or corporation, including any  
42 employee or authorized agent thereof, does not represent any displaced  
43 person or entity as an agent thereof in the purchase, sale, or exchange of  
44 real estate, or an interest therein, resulting from residential or commercial  
45 relocations required under any transportation project, regardless of the  
46 source of public funding.

47 **12-10-202. [Formerly 12-61-102] License required.** It is  
48 unlawful for any person INDIVIDUAL, firm, partnership, limited liability  
49 company, association, or corporation to engage in the business or capacity  
50 of real estate broker in this state without first having obtained a license  
51 from the real estate commission. No person shall be granted a license  
52 until such THE person establishes compliance with the provisions of this



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part ~~1~~ 2 concerning education, experience, and testing; truthfulness and honesty and otherwise good moral character; and, in addition to any other requirements of this section, competency to transact the business of a real estate broker in such manner as to safeguard the interest of the public and only after satisfactory proof of ~~such~~ THE qualifications, together with the application for ~~such~~ THE license, is filed in the office of the commission. In determining ~~such~~ THE person's character, the real estate commission shall be governed by section 24-5-101. ~~C.R.S.~~

**12-10-203. [Formerly 12-61-103] Application for license - rules.**

(1) (a) All persons desiring to become real estate brokers shall apply to the real estate commission for a license under the provisions of this part ~~1~~ 2. Application for a license as a real estate broker shall be made to the commission upon forms or in a manner prescribed by it.

(b) (I) Prior to submitting an application for a license pursuant to ~~paragraph (a) of this subsection~~ (1) SUBSECTION (1)(a) OF THIS SECTION, each applicant shall submit a set of fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The applicant shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check to the bureau. Upon completion of the criminal history record check, the bureau shall forward the results to the real estate commission. The real estate commission may acquire a name-based criminal history record check for an applicant who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable.

(II) For purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), "applicant" means an individual, or any person designated to act as broker for any partnership, limited liability company, or corporation pursuant to ~~subsection (7)~~ (6) of this section.

(2) Every real estate broker licensed under this part ~~1~~ 2 shall maintain a place of business within this state, except as provided in section ~~12-61-107~~ 12-10-208. In case a real estate broker maintains more than one place of business within the state, the broker shall be responsible for supervising all licensed activities originating in ~~such~~ THE offices.

(3) The commission is authorized by this section to require and procure any such proof as is necessary in reference to the truthfulness, honesty, and good moral character of any applicant for a real estate broker's license or, if the applicant is a partnership, limited liability company, or corporation, of any partner, manager, director, officer, member, or stockholder if ~~such person~~ THE INDIVIDUAL has, either directly or indirectly, a substantial interest in ~~such~~ THE applicant prior to the issuance of ~~such~~ THE license.

(4) (a) An applicant for a broker's license shall be at least eighteen years of age. The applicant must furnish proof satisfactory to the commission that the applicant has either received a degree from an accredited degree-granting college or university with a major course of study in real estate or has successfully completed courses of study, approved by the commission, at any accredited college or university or any private occupational school that has a certificate of approval from the private occupational school division in accordance with the provisions of

1 article ~~59 64~~ of this title 23 or that has been approved by the commission  
2 or licensed by an official state agency of any other state as follows:

3 (I) Forty-eight hours of classroom instruction or equivalent  
4 correspondent hours in real estate law and real estate practice; and

5 (II) Forty-eight hours of classroom instruction or equivalent  
6 correspondent hours in understanding and preparation of Colorado real  
7 estate contracts; and

8 (III) A total of seventy-two hours of instruction or equivalent  
9 correspondence hours from the following areas of study:

10 (A) Trust accounts and record keeping;

11 (B) Real estate closings;

12 (C) Current legal issues; and

13 (D) Practical applications.

14 (b) An applicant for a broker's license who has been licensed as  
15 a real estate broker in another jurisdiction shall be required to complete  
16 only the course of study comprising the subject matter areas described in  
17 ~~subparagraphs (H) and (H)(B) of paragraph (a) of this subsection (4)~~  
18 ~~SUBSECTIONS (4)(a)(II) AND (4)(a)(III)(B) OF THIS SECTION..~~

19 (c) An applicant for a broker's license who has been licensed as  
20 a real estate salesperson in another jurisdiction shall be required to  
21 complete only the course of study required in ~~subparagraphs (H) and (H)~~  
22 ~~of paragraph (a) of this subsection (4)~~ SUBSECTIONS (4)(a)(II) AND  
23 (4)(a)(III) OF THIS SECTION.

24 (d) ~~(Deleted by amendment, L. 96, p. 414, § 2, effective January~~  
25 ~~1, 1997.)~~

26 (5) ~~(Deleted by amendment, L. 96, p. 414, § 2, effective January~~  
27 ~~1, 1997.)~~

28 (6) (5) (a) The applicant for a broker's license shall submit to and  
29 pass an examination designated to determine the competency of the  
30 applicant and prepared by or under the supervision of the real estate  
31 commission or its designated contractor. The commission may contract  
32 with an independent testing service to develop, administer, or grade  
33 examinations or to administer licensee records. The contract may allow  
34 the testing service to recover the costs of the examination and the costs  
35 of administering exam and license records from the applicant. The  
36 commission may contract separately for these functions and allow  
37 recovered costs to be collected and retained by a single contractor for  
38 distribution to other contractors. The commission shall have the authority  
39 to set the minimum passing score that an applicant must receive on the  
40 examination, and ~~said~~ THE score shall reflect the minimum level of  
41 competency required to be a broker. ~~Said~~ THE examination shall be given  
42 at such times and places as the commission prescribes. The examination  
43 shall include, but not be limited to, ethics, reading, spelling, basic  
44 mathematics, principles of land economics, appraisal, financing, a  
45 knowledge of the statutes and law of this state relating to deeds, trust  
46 deeds, mortgages, listing contracts, contracts of sale, bills of sale, leases,  
47 agency, brokerage, trust accounts, closings, securities, the provisions of  
48 this part ~~†~~ 2, and the rules of the commission. The examination for a  
49 broker's license shall also include the preparation of a real estate closing  
50 statement.

51 (b) An applicant for a broker's license who has held a real estate  
52 license in another jurisdiction that administers a real estate broker's

1 examination and who has been licensed for two or more years prior to  
2 applying for a Colorado license may be issued a broker's license if the  
3 applicant establishes that he or she possesses credentials and  
4 qualifications that are substantively equivalent to the requirements in  
5 Colorado for licensure by examination.

6 (c) In addition to all other applicable requirements, the following  
7 provisions apply to brokers that did not hold a current and valid broker's  
8 license on December 31, 1996:

9 (I) No such broker shall engage in an independent brokerage  
10 practice without first having served actively as a real estate broker for at  
11 least two years. The commission shall adopt rules requiring an employing  
12 broker to ensure that a high level of supervision is exercised over such a  
13 broker during ~~such~~ THE two-year period.

14 (II) No such broker shall employ another broker without first  
15 having completed twenty-four clock hours of instruction, or the  
16 equivalent in correspondence hours, as approved by the commission, in  
17 brokerage administration.

18 (III) Effective January 1, 2019, a broker shall not act as an  
19 employing broker without first demonstrating, in accordance with rules  
20 of the commission, experience and knowledge sufficient to enable the  
21 broker to employ and adequately supervise other brokers, as appropriate  
22 to the broker's area of supervision. The commission's rules must set forth  
23 the method or methods by which the broker may demonstrate ~~such~~ THE  
24 experience and knowledge, either by documenting a specified number of  
25 transactions that the broker has completed or by other methods.

26 ~~(7)~~ (6) (a) Real estate brokers' licenses may be granted to  
27 individuals, partnerships, limited liability companies, or corporations. A  
28 partnership, limited liability company, or corporation, in its application  
29 for a license, shall designate a qualified, active broker to be responsible  
30 for management and supervision of the licensed actions of the  
31 partnership, limited liability company, or corporation and all licensees  
32 shown in the commission's records as being in the employ of ~~such~~ THE  
33 entity. The application of the partnership, limited liability company, or  
34 corporation and the application of the broker designated by it shall be  
35 filed with the real estate commission.

36 (b) No license shall be issued to any partnership, limited liability  
37 company, or corporation unless and until the broker so designated by the  
38 partnership, limited liability company, or corporation submits to and  
39 passes the examination required by this part ~~+~~ 2 on behalf of the  
40 partnership, limited liability company, or corporation. Upon ~~such~~ THE  
41 broker's successfully passing the examination and upon compliance with  
42 all other requirements of law by the partnership, limited liability  
43 company, or corporation, as well as by the designated broker, the  
44 commission shall issue a broker's license to the partnership, limited  
45 liability company, or corporation, which shall bear the name of ~~such~~ THE  
46 designated broker, and thereupon the broker so designated shall conduct  
47 business as a real estate broker only through the said partnership, limited  
48 liability company, or corporation and not for the broker's own account.

49 (c) If the ~~person~~ INDIVIDUAL so designated is refused a license by  
50 the real estate commission or ceases to be the designated broker of ~~such~~  
51 THE partnership, limited liability company, or corporation, ~~such~~ THE entity  
52 may designate another person to make application for a license. If ~~such~~

1 THE person ceases to be the designated broker of ~~such~~ THE partnership,  
2 limited liability company, or corporation, the director may issue a  
3 temporary license to prevent hardship for a period not to exceed ninety  
4 days to the licensed person so designated. The director may extend a  
5 temporary license for one additional period not to exceed ninety days  
6 upon proper application and a showing of good cause; if the director  
7 refuses, no further extension of a temporary license shall be granted  
8 except by the commission. If any broker or employee of any such  
9 partnership, limited liability company, or corporation, other than the one  
10 designated as provided in this section, desires to act as a real estate  
11 broker, ~~such~~ THE broker or employee shall first obtain a license as a real  
12 estate broker as provided in this section and shall pay the regular fee  
13 therefor.

14 ~~(8)~~ (7) The broker designated to act as broker for any partnership,  
15 limited liability company, or corporation is personally responsible for the  
16 handling of any and all earnest money deposits or escrow or trust funds  
17 received or disbursed by ~~said~~ THE partnership, limited liability company,  
18 or corporation. In the event of any breach of duty by the ~~said~~ partnership,  
19 limited liability company, or corporation as a fiduciary, any person  
20 aggrieved or damaged by the ~~said~~ breach of fiduciary duty shall have a  
21 claim for relief against ~~such~~ THE partnership, limited liability company,  
22 or corporation, as well as against the designated broker, and may pursue  
23 ~~said~~ THE claim against the partnership, limited liability company, or  
24 corporation and the designated broker personally. The ~~said~~ broker may be  
25 held responsible and liable for damages based upon ~~such~~ THE breach of  
26 fiduciary duty as may be recoverable against the ~~said~~ partnership, limited  
27 liability company, or corporation, and any judgment so obtained may be  
28 enforced jointly or severally against ~~said~~ THE broker personally and the  
29 ~~said~~ partnership, limited liability company, or corporation.

30 ~~(9)~~ (8) No license for a broker registered as being in the employ  
31 of another broker shall be issued to a partnership, a limited liability  
32 company, or a corporation or under a fictitious name or trade name;  
33 except that a married woman may elect to use her birth name.

34 ~~(10)~~ (9) No person shall be licensed as a real estate broker under  
35 more than one name, and no person shall conduct or promote a real estate  
36 brokerage business except under the name under which ~~such~~ THE person  
37 is licensed.

38 ~~(11) Repealed.~~

39 ~~(12)~~ (10) A licensed attorney shall take and pass the examination  
40 referred to in this section after having completed twelve hours of  
41 classroom instruction or equivalent correspondent hours in trust accounts,  
42 record keeping, and real estate closings.

43 ~~12-61-103.5. Transitional provisions - holders of existing~~  
44 ~~salesperson's licenses. (Repealed)~~

45 **12-10-204. [Formerly 12-61-103.6] Errors and omissions**  
46 **insurance required - rules.** (1) Every licensee under this part ~~† 2~~, except  
47 an inactive broker or an attorney licensee who maintains a policy of  
48 professional malpractice insurance that provides coverage for errors and  
49 omissions for their activities as a licensee under this part ~~† 2~~, shall  
50 maintain errors and omissions insurance to cover all activities  
51 contemplated under parts ~~† 2~~ to ~~8~~ 6 of this article ~~10~~. The division of real  
52 estate shall make the errors and omissions insurance available to all

1 licensees by contracting with an insurer for a group policy after a  
2 competitive bid process in accordance with article 103 of title 24. ~~C.R.S.~~  
3 A group policy obtained by the division of real estate must be available  
4 to all licensees with no right on the part of the insurer to cancel a licensee.  
5 A licensee may obtain errors and omissions insurance independently if the  
6 coverage complies with the minimum requirements established by the  
7 division. ~~of real estate.~~

8 (2) (a) If the division of real estate is unable to obtain errors and  
9 omissions insurance coverage to insure all licensees who choose to  
10 participate in the group program at a reasonable annual premium, as  
11 determined by the division, ~~of real estate~~, a licensee shall independently  
12 obtain the errors and omissions insurance required by this section.

13 (b) The division of real estate shall solicit and consider  
14 information and comments from interested persons when determining the  
15 reasonableness of annual premiums.

16 (3) The division of real estate shall determine the terms and  
17 conditions of coverage required under this section based on rules  
18 promulgated by the commission. The commission shall notify each  
19 licensee of the required terms and conditions at least thirty days before  
20 the annual premium renewal date as determined by the commission. Each  
21 licensee shall file a certificate of coverage showing compliance with the  
22 required terms and conditions with the commission by the annual  
23 premium renewal date, as determined by the division. ~~of real estate.~~

24 (4) In addition to all other powers and duties conferred upon the  
25 commission by this article **10**, the commission shall adopt such rules as  
26 it deems necessary or proper to carry out the provisions of this section.

27 (5) ~~(Deleted by amendment, L. 2008, p. 497, § 4, effective April~~  
28 ~~17, 2008.)~~

29 **12-10-205. [Formerly 12-61-104] Licenses - issuance - contents**  
30 **- display.** (1) The commission shall make available for each licensee a  
31 license in such form and size as ~~said~~ THE commission shall prescribe and  
32 adopt. The real estate license shall show the name of the licensee and  
33 shall have imprinted thereon the seal, or a facsimile, of the department ~~of~~  
34 ~~regulatory agencies~~ and, in addition to the foregoing, shall contain such  
35 other matter as ~~said~~ THE commission shall prescribe.

36 (2) and (3) ~~(Deleted by amendment, L. 2001, p. 24, § 2, effective~~  
37 ~~March 9, 2001.)~~

38 **12-10-206. [Formerly 12-61-105] Commission - compensation**  
39 **- immunity - subject to termination.** (1) There is hereby created a  
40 commission of five members, appointed by the governor, which shall  
41 administer parts ~~± 2~~ and ~~± 5~~ of this article ~~6±~~ **10**. This commission is  
42 known as the real estate commission, also referred to in this part ~~± 2~~  
43 as the "commission", and consists of three real estate brokers who have had  
44 not less than five years' experience in the real estate business in Colorado,  
45 one of whom has substantial experience in property management, and two  
46 representatives of the public at large. Members of the commission hold  
47 office for a period of three years. Upon the death, resignation, removal,  
48 or otherwise of any member of the commission, the governor shall  
49 appoint a member to fill out the unexpired term. The governor may  
50 remove any member for misconduct, neglect of duty, or incompetence.

51 (2) Each member of the commission shall receive the same  
52 compensation and reimbursement of expenses as those provided for

1 members of boards and commissions in the division of professions and  
2 occupations pursuant to section 24-34-102 (13). ~~C.R.S.~~ Payment for all  
3 such per diem compensation and expenses shall be made out of annual  
4 appropriations from the division of real estate cash fund provided for in  
5 section ~~12-61-111.5~~ **12-10-215**.

6 ~~(2.5)~~ (3) Members of the commission, consultants, expert  
7 witnesses, and complainants shall be immune from suit in any civil action  
8 based upon any disciplinary proceedings or other official acts they  
9 performed in good faith.

10 ~~(3)~~ (4) No real estate broker's license shall be denied, suspended,  
11 or revoked except as determined by a majority vote of the members of the  
12 commission.

13 ~~(4)~~ (5) The provisions of section 24-34-104, ~~C.R.S.~~, concerning  
14 the termination schedule for regulatory bodies of the state unless extended  
15 as provided in that section, are applicable to the real estate commission  
16 created by this section.

17 **12-10-207. [Formerly 12-61-106]. Division of real estate -**  
18 **director, clerks, and assistants.** (1) The executive director ~~of the~~  
19 ~~department of regulatory agencies~~ is authorized by this section to employ,  
20 subject to the provisions of the state personnel system laws of the state,  
21 a director of the division, ~~of real estate~~, who in turn shall employ such  
22 attorneys, deputies, investigators, clerks, and assistants as are necessary  
23 to discharge the duties imposed by parts ~~1~~ 2 and ~~4~~ 5 of this article ~~6~~ 10.  
24 The division, ~~of real estate~~, which is a division in the department, ~~of~~  
25 ~~regulatory agencies~~, and the director ~~of the division~~ shall exercise their  
26 powers and perform their duties and functions under the department ~~of~~  
27 ~~regulatory agencies~~ as if they were transferred to the department by a **type**  
28 **2** transfer.

29 (2) It is the duty of the director, personally, or ~~his~~ THE DIRECTOR'S  
30 designee to aid in the administration and enforcement of parts ~~1~~ 2 and ~~4~~  
31 5 of this article ~~6~~ 10 and in the prosecution of all persons charged with  
32 violating any of their provisions, to conduct audits of business accounts  
33 of licensees, to perform such duties of the commission as the commission  
34 prescribes, and to act in behalf of the commission on such occasions and  
35 in such circumstances as the commission directs.

36 **12-10-208. [Formerly 12-61-107]. Resident licensee -**  
37 **nonresident licensee - consent to service.** (1) A nonresident of the state  
38 may become a real estate broker in this state by conforming to all the  
39 conditions of this part ~~1~~ 2; except that the nonresident broker shall not be  
40 required to maintain a place of business within this state if that broker  
41 maintains a definite place of business in another state.

42 (2) If a broker has no registered agent registered in this state, ~~such~~  
43 THE registered agent is not located under its registered agent name at its  
44 registered agent address, or the registered agent cannot with reasonable  
45 diligence be served, the broker may be served by registered mail or by  
46 certified mail, return receipt requested, addressed to the entity at its  
47 principal address. Service is perfected under this subsection (2) at the  
48 earliest of:

- 49 (a) The date the broker receives the process, notice, or demand;  
50 (b) The date shown on the return receipt, if signed by or on behalf  
51 of the broker; or  
52 (c) Five days after mailing.

1 (3) All such applications shall contain a certification that the  
2 broker is authorized to act for the corporation.

3 **12-10-209. [Formerly 12-61-108]. Record of licensees -**  
4 **publications.** The commission shall maintain a record of the names and  
5 addresses of all licensees licensed under the provisions of parts ~~4~~ 2 and  
6 ~~4~~ 5 of this article 10, together with such other information relative to the  
7 enforcement of ~~said~~ THE provisions as deemed by the commission to be  
8 necessary. Publication of the record and of any other information  
9 circulated in quantity outside the executive branch shall be in accordance  
10 with the provisions of section 24-1-136. ~~C.R.S.~~

11 **12-10-210. [Formerly 12-61-108.5]. Compilation and**  
12 **publication of passing rates per educational institution for real estate**  
13 **licensure examinations - definition - rules.** (1) The commission shall  
14 have the authority to obtain information from each educational institution  
15 authorized to offer courses in real estate for the purpose of compiling the  
16 number of applicants who pass the real estate licensure examination from  
17 each educational institution. The information shall include the name of  
18 each student who attended the institution and a statement of whether the  
19 student completed the necessary real estate courses required for licensure.  
20 The commission shall have access to such other information as necessary  
21 to accomplish the purpose of this section. For the purposes of this section,  
22 an "applicant" is a student who completed the required education  
23 requirements and who applied for and sat for the licensure examination.

24 (2) The commission shall compile the information obtained in  
25 subsection (1) of this section with applicant information retained by the  
26 commission. Specifically, the commission shall compile whether the  
27 student applied for the licensure examination and whether the applicant  
28 passed the licensure examination. The commission shall create statistical  
29 data setting forth:

- 30 (a) The name of the educational institution;
  - 31 (b) The number of students who completed the necessary real  
32 estate course required for licensure;
  - 33 (c) Whether the student registered and sat for the licensure  
34 examination; and
  - 35 (d) The number of those applicants who passed the licensure  
36 examination.
- 37 (3) The commission shall publish this statistical data and make it  
38 available to the public quarterly.
- 39 (4) The commission shall retain the statistical data for three years.
- 40 (5) Specific examination scores for an applicant will be kept  
41 confidential by the commission unless the applicant authorizes release of  
42 ~~such~~ THE information.
- 43 (6) The commission may promulgate rules for the administration  
44 of this section.

45 **12-10-211. [Formerly 12-61-109]. Change of license status -**  
46 **inactive - cancellation.** (1) Immediate notice shall be given in a manner  
47 acceptable to the commission by each licensee of any change of business  
48 location or employment. A change of business address or employment  
49 without notification to the commission shall automatically inactivate the  
50 licensee's license.

51 (2) A broker who transfers to the address of another broker or a  
52 broker applicant who desires to be employed by another broker shall

1 inform the commission if ~~said~~ THE broker is to be in the employ of the  
2 other broker. The employing broker shall have the control and custody of  
3 the employed broker's license. The employed broker may not act on  
4 behalf of ~~said~~ THE broker or as broker for a partnership, limited liability  
5 company, or corporation during the term of ~~such~~ THE employment; but  
6 this shall not affect the employed broker's right to transfer to another  
7 employing broker or to a location where the employed broker may  
8 conduct business as an independent broker or as a broker acting for a  
9 partnership, limited liability company, or corporation.

10 (3) In the event that any licensee is discharged by or terminates  
11 employment with a broker, it shall be the joint duty of both such parties  
12 to immediately notify the commission. Either party may furnish ~~such~~ THE  
13 notice in a manner acceptable to the commission. The party giving notice  
14 shall notify the other party in person or in writing of the termination of  
15 employment.

16 (4) It is unlawful for any such licensee to perform any of the acts  
17 authorized under the license in pursuance of this part ~~† 2~~, either directly  
18 or indirectly, on or after the date that employment has been terminated.  
19 When any real estate broker whose employment has been terminated is  
20 employed by another real estate broker, the commission shall, upon  
21 proper notification, enter ~~such~~ THE change of employment in the records  
22 of the commission. Not more than one employer or place of employment  
23 shall be shown for any real estate broker for the same period of time.

24 **12-10-212. [Formerly 12-61-110]. License fees - partnership,**  
25 **limited liability company, and corporation licenses - rules.** (1) Fees  
26 established pursuant to section ~~12-61-111.5~~ **12-10-215** shall be charged  
27 by and paid to the commission or the agent for the commission for the  
28 following:

29 ~~(a) and (b) (Deleted by amendment, L. 96, p. 419, § 5, effective~~  
30 ~~January 1, 1997.)~~

31 ~~(c) (a)~~ Each broker's examination;

32 ~~(d) (b)~~ Each broker's original application and license;

33 ~~(e) (Deleted by amendment, L. 96, p. 419, § 5, effective January~~  
34 ~~1, 1997.)~~

35 ~~(f) (c)~~ Each renewal of a broker's license;

36 ~~(g) (Deleted by amendment, L. 96, p. 419, § 5, effective January~~  
37 ~~1, 1997.)~~

38 ~~(h) (d)~~ Any change of name, address, or employing broker  
39 requiring a change in commission records;

40 ~~(i) (e)~~ A new application ~~which~~ THAT shall be submitted when a  
41 licensed real estate broker wishes to become the broker acting for a  
42 partnership, a limited liability company, or a corporation.

43 (2) The proper fee shall accompany each application for licensure.  
44 The fee shall not be refundable. Failure by the person taking an  
45 examination to file the appropriate broker's application within one year  
46 of the date ~~such~~ THE person passed the examination will automatically  
47 cancel the examination, and all rights to a passing score will be  
48 terminated.

49 (3) Each real estate broker's license granted to an individual shall  
50 entitle ~~such~~ THE individual to perform all the acts contemplated by this  
51 part ~~† 2~~, without any further application on his OR HER part and without  
52 the payment of any fee other than the fees specified in this section.



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(4) (a) (I) The commission shall require that any person licensed under this part ~~† 2~~, whether on an active or inactive basis, renew the license on or before December 31 of every third year after issuance; except that an initial license issued under this part ~~† 2~~ on or after April 23, 2018, expires at 12 midnight on December 31 of the year in which it was issued.

(II) Renewal is conditioned upon fulfillment of the continuing education requirements set forth in section ~~†2-61-110.5~~ **12-10-213**. For persons renewing or reinstating an active license, written certification verifying completion for the previous licensing period of the continuing education requirements set forth in section ~~†2-61-110.5~~ **12-10-213** must accompany and be submitted to the commission with the application for renewal or reinstatement. For persons who did not submit certification verifying compliance with section ~~†2-61-110.5~~ **12-10-213** at the time a license was renewed or reinstated on an inactive status, written certification verifying completion for the previous licensing period of the continuing education requirements set forth in that section must accompany and be submitted with any future application to reactivate the license. The commission may, by rule, establish procedures to facilitate such a renewal. In the absence of any reason or condition that might warrant the refusal of the granting of a license or the revocation thereof, the commission shall issue a new license upon receipt by the commission of the written request of the applicant and the appropriate fees required by this section. Applications for renewal will be accepted thirty days prior to January 1.

(III) A person who fails to renew a license before January 1 of the year succeeding the year of the expiration of the license may reinstate the license as follows:

(A) If proper application is made within thirty-one days after the date of expiration, by payment of the regular renewal fee;

(B) If proper application is made more than thirty-one days but within one year after the date of expiration, by payment of the regular renewal fee and payment of a reinstatement fee equal to one-half the regular renewal fee;

(C) If proper application is made more than one year but within three years after the date of expiration, by payment of the regular renewal fee and payment of a reinstatement fee equal to the regular renewal fee.

(IV) The commission may, by rule, establish procedures to facilitate the transition of the reinstatement license periods described in subsections (4)(a)(III)(A) to (4)(a)(III)(C) of this section from an anniversary expiration date to a December 31 expiration date.

~~(a.5) Repealed.~~

(b) Any reinstated license shall be effective only as of the date of reinstatement. Any person who fails to apply for reinstatement within three years after the expiration of a license shall, without exception, be treated as a new applicant for licensure.

(c) All reinstatement fees shall be transmitted to the state treasurer, who shall credit same to the division of real estate cash fund, as established by section ~~†2-61-111.5~~ **12-10-215**.

(5) The suspension, expiration, or revocation of a real estate broker's license shall automatically inactivate every real estate broker's license where the holder of ~~such~~ THE license is shown in the commission

1 records to be in the employ of the broker whose license has expired or has  
2 been suspended or revoked pending notification to the commission by the  
3 employed licensee of a change of employment.

4 ~~(6) (Deleted by amendment, L. 91, p. 1628, § 8, effective July 1,~~  
5 ~~1991.)~~

6 **12-10-213. [Formerly 12-61-110.5]. Renewal of license -**  
7 **continuing education requirement - rules.** (1) A broker applying for  
8 renewal of a license pursuant to section ~~12-61-110(4)~~ **12-10-212 (4)** shall  
9 include with ~~such~~ THE application a certified statement verifying  
10 successful completion of real estate courses in accordance with the  
11 following schedule:

12 ~~(a) and (b) Repealed.~~

13 ~~(c)~~ **(a)** For licensees applying for renewal of a three-year license,  
14 passage within the previous three years of the Colorado portion of the real  
15 estate exam or completion of a minimum of twenty-four hours of credit,  
16 twelve of which must be the credits developed by the commission  
17 pursuant to subsection (2) of this section.

18 ~~(d)~~ **(b)** For licensees applying for renewal of a license that expires  
19 less than three years after it was issued, passage within the license period  
20 of the Colorado portion of the real estate exam or completion of a  
21 minimum of twenty-four hours of credit, at least eight of which must be  
22 the credits developed by the commission pursuant to subsection (2) of this  
23 section.

24 (2) The real estate commission shall develop twelve hours of  
25 credit designed to assure reasonable currency of real estate knowledge by  
26 licensees, which credits shall include an update of the current statutes and  
27 the rules promulgated by the commission that affect the practice of real  
28 estate. If a licensee takes a course pursuant to rule 260 of the Colorado  
29 rules of civil procedure and the course concerns real property law, the  
30 licensee shall receive credit for the course toward the fulfillment of the  
31 licensee's continuing education requirements pursuant to this section. The  
32 credits shall be taken from an accredited Colorado college or university;  
33 a Colorado community college; a Colorado private occupational school  
34 holding a certificate of approval from the state board for community  
35 colleges and occupational education; or an educational institution or an  
36 educational service described in section 23-64-104. Successful  
37 completion of ~~such~~ THE credits shall require satisfactory passage of a  
38 written examination or written examinations of the materials covered. The  
39 examinations shall be audited by the commission to verify their accuracy  
40 and the validity of the grades given. The commission shall set the  
41 standards required for satisfactory passage of the examinations.

42 (3) All credits, other than the credits specified in subsection (2) of  
43 this section, shall be acquired from educational courses approved by the  
44 commission that contribute directly to the professional competence of a  
45 licensee. ~~Such~~ THE credits may be acquired through successful  
46 completion of instruction in one or more of the following subjects:

- 47 (a) Real estate law;
- 48 (b) Property exchanges;
- 49 (c) Real estate contracts;
- 50 (d) Real estate finance;
- 51 (e) Real estate appraisal;
- 52 (f) Real estate closing;

- 1 (g) Real estate ethics;
- 2 (h) Condominiums and cooperatives;
- 3 (i) Real estate time-sharing;
- 4 (j) Real estate marketing principles;
- 5 (k) Real estate construction;
- 6 (l) Land development;
- 7 (m) Real estate energy concerns;
- 8 (n) Real estate geology;
- 9 (o) Water and waste management;
- 10 (p) Commercial real estate;
- 11 (q) Real estate securities and syndications;
- 12 (r) Property management;
- 13 (s) Real estate computer principles;
- 14 (t) Brokerage administration and management;
- 15 (u) Agency; and
- 16 (v) Any other subject matter as approved by the real estate
- 17 commission.

18 (4) A licensee applying for renewal of a license ~~which~~ THAT  
19 expires on December 31 of the year in which it was issued is not subject  
20 to the education requirements set forth in subsection (1) of this section.

21 (5) The real estate commission shall promulgate rules and  
22 regulations to implement this section.

23 ~~12-61-110.6. Study - repeal. (Repealed)~~

24 ~~12-61-110.8. Renewal of license - fingerprint-based criminal~~  
25 ~~history record check - repeal. (Repealed)~~

26 **12-10-214. [Formerly 12-61-111]. Disposition of fees.** All fees  
27 collected by the real estate commission under parts ~~1~~ 2 and ~~4~~ 5 of this  
28 article **10**, not including administrative fees that are in the nature of an  
29 administrative fine and fees retained by contractors pursuant to contracts  
30 entered into in accordance with section ~~12-61-103~~ **12-10-203** or  
31 24-34-101, C.R.S., shall be transmitted to the state treasurer, who shall  
32 credit the same to the division of real estate cash fund. Pursuant to section  
33 ~~12-61-111.5~~ **12-10-215**, the general assembly shall make annual  
34 appropriations from ~~said~~ THE fund for expenditures of the commission  
35 incurred in the performance of its duties under parts ~~1~~ 2 and ~~4~~ 5 of this  
36 article **10**. The commission may request an appropriation specifically  
37 designated for educational and enforcement purposes. The expenditures  
38 incurred by the commission under parts ~~1~~ 2 and ~~4~~ 5 of this article **10** shall  
39 be made out of ~~such~~ THE appropriations upon vouchers and warrants  
40 drawn pursuant to law.

41 **12-10-215. [Formerly 12-61-111.5]. Fee adjustments - cash**  
42 **fund created.** (1) This section applies to all activities of the division  
43 under parts ~~1, 4, 7, 9, and 10~~ 2, 5, 6, AND 7 of this article ~~6~~ 10.

44 (2) (a) (I) The division shall propose, as part of its annual budget  
45 request, an adjustment in the amount of each fee that it is authorized by  
46 law to collect under parts ~~1, 4, 2, 5, 7, 9 and 10~~ 6, AND 7 of this article ~~6~~  
47 **10**. The budget request and the adjusted fees for the division must reflect  
48 direct and indirect costs.

49 (II) The costs of the HOA information and resource center,  
50 created in section ~~12-61-406.5~~ **12-10-507**, shall be paid from the division  
51 of real estate cash fund created in this section. The division ~~of real estate~~  
52 shall estimate the direct and indirect costs of operating the HOA

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information and resource center and shall establish the amount of the annual registration fee to be collected under section 38-33.3-401. The amount of the registration fee shall be sufficient to recover these costs, subject to a maximum limit of fifty dollars.

(b) ~~(H)~~ Based upon the appropriation made and subject to the approval of the executive director, ~~of the department of regulatory agencies,~~ the division of real estate shall adjust its fees so that the revenue generated from the fees approximates its direct and indirect costs incurred in administering the programs and activities from which the fees are derived. The fees shall remain in effect for the fiscal year for which the budget request applies. All fees collected by the division, not including fees retained by contractors pursuant to contracts entered into in accordance with section ~~12-61-103~~ **12-10-203** or 24-34-101, shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund, which fund is hereby created. All money credited to the division of real estate cash fund shall be used as provided in this section or in section ~~12-61-111~~ **12-10-214** and shall not be deposited in or transferred to the general fund of this state or any other fund.

~~(H) Repealed.~~

(c) Beginning July 1, 1979, and each July 1 thereafter, whenever ~~moneys~~ MONEY appropriated to the division for its activities for the prior fiscal year ~~are~~ IS unexpended, ~~said moneys~~ THE MONEY shall be made a part of the appropriation to the division for the next fiscal year, and ~~such~~ THE amount shall not be raised from fees collected by the division. If a supplemental appropriation is made to the division for its activities, its fees, when adjusted for the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount ~~which~~ THAT is sufficient to compensate for ~~such~~ THE supplemental appropriation. Funds appropriated to the division in the annual long appropriations bill shall be designated as a cash fund and shall not exceed the amount anticipated to be raised from fees collected by the division.

**12-10-216. [Formerly 12-61-112]. Records - evidence - inspection.** (1) The executive director ~~of the department of regulatory agencies~~ shall adopt a seal by which all proceedings authorized under parts ~~1 2~~ and ~~4 5~~ of this article ~~61 10~~ shall be authenticated. Copies of records and papers in the office of the commission or department ~~of regulatory agencies~~ relating to the administration of parts ~~1 2~~ and ~~4 5~~ of this article ~~61 10~~, when duly certified and authenticated by the seal, shall be received as evidence in all courts equally and with like effect as the originals. All records kept in the office of the commission or department, ~~of regulatory agencies,~~ under authority of parts ~~1 2~~ and ~~4 5~~ of this article ~~61 10~~, must be open to public inspection at such time and in such manner as may be prescribed by rules formulated by the commission.

~~(2) Repealed.~~

~~(3)~~ (2) The commission shall not be required to maintain or preserve licensing history records of any person licensed under the provisions of this part ~~1 2~~ for any period of time longer than seven years.

**12-10-217. [Formerly 12-61-113]. Investigation - revocation - actions against licensee or applicant - definition - repeal.** (1) The commission, upon its own motion, may, and, upon the complaint in writing of any person, shall, investigate the activities of any licensee or

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any person who assumes to act in the capacity of a licensee within the state, and the commission, after holding a hearing pursuant to section ~~12-61-114~~ **12-10-219**, has the power to impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense and to censure a licensee, to place the licensee on probation and to set the terms of probation, or to temporarily suspend a license, or permanently revoke a license, when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:

(a) Knowingly making any misrepresentation or knowingly making use of any false or misleading advertising;

(b) Making any promise of a character ~~which~~ **THAT** influences, persuades, or induces another person when he **OR SHE** could not or did not intend to keep ~~such~~ **THE** promise;

(c) Knowingly misrepresenting or making false promises through agents, advertising, or otherwise;

~~(c.5)~~ (d) Violating any provision of the "Colorado Consumer Protection Act", article 1 of title 6; ~~C.R.S.~~;

~~(d)~~ (e) Acting for more than one party in a transaction without the knowledge of all parties thereto;

~~(e)~~ (f) Representing or attempting to represent a real estate broker other than the licensee's employer without the express knowledge and consent of that employer;

~~(f)~~ (g) In the case of a broker registered as in the employ of another broker, failing to place, as soon after receipt as is practicably possible, in the custody of that licensed broker-employer any deposit money or other money or fund entrusted to the employee by any person dealing with the employee as the representative of that licensed broker-employer;

~~(g)~~ (h) Failing to account for or to remit, within a reasonable time, any ~~moneys~~ **MONEY** coming into the licensee's possession that ~~belong~~ **BELONGS** to others, whether acting as real estate brokers or otherwise, and failing to keep records relative to ~~said moneys~~ **THE MONEY**, which records shall contain such information as may be prescribed by the rules of the commission relative thereto and shall be subject to audit by the commission;

~~(g.5)~~ (i) Converting funds of others, diverting funds of others without proper authorization, commingling funds of others with the broker's own funds, or failing to keep ~~such~~ **THE** funds of others in an escrow or a trustee account with some bank or recognized depository in this state, which account may be any type of checking, demand, passbook, or statement account insured by an agency of the United States government, and to ~~so~~ keep records relative to the deposit ~~which~~ **THAT** contain such information as may be prescribed by the rules ~~and regulations~~ of the commission relative thereto, which records shall be subject to audit by the commission;

~~(h)~~ (j) Failing to provide the purchaser and seller of real estate with a closing statement of the transaction, containing such information as may be prescribed by the rules ~~and regulations~~ of the commission or failing to provide a signed duplicate copy of the listing contract and the contract of sale or the preliminary agreement to sell to the parties thereto;

~~(i)~~ (k) Failing to maintain possession, for future use or inspection by an authorized representative of the commission, for a period of four

1 years, of the documents or records prescribed by the rules and regulations  
2 of the commission or to produce ~~such~~ THE documents or records upon  
3 reasonable request by the commission or by an authorized representative  
4 of the commission;

5 ~~(j)~~ **(l)** Paying a commission or valuable consideration for  
6 performing any of the functions of a real estate broker, as described in  
7 this part ~~† 2~~, to any person not licensed under this part ~~† 2~~; except that a  
8 licensed broker may pay a finder's fee or a share of any commission on a  
9 cooperative sale when ~~such~~ THE payment is made to a real estate broker  
10 licensed in another state or country. If a country does not license real  
11 estate brokers, then the payee must be a citizen or resident of ~~said~~ THE  
12 country and represent that the payee is in the business of selling real  
13 estate in ~~said~~ THE country.

14 ~~(k)~~ **(m)** Disregarding or violating any provision of this part ~~† 2~~ or  
15 part ~~8 4~~ of this article **10**, violating any reasonable rule or regulation  
16 promulgated by the commission in the interests of the public and in  
17 conformance with the provisions of this part ~~† 2~~ or part ~~8 4~~ of this article  
18 **10**; violating any lawful commission orders; or aiding and abetting a  
19 violation of any rule, ~~regulation~~, commission order, or provision of this  
20 part ~~† 2~~ or part ~~8 4~~ of this article **10**;

21 ~~(l)~~ Repeated.

22 ~~(m)~~ **(n)** (I) Conviction of, entering a plea of guilty to, or entering  
23 a plea of nolo contendere to any crime in article 3 of title 18; parts 1, 2,  
24 3, and 4 of article 4 of title 18; part 1, 2, 3, 4, 5, 7, 8, or 9 of article 5 of  
25 title 18; article 5.5 of title 18; parts 3, 4, 6, 7, and 8 of article 6 of title 18;  
26 parts 1, 3, 4, 5, 6, 7, and 8 of article 7 of title 18; part 3 of article 8 of title  
27 18; article 15 of title 18; article 17 of title 18; section 18-18-404,  
28 18-18-405, 18-18-406, 18-18-411, 18-18-412.5, 18-18-412.7,  
29 18-18-412.8, 18-18-415, 18-18-416, 18-18-422, or 18-18-423; or any  
30 other like crime under Colorado law, federal law, or the laws of other  
31 states. A certified copy of the judgment of a court of competent  
32 jurisdiction of ~~such~~ THE conviction or other official record indicating that  
33 ~~such~~ THE plea was entered shall be conclusive evidence of ~~such~~ THE  
34 conviction or plea in any hearing under this part ~~† 2~~.

35 (II) As used in this subsection ~~(l)~~~~(m)~~ **(l)****(n)**, "conviction" includes  
36 the imposition of a deferred judgment or deferred sentence.

37 ~~(m.5)~~ **(o)** Violating or aiding and abetting in the violation of the  
38 Colorado or federal fair housing laws;

39 ~~(m.6)~~ **(p)** Failing to immediately notify the commission in writing  
40 of a conviction, plea, or violation pursuant to paragraph ~~(m)~~ or ~~(m.5)~~ of  
41 this subsection ~~(l)~~ SUBSECTION (1)(n) OR (1)(o) OF THIS SECTION;

42 ~~(n)~~ **(q)** Having demonstrated unworthiness or incompetency to act  
43 as a real estate broker by conducting business in such a manner as to  
44 endanger the interest of the public;

45 ~~(o)~~ **(r)** In the case of a broker licensee, failing to exercise  
46 reasonable supervision over the activities of licensed employees;

47 ~~(p)~~ **(s)** Procuring, or attempting to procure, a real estate broker's  
48 license or renewing, reinstating, or reactivating, or attempting to renew,  
49 reinstate, or reactivate, a real estate broker's license by fraud,  
50 misrepresentation, or deceit or by making a material misstatement of fact  
51 in an application for ~~such~~ THE license;

52 ~~(q)~~ **(t)** Claiming, arranging for, or taking any secret or undisclosed

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amount of compensation, commission, or profit or failing to reveal to the licensee's principal or employer the full amount of ~~such~~ THE licensee's compensation, commission, or profit in connection with any acts for which a license is required under this part ~~2~~;

~~(t)~~ **(u)** Using any provision allowing the licensee an option to purchase in any agreement authorizing or employing ~~such~~ THE licensee to sell, buy, or exchange real estate for compensation or commission, except when ~~such~~ THE licensee, prior to or coincident with election to exercise ~~such~~ THE option to purchase, reveals in writing to the licensee's principal or employer the full amount of the licensee's profit and obtains the written consent of ~~such~~ THE principal or employer approving the amount of ~~such~~ THE profit;

~~(s)~~ ~~(t)~~ ~~Repealed.~~

~~(H)~~ **(v)** Effective on and after August 26, 2013, fraud, misrepresentation, deceit, or conversion of trust funds that results in the entry of a civil judgment for damages;

~~(t)~~ **(w)** Any other conduct, whether of the same or a different character than specified in this subsection (1), ~~which~~ THAT constitutes dishonest dealing;

~~(u)~~ ~~Repealed.~~

~~(v)~~ **(x)** Having had a real estate broker's or a subdivision developer's license suspended or revoked in any jurisdiction, or having had any disciplinary action taken against the broker or subdivision developer in any other jurisdiction if the broker's or subdivision developer's action would constitute a violation of this subsection (1). A certified copy of the order of disciplinary action shall be prima facie evidence of ~~such~~ THE disciplinary action.

~~(w)~~ **(y)** Failing to keep records documenting proof of completion of the continuing education requirements in accordance with section ~~12-61-110.5~~ **12-10-213** for a period of four years from the date of compliance with ~~said~~ THE section;

~~(x)~~ **(z)** (I) Violating any provision of section ~~12-61-113.2~~ **12-10-218**.

(II) In addition to any other remedies available to the commission pursuant to this ~~title~~ ARTICLE 10, after notice and a hearing pursuant to section 24-4-105, ~~C.R.S.~~, the commission may assess a penalty for a violation of section ~~12-61-113.2~~ **12-10-218** or of any rule promulgated pursuant to section ~~12-61-113.2~~ **12-10-218**. The penalty shall be the amount of remuneration improperly paid and shall be transmitted to the state treasurer and credited to the general fund.

~~(y)~~ **(aa)** Within the last five years, having a license, registration, or certification issued by Colorado or another state revoked or suspended for fraud, deceit, material misrepresentation, theft, or the breach of a fiduciary duty, and such discipline denied the person authorization to practice as:

- (I) A mortgage broker or mortgage loan originator;
- (II) A real estate broker or salesperson;
- (III) A real estate appraiser, as defined by section ~~12-61-702~~ ~~(11)~~ **12-10-101 (9)**;
- (IV) An insurance producer, as defined by section 10-2-103 (6); ~~C.R.S.~~;
- (V) An attorney;

1 (VI) A securities broker-dealer, as defined by section 11-51-201  
2 (2); ~~C.R.S.~~;

3 (VII) A securities sales representative, as defined by section  
4 11-51-201 (14); ~~C.R.S.~~;

5 (VIII) An investment advisor, as defined by section 11-51-201  
6 (9.5); ~~C.R.S.~~; or

7 (IX) An investment advisor representative, as defined by section  
8 11-51-201 (9.6). ~~C.R.S.~~

9 ~~(1.5) (2)~~ Every person licensed pursuant to section ~~12-61-101~~  
10 ~~(2)(a)(X)~~ **12-10-101 (10)(a)(X)** shall give a prospective tenant a contract  
11 or receipt; and ~~such~~ THE contract or receipt shall include the address and  
12 telephone number of the real estate commission in prominent letters and  
13 shall state that the regulation of rental location agents is under the  
14 purview of the real estate commission.

15 ~~(2) (3)~~ In the event a firm, partnership, limited liability company,  
16 association, or corporation operating under the license of a broker  
17 designated and licensed as representative of ~~said~~ THE firm, partnership,  
18 limited liability company, association, or corporation is guilty of any of  
19 the foregoing acts, the commission may suspend or revoke the right of the  
20 ~~said~~ firm, partnership, limited liability company, association, or  
21 corporation to conduct its business under the license of ~~said~~ THE broker,  
22 whether or not the designated broker had personal knowledge thereof and  
23 whether or not the commission suspends or revokes the individual license  
24 of ~~said~~ THE broker.

25 ~~(3) (4)~~ Upon request of the commission, when any real estate  
26 broker is a party to any suit or proceeding, either civil or criminal, arising  
27 out of any transaction involving the sale or exchange of any interest in  
28 real property or out of any transaction involving a leasehold interest in the  
29 real property and when ~~such~~ THE broker is involved in ~~such~~ THE  
30 transaction in such capacity as a licensed broker, it shall be the duty of  
31 ~~said~~ THE broker to supply to the commission a copy of the complaint,  
32 indictment, information, or other initiating pleading and the answer filed,  
33 if any, and to advise the commission of the disposition of the case and of  
34 the nature and amount of any judgment, verdict, finding, or sentence that  
35 may be made, entered, or imposed therein.

36 ~~(4) (5)~~ This part ~~1 2~~ shall not be construed to relieve any person  
37 from civil liability or criminal prosecution under the laws of this state.

38 ~~(5) (6)~~ Complaints of record in the office of the commission and  
39 commission investigations, including commission investigative files, are  
40 closed to public inspection. Stipulations and final agency orders are  
41 public records subject to sections 24-72-203 and 24-72-204. ~~C.R.S.~~

42 ~~(6) (7)~~ When a complaint or an investigation discloses an instance  
43 of misconduct ~~which~~ THAT, in the opinion of the commission, does not  
44 warrant formal action by the commission but which should not be  
45 dismissed as being without merit, the commission may send a letter of  
46 admonition by certified mail, return receipt requested, to the licensee  
47 against whom a complaint was made and a copy thereof to the person  
48 making the complaint, but the letter shall advise the licensee that the  
49 licensee has the right to request in writing, within twenty days after  
50 proven receipt, that formal disciplinary proceedings be initiated to  
51 adjudicate the propriety of the conduct upon which the letter of  
52 admonition is based. If ~~such~~ THE request is timely made, the letter of



1 admonition shall be deemed vacated, and the matter shall be processed by  
2 means of formal disciplinary proceedings.

3 ~~(7)~~ (8) All administrative fines collected pursuant to this section  
4 shall be transmitted to the state treasurer, who shall credit the same to the  
5 division of real estate cash fund.

6 ~~(8)~~ (9) Any application for licensure from a person whose license  
7 has been revoked shall not be considered until the passage of one year  
8 from the date of revocation.

9 ~~(9)~~ (10) When the division of real estate becomes aware of facts  
10 or circumstances that fall within the jurisdiction of a criminal justice or  
11 other law enforcement authority upon investigation of the activities of a  
12 licensee, the division shall, in addition to the exercise of its authority  
13 under this part ~~+~~ 2, refer and transmit ~~such~~ THE information, which may  
14 include originals or copies of documents and materials, to one or more  
15 criminal justice or other law enforcement authorities for investigation and  
16 prosecution as authorized by law.

17 **12-10-218. [Formerly 12-61-113.2]. Affiliated business**  
18 **arrangements - definitions - disclosures - enforcement and penalties**  
19 **- reporting - rules - investigation information shared with the division**  
20 **of insurance.** (1) As used in this section, unless the context otherwise  
21 requires:

22 (a) "Affiliated business arrangement" means an arrangement in  
23 which:

24 (I) A provider of settlement services or an associate of a provider  
25 of settlement services has either an affiliate relationship with or a direct  
26 beneficial ownership interest of more than one percent in another  
27 provider of settlement services; and

28 (II) A provider of settlement services or the associate of a  
29 provider directly or indirectly refers settlement service business to another  
30 provider of settlement services or affirmatively influences the selection  
31 of another provider of settlement services.

32 (b) "Associate" means a person who has one or more of the  
33 following relationships with a person in a position to refer settlement  
34 service business:

35 (I) A spouse, parent, or child of ~~such~~ THE person;

36 (II) A corporation or business entity that controls, is controlled by,  
37 or is under common control with ~~such~~ THE person;

38 (III) An employer, officer, director, partner, franchiser, or  
39 franchisee of ~~such~~ THE person, including a broker acting as an  
40 independent contractor; or

41 (IV) Anyone who has an agreement, arrangement, or  
42 understanding with ~~such~~ THE person, the purpose or substantial effect of  
43 which is to enable the person in a position to refer settlement service  
44 business to benefit financially from referrals of ~~such~~ THE business.

45 (c) "Settlement service" means any service provided in connection  
46 with a real estate settlement including, but not limited to, the following:

47 (I) Title searches;

48 (II) Title examinations;

49 (III) The provision of title certificates;

50 (IV) Title insurance;

51 (V) Services rendered by an attorney;

52 (VI) The preparation of title documents;

- 1 (VII) Property surveys;
- 2 (VIII) The rendering of credit reports or appraisals;
- 3 (IX) Real estate appraisal services;
- 4 (X) Home inspection services;
- 5 (XI) Services rendered by a real estate broker;
- 6 (XII) Pest and fungus inspections;
- 7 (XIII) The origination of a loan;
- 8 (XIV) The taking of a loan application;
- 9 (XV) The processing of a loan;
- 10 (XVI) Underwriting and funding of a loan;
- 11 (XVII) Escrow handling services;
- 12 (XVIII) The handling of the processing; and
- 13 (XIX) Closing of settlement.

14 (2) (a) An affiliated business arrangement is permitted where the  
15 person referring business to the affiliated business arrangement receives  
16 payment only in the form of a return on an investment and where it does  
17 not violate the provisions of section ~~12-61-113~~ **12-10-217**.

18 (b) If a licensee or the employing broker of a licensee is part of an  
19 affiliated business arrangement when an offer to purchase real property  
20 is fully executed, the licensee shall disclose to all parties to the real estate  
21 transaction the existence of the arrangement. The disclosure shall be  
22 written, shall be signed by all parties to the real estate transaction, and  
23 shall comply with the federal "Real Estate Settlement Procedures Act of  
24 1974", as amended, 12 U.S.C. sec. 2601 et seq.

25 (c) A licensee shall not require the use of an affiliated business  
26 arrangement or a particular provider of settlement services as a condition  
27 of obtaining services from that licensee for any settlement service. For the  
28 purposes of this ~~paragraph (c)~~ SUBSECTION (2)(c), "require the use" shall  
29 have the same meaning as "required use" in 24 CFR 3500.2 (b).

30 (d) No licensee shall give or accept any fee, kickback, or other  
31 thing of value pursuant to any agreement or understanding, oral or  
32 otherwise, that business incident to or part of a settlement service  
33 involving an affiliated business arrangement shall be referred to any  
34 provider of settlement services.

35 (e) Nothing in this section shall be construed to prohibit payment  
36 of a fee to:

- 37 (I) An attorney for services actually rendered;
- 38 (II) A title insurance company to its duly appointed agent for  
39 services actually performed in the issuance of a policy of title insurance;
- 40 (III) A lender to its duly appointed agent for services actually  
41 performed in the making of a loan.

42 (f) Nothing in this section shall be construed to prohibit payment  
43 to any person of:

- 44 (I) A bona fide salary or compensation or other payment for goods  
45 or facilities actually furnished or for services actually performed;
- 46 (II) A fee pursuant to cooperative brokerage and referral  
47 arrangements or agreements between real estate brokers.

48 (g) It shall not be a violation of this section for an affiliated  
49 business arrangement:

- 50 (I) To require a buyer, borrower, or seller to pay for the services  
51 of any attorney, credit reporting agency, or real estate appraiser chosen by  
52 the lender to represent the lender's interest in a real estate transaction; or

1 (II) If an attorney or law firm represents a client in a real estate  
2 transaction and issues or arranges for the issuance of a policy of title  
3 insurance in the transaction directly as agent or through a separate  
4 corporate title insurance agency that may be established by that attorney  
5 or law firm and operated as an adjunct to his or her law practice.

6 (h) No person shall be liable for a violation of this section if ~~such~~  
7 THE person proves by a preponderance of the evidence that ~~such~~ THE  
8 violation was not intentional and resulted from a bona fide error  
9 notwithstanding maintenance of procedures that are reasonably adopted  
10 to avoid ~~such~~ THE error.

11 (3) On and after July 1, 2006, a licensee shall disclose at the time  
12 the licensee enters into or changes an affiliated business arrangement, in  
13 a form and manner acceptable to the commission, the names of all  
14 affiliated business arrangements to which the licensee is a party. The  
15 disclosure shall include the physical locations of the affiliated businesses.

16 (4) On and after July 1, 2006, an employing broker, in a form and  
17 manner acceptable to the commission, shall at least annually disclose the  
18 names of all affiliated business arrangements to which the employing  
19 broker is a party. The disclosure shall include the physical locations of the  
20 affiliated businesses.

21 (5) The commission may promulgate rules concerning the creation  
22 and conduct of an affiliated business arrangement, including, but not  
23 limited to, rules defining what constitutes a sham affiliated business  
24 arrangement. The commission shall adopt the rules, policies, or guidelines  
25 issued by the United States department of housing and urban development  
26 concerning the federal "Real Estate Settlement Procedures Act of 1974",  
27 as amended, 12 U.S.C. sec. 2601 et seq. Rules adopted by the commission  
28 shall be at least as stringent as the federal rules and shall ensure that  
29 consumers are adequately informed about affiliated business  
30 arrangements. The commission shall consult with the insurance  
31 commissioner pursuant to section 10-11-124 (2), ~~C.R.S.~~, concerning  
32 rules, policies, or guidelines the insurance commissioner adopts  
33 concerning affiliated business arrangements. Neither the rules  
34 promulgated by the commissioner nor the real estate commission may  
35 create a conflicting regulatory burden on an affiliated business  
36 arrangement.

37 (6) The division may share information gathered during an  
38 investigation of an affiliated business arrangement with the division of  
39 insurance.

40 ~~12-61-113.5. Mobile home transactions - requirements.~~  
41 ~~(Repealed)~~

42 **12-10-219. [Formerly 12-61-114]. Hearing - administrative law**  
43 **judge - review - rules.** (1) Except as otherwise provided in this section,  
44 all proceedings before the commission with respect to disciplinary actions  
45 and denial of licensure under this part ~~2~~ and part ~~8~~ **4** of this article **10**  
46 and certifications issued under part ~~4~~ **5** of this article **10** shall be  
47 conducted by an administrative law judge pursuant to the provisions of  
48 sections 24-4-104 and 24-4-105. ~~C.R.S.~~

49 (2) ~~Such~~ THE proceedings shall be held in the county where the  
50 commission has its office or in such other place as the commission may  
51 designate. If the licensee is an employed broker, the commission shall  
52 also notify the broker employing the licensee by mailing, by first-class

1 mail, a copy of the written notice required under section 24-4-104 (3)  
2 ~~€R.S.~~, to the employing broker's last-known business address.

3 (3) An administrative law judge shall conduct all hearings for  
4 denying, suspending, or revoking a license or certificate on behalf of the  
5 commission, subject to appropriations made to the department of  
6 personnel. Each administrative law judge shall be appointed pursuant to  
7 part 10 of article 30 of title 24. ~~€R.S.~~ The administrative law judge shall  
8 conduct the hearing pursuant to the provisions of sections 24-4-104 and  
9 24-4-105. ~~€R.S.~~ No license shall be denied, suspended, or revoked until  
10 the commission has made its decision by a majority vote.

11 (4) The decision of the commission in any disciplinary action or  
12 denial of licensure under this section is subject to review by the court of  
13 appeals by appropriate proceedings under section 24-4-106 (11). In order  
14 to effectuate the purposes of parts ~~† 2~~, 4, and ~~§ 4~~ of this article ~~6† 10~~, the  
15 commission has the power to promulgate rules pursuant to article 4 of  
16 title 24. The commission may appear in court by its own attorney.

17 (5) Pursuant to ~~said~~ THE proceeding, the court has the right, in its  
18 discretion, to stay the execution or effect of any final order of the  
19 commission; but a hearing shall be held affording the parties an  
20 opportunity to be heard for the purpose of determining whether the public  
21 health, safety, and welfare would be endangered by staying the  
22 commission's order. If the court determines that the order should be  
23 stayed, it shall also determine at ~~said~~ THE hearing the amount of the bond  
24 and adequacy of the surety, which bond shall be conditioned upon the  
25 faithful performance by ~~such~~ THE petitioner of all obligations as a real  
26 estate broker and upon the prompt payment of all damages arising from  
27 or caused by the delay in the taking effect of or enforcement of the order  
28 complained of and for all costs that may be assessed or required to be  
29 paid in connection with ~~such~~ THE proceedings.

30 (6) In any hearing conducted by the commission in which there is  
31 a possibility of the denial, suspension, or revocation of a license because  
32 of the conviction of a felony or of a crime involving moral turpitude, the  
33 commission shall be governed by the provisions of section 24-5-101.  
34 ~~€R.S.~~

35 **12-10-220. [Formerly 12-61-114.5] Rules.** All rules adopted or  
36 amended by the commission are subject to sections 24-4-103 (8)(c) and  
37 (8)(d) and 24-34-104 (6)(b). ~~€R.S.~~

38 ~~**12-61-115. Subpoena compelling attendance of witnesses,**~~  
39 ~~**records, and documents. (Repealed)**~~

40 ~~**12-61-116. Failure to obey subpoena - penalty. (Repealed)**~~

41 **12-10-221. [Formerly 12-61-117] Broker remuneration.** It is  
42 unlawful for a real estate broker registered in the commission office as in  
43 the employ of another broker to accept a commission or valuable  
44 consideration for the performance of any of the acts specified in this part  
45 ~~† 2~~ from any person except the broker's employer, who shall be a licensed  
46 real estate broker.

47 **12-10-222. [Formerly 12-61-118] Acts of third parties -**  
48 **broker's liability.** Any unlawful act or violation of any of the provisions  
49 of this part ~~† 2~~ upon the part of an employee, officer, or member of a  
50 licensed real estate broker shall not be cause for disciplinary action  
51 against a real estate broker, unless it appears to the satisfaction of the  
52 commission that the real estate broker had actual knowledge of the

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unlawful act or violation or had been negligent in the supervision of employees.

**12-10-223. [Formerly 12-61-119] Violations.** Any natural person, firm, partnership, limited liability company, association, or corporation violating the provisions of this part ~~1~~ 2 by acting as real estate broker in this state without having obtained a license or by acting as real estate broker after the broker's license has been revoked or during any period for which ~~said~~ THE license may have been suspended is guilty of a misdemeanor and, upon conviction thereof, if a natural person, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment and, if an entity, shall be punished by a fine of not more than five thousand dollars. A second violation, if by a natural person, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**12-10-224. [Formerly 12-61-120] Subpoena compelling attendance of witnesses and production of records and documents.** The commission, the director, ~~for the commission,~~ or the administrative law judge appointed for hearings may issue a subpoena compelling the attendance and testimony of witnesses and the production of books, papers, or records pursuant to an investigation or hearing of ~~such~~ THE commission. ~~Such~~ THE subpoenas shall be served in the same manner as subpoenas issued by district courts and shall be issued without discrimination between public or private parties requiring the attendance of witnesses and the production of documents at hearings. If a person fails or refuses to obey a subpoena issued by the commission, the director, or the appointed administrative law judge, the commission may petition the district court having jurisdiction for issuance of a subpoena in the premises, and the court shall, in a proper case, issue its subpoena. Any person who refuses to obey ~~such~~ A subpoena shall be punished as provided in section ~~12-61-121~~ 12-10-225.

**12-10-225. [Formerly 12-61-121] Failure to obey subpoena - penalty.** Any person who willfully fails or neglects to appear and testify or to produce books, papers, or records required by subpoena, duly served upon him or her in any matter conducted under parts ~~1~~ 2 and ~~4~~ 5 of this article ~~6~~ 10, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars, or imprisonment in the county jail for not more than thirty days for each such offense, or by both such fine and imprisonment. Each day ~~such~~ A person so refuses or neglects constitutes a separate offense.

**12-10-226. [Formerly 12-61-122] Powers of commission - injunctions.** The commission may apply to a court of competent jurisdiction for an order enjoining any act or practice that constitutes a violation of parts ~~1~~ 2 ~~and 4~~ OR 5 of this article ~~6~~ 10, and, upon a showing that a person is engaging or intends to engage in any such act or practice, an injunction, restraining order, or other appropriate order shall be granted by ~~such~~ THE court regardless of the existence of another remedy therefor. Any notice, hearing, or duration of any injunction or restraining order shall be made in accordance with the provisions of the Colorado rules of civil procedure.

**12-10-227. [Formerly 12-61-123] Repeal of part.** This part ~~1~~ 2

1 is repealed, effective September 1, 2026. Before its repeal, the real estate  
2 division, including the real estate commission, shall be reviewed IS  
3 SCHEDULED FOR REVIEW in accordance with section 24-34-104.  
4

5 PART 3  
6 BROKERS' COMMISSIONS  
7

8 **12-10-301. [Formerly 12-61-201]. When entitled to commission.**

9 No real estate agent or broker is entitled to a commission for finding a  
10 purchaser who is ready, willing, and able to complete the purchase of real  
11 estate as proposed by the owner until the same is consummated or is  
12 defeated by the refusal or neglect of the owner to consummate the same  
13 as agreed upon.

14 **12-10-302. [Formerly 12-61-202]. Objections on account of**  
15 **title.** No real estate agent or broker is entitled to a commission when a  
16 proposed purchaser fails or refuses to complete his OR HER contract of  
17 purchase because of defects in the title of the owner, unless ~~such~~ THE  
18 owner, within a reasonable time, has ~~said~~ THE defects corrected by legal  
19 proceedings or otherwise.

20 **12-10-303. [Formerly 12-61-203]. When owner must perfect**  
21 **title.** The owner shall not be required to begin legal or other proceedings  
22 for the correction of ~~such~~ A title until ~~such~~ THE agent or broker secures  
23 from the proposed purchaser an enforceable contract in writing, binding  
24 him OR HER to complete the purchase whenever the defects in the title are  
25 corrected.

26 **12-10-304. [Formerly 12-61-203.5]. Referral fees - conformity**  
27 **with federal law required - remedies for violation - definitions.** (1) A  
28 person licensed under parts ~~± 2~~ to ~~4~~ 5 of this article **10** shall not pay or  
29 receive a referral fee except in accordance with the federal "Real Estate  
30 Settlement Procedures Act of 1974", as amended, 12 U.S.C. sec. 2601 et  
31 seq., and unless reasonable cause for payment of the referral fee exists.  
32 A reasonable cause for payment means:

- 33 (a) An actual introduction of business has been made;  
34 (b) A contractual referral fee relationship exists; or  
35 (c) A contractual cooperative brokerage relationship exists.

36 (2) (a) No person shall interfere with the brokerage relationship  
37 of a licensee.

38 (b) As used in this subsection (2):

39 (I) "Brokerage relationship" means a relationship entered into  
40 between a broker and a buyer, seller, landlord, or tenant under which the  
41 broker engages in any of the acts set forth in section ~~±2-61-101~~ (2)  
42 **12-10-101 (10)**. A brokerage relationship is not established until a written  
43 brokerage agreement is entered into between the parties or is otherwise  
44 established by law.

45 (II) "Interference with the brokerage relationship" means  
46 demanding a referral fee from a licensee without reasonable cause.

47 (III) "Referral fee" means any fee paid by a licensee to any person  
48 or entity, other than a cooperative commission offered by a listing broker  
49 to a selling broker or vice versa.

50 (3) Any person aggrieved by a violation of any provision of this  
51 section may bring a civil action in a court of competent jurisdiction. The  
52 prevailing party in any such action shall be entitled to actual damages

1 and, in addition, the court may award an amount up to three times the  
2 amount of actual damages sustained as a result of any such violation plus  
3 reasonable attorney fees.

4 **12-10-305. [Formerly 12-61-204]. Repeal of part.** This part ~~2~~ **3**  
5 is repealed, effective September 1, 2026. Before its repeal, this part ~~2~~ **3**  
6 is scheduled for review in accordance with section 24-34-104.

7 **~~12-61-301 to 12-61-309. (Repealed)~~**

8  
9  
10 PART 4  
11 BROKERAGE RELATIONSHIPS  
12

13 **12-10-401. [Formerly 12-61-801]. Legislative declaration.**

14 (1) The general assembly finds, determines, and declares that the public  
15 will best be served through a better understanding of the public's legal  
16 and working relationships with real estate brokers and by being able to  
17 engage any such real estate broker on terms and under conditions that the  
18 public and the real estate broker find acceptable. This includes engaging  
19 a broker as a single agent or transaction-broker. Individual members of  
20 the public should not be exposed to liability for acts or omissions of real  
21 estate brokers that have not been approved, directed, or ratified by ~~such~~  
22 THE individuals. Further, the public should be advised of the general  
23 duties, obligations, and responsibilities of the real estate broker they  
24 engage.

25 (2) This part ~~8~~ **4** is enacted to govern the relationships between  
26 real estate brokers and sellers, landlords, buyers, and tenants in real estate  
27 transactions.

28 **12-10-402. [Formerly 12-61-802]. Definitions.** As used in this  
29 part ~~8~~ **4**, unless the context otherwise requires:

30 (1) "Broker" shall have the same meaning as set forth in section  
31 ~~12-61-101~~ ~~(2)~~ **12-10-101 (10)**, except as otherwise specified in this part  
32 ~~8~~ **4**.

33 ~~(1.3)~~ **(2)** "Customer" means a party to a real estate transaction  
34 with whom the broker has no brokerage relationship because ~~such~~ THE  
35 party has not engaged or employed a broker.

36 ~~(1.5)~~ **(3) (a)** "Designated broker" means an employing broker or  
37 employed broker who is designated in writing by an employing broker to  
38 serve as a single agent or transaction-broker for a seller, landlord, buyer,  
39 or tenant in a real estate transaction.

40 **(b)** "Designated broker" does not include a real estate brokerage  
41 firm that consists of only one licensed natural person.

42 ~~(2)~~ **(4)** "Dual agent" means a broker who, with the written  
43 informed consent of all parties to a contemplated real estate transaction,  
44 is engaged as a limited agent for both the seller and buyer or both the  
45 landlord and tenant.

46 ~~(3)~~ **(5)** "Limited agent" means an agent whose duties and  
47 obligations to a principal are only those set forth in section ~~12-61-804~~  
48 **12-10-404** or ~~12-61-805~~ **12-10-405**, with any additional duties and  
49 obligations agreed to pursuant to section ~~12-61-803~~ ~~(5)~~ **12-10-403 (5)**.

50 ~~(4)~~ **(6)** "Single agent" means a broker who is engaged by and  
51 represents only one party in a real estate transaction. A single agent  
52 includes the following:

1 (a) "Buyer's agent", which means a broker who is engaged by and  
2 represents the buyer in a real estate transaction;

3 (b) "Landlord's agent", which means a broker who is engaged by  
4 and represents the landlord in a leasing transaction;

5 (c) "Seller's agent", which means a broker who is engaged by and  
6 represents the seller in a real estate transaction; and

7 (d) "Tenant's agent", which means a broker who is engaged by and  
8 represents the tenant in a leasing transaction.

9 ~~(5)~~ (7) "Subagent" means a broker engaged to act for another  
10 broker in performing brokerage tasks for a principal. The subagent owes  
11 the same obligations and responsibilities to the principal as does the  
12 principal's broker.

13 ~~(6)~~ (8) "Transaction-broker" means a broker who assists one or  
14 more parties throughout a contemplated real estate transaction with  
15 communication, interposition, advisement, negotiation, contract terms,  
16 and the closing of ~~such~~ THE real estate transaction without being an agent  
17 or advocate for the interests of any party to ~~such~~ THE transaction. Upon  
18 agreement in writing pursuant to section ~~12-61-803 (2)~~ **12-10-403 (2)** or  
19 a written disclosure pursuant to section ~~12-61-808 (2)(d)~~ **12-10-408**  
20 **(2)(c)**, a transaction-broker may become a single agent.

21 **12-10-403. [Formerly 12-61-803]. Relationships between**  
22 **brokers and the public - definition - rules.** (1) When engaged in any  
23 of the activities enumerated in section ~~12-61-101 (2)~~ **12-10-101 (10)**, a  
24 broker may act in any transaction as a single agent or transaction-broker.  
25 The broker's general duties and obligations arising from that relationship  
26 shall be disclosed to the seller and the buyer or to the landlord and the  
27 tenant pursuant to section ~~12-61-808~~ **12-10-408**.

28 (2) A broker shall be considered a transaction-broker unless a  
29 single agency relationship is established through a written agreement  
30 between the broker and the party or parties to be represented by ~~such~~ THE  
31 broker.

32 (3) A broker may work with a single party in separate transactions  
33 pursuant to different relationships including, but not limited to, selling  
34 one property as a seller's agent and working with that seller in buying  
35 another property as a transaction-broker or buyer's agent, but only if the  
36 broker complies with this part ~~8~~ **4** in establishing the relationships for  
37 each transaction.

38 (4) (a) A broker licensed pursuant to part ~~2~~ **2** of this article **10**,  
39 whether acting as a single agent or transaction-broker, may complete  
40 standard forms for use in a real estate transaction, including standard  
41 forms intended to convey personal property as part of the real estate  
42 transaction, when a broker is performing the activities enumerated or  
43 referred to in section ~~12-61-101 (2)~~ **12-10-101 (10)** in the transaction.

44 (b) As used in this subsection (4), "standard form" means:

45 (I) A form promulgated by the real estate commission for current  
46 use by brokers, also referred to in this section as a "commission-approved  
47 form";

48 (II) A form drafted by a licensed Colorado attorney representing  
49 the broker, employing broker, or brokerage firm, so long as the name of  
50 the attorney or law firm and the name of the broker, employing broker, or  
51 brokerage firm for whom the form is prepared are included on the form  
52 itself;



1 (III) A form provided by a party to the transaction if the broker is  
2 acting in the transaction as either a transaction-broker or as a single agent  
3 for the party providing the form to the broker, so long as the broker  
4 retains written confirmation that the form was provided by a party to the  
5 transaction;

6 (IV) A form prescribed by a governmental agency, a  
7 quasi-governmental agency, or a lender regulated by state or federal law,  
8 if use of the form is mandated by ~~such~~ THE agency or lender;

9 (V) A form issued with the written approval of the Colorado Bar  
10 Association or its successor organization and specifically designated for  
11 use by brokers in Colorado, so long as the form is used within any  
12 guidelines or conditions specified by the Colorado Bar Association or  
13 successor organization in connection with the use of the form;

14 (VI) A form used for disclosure purposes only, if the disclosure  
15 does not purport to waive or create any legal rights or obligations  
16 affecting any party to the transaction and if the form provides only  
17 information concerning either:

18 (A) The real estate involved in the transaction specifically; or

19 (B) The geographic area in which the real estate is located  
20 generally;

21 (VII) A form prescribed by a title company that is providing  
22 closing services in a transaction for which the broker is acting either as  
23 a transaction-broker or as a single agent for a party to the transaction; or

24 (VIII) A letter of intent created or prepared by a broker,  
25 employing broker, or brokerage firm so long as the letter of intent states  
26 on its face that it is nonbinding and creates no legal rights or obligations.

27 (c) A broker shall use a commission-approved form when such a  
28 form exists and is appropriate for the transaction. A broker's use of any  
29 standard form described in subsection (4)(b)(III) or (4)(b)(IV) of this  
30 section must be limited to inserting transaction-specific information  
31 within the form. In using standard forms described in subsection  
32 (4)(b)(II), (4)(b)(V), (4)(b)(VI), (4)(b)(VII), or (4)(b)(VIII) of this  
33 section, the broker may also advise the parties as to effects thereof, and  
34 the broker's use of those standard forms must be appropriate for the  
35 transaction and the circumstances in which they are used. In any  
36 transaction described in this subsection (4), the broker shall advise the  
37 parties that the forms have important legal consequences and that the  
38 parties should consult legal counsel before signing ~~such~~ THE forms.

39 (5) Nothing contained in this section shall prohibit the public from  
40 entering into written contracts with any broker ~~which~~ THAT contain  
41 duties, obligations, or responsibilities ~~which~~ THAT are in addition to those  
42 specified in this part ~~8~~ 4.

43 (6) (a) If a real estate brokerage firm has more than one licensed  
44 natural person, the employing broker or an individual broker employed  
45 or engaged by that employing broker shall be designated to work with the  
46 seller, landlord, buyer, or tenant as a designated broker. The employing  
47 broker may designate more than one of its individual brokers to work  
48 with a seller, landlord, buyer, or tenant.

49 (b) The brokerage relationship established between the seller,  
50 landlord, buyer, or tenant and a designated broker, including the duties,  
51 obligations, and responsibilities of that relationship, shall not extend to  
52 the employing broker nor to any other broker employed or engaged by

1 that employing broker who has not been so designated and shall not  
2 extend to the firm, partnership, limited liability company, association,  
3 corporation, or other entity that employs ~~such~~ THE broker.

4 (c) A real estate broker may have designated brokers working as  
5 single agents for a seller or landlord and a buyer or tenant in the same real  
6 estate transaction without creating dual agency for the employing real  
7 estate broker, or any broker employed or engaged by that employing real  
8 estate broker.

9 (d) An individual broker may be designated to work for both a  
10 seller or landlord and a buyer or tenant in the same transaction as a  
11 transaction-broker for both, as a single agent for the seller or landlord  
12 treating the buyer or tenant as a customer, or as a single agent for a buyer  
13 or tenant treating the seller or landlord as a customer, but not as a single  
14 agent for both. The applicable designated broker relationship shall be  
15 disclosed in writing to the seller or landlord and buyer or tenant in a  
16 timely manner pursuant to rules promulgated by the real estate  
17 commission.

18 (e) A designated broker may work with a seller or landlord in one  
19 transaction and work with a buyer or tenant in another transaction.

20 (f) When a designated broker serves as a single agent pursuant to  
21 section ~~12-61-804~~ **12-10-404** or ~~12-61-805~~ **12-10-405**, there shall be no  
22 imputation of knowledge to the employing or employed broker who has  
23 not been so designated.

24 (g) The extent and limitations of the brokerage relationship with  
25 the designated broker shall be disclosed to the seller, landlord, buyer, or  
26 tenant working with that designated broker pursuant to section ~~12-61-808~~  
27 **12-10-408**.

28 (7) No seller, buyer, landlord, or tenant shall be vicariously liable  
29 for a broker's acts or omissions that have not been approved, directed, or  
30 ratified by ~~such~~ THE seller, buyer, landlord, or tenant.

31 (8) Nothing in this section shall be construed to limit the  
32 employing broker's or firm's responsibility to supervise licensees  
33 employed by ~~such~~ THE broker or firm nor to shield ~~such~~ THE broker or  
34 firm from vicarious liability.

35 **12-10-404. [Formerly 12-61-804]. Single agent engaged by**  
36 **seller or landlord.** (1) A broker engaged by a seller or landlord to act as  
37 a seller's agent or a landlord's agent is a limited agent with the following  
38 duties and obligations:

39 (a) To perform the terms of the written agreement made with the  
40 seller or landlord;

41 (b) To exercise reasonable skill and care for the seller or landlord;

42 (c) To promote the interests of the seller or landlord with the  
43 utmost good faith, loyalty, and fidelity, including, but not limited to:

44 (I) Seeking a price and terms ~~which~~ THAT are acceptable to the  
45 seller or landlord; except that the broker shall not be obligated to seek  
46 additional offers to purchase the property while the property is subject to  
47 a contract for sale or to seek additional offers to lease the property while  
48 the property is subject to a lease or letter of intent to lease;

49 (II) Presenting all offers to and from the seller or landlord in a  
50 timely manner regardless of whether the property is subject to a contract  
51 for sale or a lease or letter of intent to lease;

52 (III) Disclosing to the seller or landlord adverse material facts

1 actually known by the broker;

2 (IV) Counseling the seller or landlord as to any material benefits  
3 or risks of a transaction ~~which~~ THAT are actually known by the broker;

4 (V) Advising the seller or landlord to obtain expert advice as to  
5 material matters about which the broker knows but the specifics of which  
6 are beyond the expertise of ~~such~~ THE broker;

7 (VI) Accounting in a timely manner for all money and property  
8 received; and

9 (VII) Informing the seller or landlord that ~~such~~ THE seller or  
10 landlord shall not be vicariously liable for the acts of ~~such~~ THE seller's or  
11 landlord's agent that are not approved, directed, or ratified by ~~such~~ THE  
12 seller or landlord.

13 (d) To comply with all requirements of this article *10* and any  
14 rules promulgated pursuant to this article *10*; and

15 (e) To comply with any applicable federal, state, or local laws,  
16 rules, regulations, or ordinances including fair housing and civil rights  
17 statutes or regulations.

18 (2) The following information shall not be disclosed by a broker  
19 acting as a seller's or landlord's agent without the informed consent of the  
20 seller or landlord:

21 (a) That a seller or landlord is willing to accept less than the  
22 asking price or lease rate for the property;

23 (b) What the motivating factors are for the party selling or leasing  
24 the property;

25 (c) That the seller or landlord will agree to financing terms other  
26 than those offered;

27 (d) Any material information about the seller or landlord unless  
28 disclosure is required by law or failure to disclose ~~such~~ THE information  
29 would constitute fraud or dishonest dealing; or

30 (e) Any facts or suspicions regarding circumstances ~~which~~ THAT  
31 may psychologically impact or stigmatize any real property pursuant to  
32 section 38-35.5-101. ~~C.R.S.~~

33 (3) (a) A broker acting as a seller's or landlord's agent owes no  
34 duty or obligation to the buyer or tenant; except that a broker shall,  
35 subject to the limitations of section 38-35.5-101, ~~C.R.S.~~, concerning  
36 psychologically impacted property, disclose to any prospective buyer or  
37 tenant all adverse material facts actually known by ~~such~~ THE broker. ~~Such~~  
38 THE adverse material facts may include but shall not be limited to adverse  
39 material facts pertaining to the title and the physical condition of the  
40 property, any material defects in the property, and any environmental  
41 hazards affecting the property ~~which~~ THAT are required by law to be  
42 disclosed.

43 (b) A seller's or landlord's agent owes no duty to conduct an  
44 independent inspection of the property for the benefit of the buyer or  
45 tenant and owes no duty to independently verify the accuracy or  
46 completeness of any statement made by ~~such~~ THE seller or landlord or any  
47 independent inspector.

48 (4) A seller's or landlord's agent may show alternative properties  
49 not owned by ~~such~~ THE seller or landlord to prospective buyers or tenants  
50 and may list competing properties for sale or lease and not be deemed to  
51 have breached any duty or obligation to ~~such~~ THE seller or landlord.

52 (5) A designated broker acting as a seller's or landlord's agent may

1 cooperate with other brokers but may not engage or create any subagents.  
2 **12-10-405. [Formerly 12-61-805]. Single agent engaged by**  
3 **buyer or tenant.** (1) A broker engaged by a buyer or tenant to act as a  
4 buyer's or tenant's agent shall be a limited agent with the following duties  
5 and obligations:

6 (a) To perform the terms of the written agreement made with the  
7 buyer or tenant;

8 (b) To exercise reasonable skill and care for the buyer or tenant;

9 (c) To promote the interests of the buyer or tenant with the utmost  
10 good faith, loyalty, and fidelity, including, but not limited to:

11 (I) Seeking a price and terms ~~which~~ THAT are acceptable to the  
12 buyer or tenant; except that the broker shall not be obligated to seek other  
13 properties while the buyer is a party to a contract to purchase property or  
14 while the tenant is a party to a lease or letter of intent to lease;

15 (II) Presenting all offers to and from the buyer or tenant in a  
16 timely manner regardless of whether the buyer is already a party to a  
17 contract to purchase property or the tenant is already a party to a contract  
18 or a letter of intent to lease;

19 (III) Disclosing to the buyer or tenant adverse material facts  
20 actually known by the broker;

21 (IV) Counseling the buyer or tenant as to any material benefits or  
22 risks of a transaction ~~which~~ THAT are actually known by the broker;

23 (V) Advising the buyer or tenant to obtain expert advice as to  
24 material matters about which the broker knows but the specifics of which  
25 are beyond the expertise of ~~such~~ THE broker;

26 (VI) Accounting in a timely manner for all money and property  
27 received; and

28 (VII) Informing the buyer or tenant that ~~such~~ THE buyer or tenant  
29 shall not be vicariously liable for the acts of ~~such~~ THE buyer's or tenant's  
30 agent that are not approved, directed, or ratified by ~~such~~ THE buyer or  
31 tenant;

32 (d) To comply with all requirements of this article *10* and any  
33 rules promulgated pursuant to this article *10*; and

34 (e) To comply with any applicable federal, state, or local laws,  
35 rules, ~~regulations~~, or ordinances including fair housing and civil rights  
36 statutes or regulations.

37 (2) The following information shall not be disclosed by a broker  
38 acting as a buyer's or tenant's agent without the informed consent of the  
39 buyer or tenant:

40 (a) That a buyer or tenant is willing to pay more than the purchase  
41 price or lease rate for the property;

42 (b) What the motivating factors are for the party buying or leasing  
43 the property;

44 (c) That the buyer or tenant will agree to financing terms other  
45 than those offered;

46 (d) Any material information about the buyer or tenant unless  
47 disclosure is required by law or failure to disclose ~~such~~ THE information  
48 would constitute fraud or dishonest dealing; or

49 (e) Any facts or suspicions regarding circumstances ~~which~~ THAT  
50 would psychologically impact or stigmatize any real property pursuant to  
51 section 38-35.5-101. ~~C.R.S.~~

52 (3) (a) A broker acting as a buyer's or tenant's agent owes no duty

1 or obligation to the seller or landlord; except that ~~such~~ THE broker shall  
2 disclose to any prospective seller or landlord all adverse material facts  
3 actually known by the broker including but not limited to adverse material  
4 facts concerning the buyer's or tenant's financial ability to perform the  
5 terms of the transaction and whether the buyer intends to occupy the  
6 property to be purchased as a principal residence.

7 (b) A buyer's or tenant's agent owes no duty to conduct an  
8 independent investigation of the buyer's or tenant's financial condition for  
9 the benefit of the seller or landlord and owes no duty to independently  
10 verify the accuracy or completeness of statements made by ~~such~~ THE  
11 buyer or tenant or any independent inspector.

12 (4) A buyer's or tenant's agent may show properties in which the  
13 buyer or tenant is interested to other prospective buyers or tenants without  
14 breaching any duty or obligation to ~~such~~ THE buyer or tenant. Nothing in  
15 this section shall be construed to prohibit a buyer's or tenant's agent from  
16 showing competing buyers or tenants the same property and from  
17 assisting competing buyers or tenants in attempting to purchase or lease  
18 a particular property.

19 (5) A broker acting as a buyer's or tenant's agent owes no duty to  
20 conduct an independent inspection of the property for the benefit of the  
21 buyer or tenant and owes no duty to independently verify the accuracy or  
22 completeness of statements made by the seller, landlord, or independent  
23 inspectors; except that nothing in this subsection (5) shall be construed to  
24 limit the broker's duties and obligations imposed pursuant to subsection  
25 (1) of this section.

26 (6) A broker acting as a buyer's or tenant's agent may cooperate  
27 with other brokers but may not engage or create any subagents.

28 **12-10-406. [Formerly 12-61-806]. Dual agent.** (†) A broker shall  
29 not establish dual agency with any seller, landlord, buyer, or tenant.

30 (2) to (6) (~~Deleted by amendment, L. 2002, p. 1060, § 6, effective~~  
31 ~~January 1, 2003.~~)

32 **12-10-407. [Formerly 12-61-807]. Transaction-broker.** (1) A  
33 broker engaged as a transaction-broker is not an agent for either party.

34 (2) A transaction-broker shall have the following obligations and  
35 responsibilities:

36 (a) To perform the terms of any written or oral agreement made  
37 with any party to the transaction;

38 (b) To exercise reasonable skill and care as a transaction-broker,  
39 including, but not limited to:

40 (I) Presenting all offers and counteroffers in a timely manner  
41 regardless of whether the property is subject to a contract for sale or lease  
42 or letter of intent;

43 (II) Advising the parties regarding the transaction and suggesting  
44 that ~~such~~ THE parties obtain expert advice as to material matters about  
45 which the transaction-broker knows but the specifics of which are beyond  
46 the expertise of ~~such~~ THE broker;

47 (III) Accounting in a timely manner for all money and property  
48 received;

49 (IV) Keeping the parties fully informed regarding the transaction;

50 (V) Assisting the parties in complying with the terms and  
51 conditions of any contract including closing the transaction;

52 (VI) Disclosing to all prospective buyers or tenants any adverse

1 material facts actually known by the broker including but not limited to  
2 adverse material facts pertaining to the title, the physical condition of the  
3 property, any defects in the property, and any environmental hazards  
4 affecting the property required by law to be disclosed;

5 (VII) Disclosing to any prospective seller or landlord all adverse  
6 material facts actually known by the broker including but not limited to  
7 adverse material facts pertaining to the buyer's or tenant's financial ability  
8 to perform the terms of the transaction and the buyer's intent to occupy  
9 the property as a principal residence; and

10 (VIII) Informing the parties that as seller and buyer or as landlord  
11 and tenant they shall not be vicariously liable for any acts of the  
12 transaction-broker;

13 (c) To comply with all requirements of this article *10* and any  
14 rules promulgated pursuant to this article *10*; and

15 (d) To comply with any applicable federal, state, or local laws,  
16 rules, ~~regulations~~, or ordinances including fair housing and civil rights  
17 statutes or regulations.

18 (3) The following information shall not be disclosed by a  
19 transaction-broker without the informed consent of all parties:

20 (a) That a buyer or tenant is willing to pay more than the purchase  
21 price or lease rate offered for the property;

22 (b) That a seller or landlord is willing to accept less than the  
23 asking price or lease rate for the property;

24 (c) What the motivating factors are for any party buying, selling,  
25 or leasing the property;

26 (d) That a seller, buyer, landlord, or tenant will agree to financing  
27 terms other than those offered;

28 (e) Any facts or suspicions regarding circumstances ~~which~~ THAT  
29 may psychologically impact or stigmatize any real property pursuant to  
30 section 38-35.5-101; ~~C.R.S.~~; or

31 (f) Any material information about the other party unless  
32 disclosure is required by law or failure to disclose ~~such~~ THE information  
33 would constitute fraud or dishonest dealing.

34 (4) A transaction-broker has no duty to conduct an independent  
35 inspection of the property for the benefit of the buyer or tenant and has no  
36 duty to independently verify the accuracy or completeness of statements  
37 made by the seller, landlord, or independent inspectors.

38 (5) A transaction-broker has no duty to conduct an independent  
39 investigation of the buyer's or tenant's financial condition or to verify the  
40 accuracy or completeness of any statement made by the buyer or tenant.

41 (6) A transaction-broker may do the following without breaching  
42 any obligation or responsibility:

43 (a) Show alternative properties not owned by the seller or landlord  
44 to a prospective buyer or tenant;

45 (b) List competing properties for sale or lease;

46 (c) Show properties in which the buyer or tenant is interested to  
47 other prospective buyers or tenants; and

48 (d) Serve as a single agent or transaction-broker for the same or  
49 for different parties in other real estate transactions.

50 (7) There shall be no imputation of knowledge or information  
51 between any party and the transaction-broker or among persons within an  
52 entity engaged as a transaction-broker.

1 (8) A transaction-broker may cooperate with other brokers but  
2 shall not engage or create any subagents.

3 **12-10-408. [Formerly 12-61-808]. Broker disclosures.**

4 (1) (a) Any person INDIVIDUAL, firm, partnership, limited liability  
5 company, association, or corporation acting as a broker shall adopt a  
6 written office policy that identifies and describes the relationships offered  
7 to the public by ~~such~~ THE broker.

8 (b) A broker shall not be required to offer or engage in any one or  
9 in all of the brokerage relationships enumerated in section ~~12-61-804,~~  
10 ~~12-61-805,~~ **12-10-404, 12-10-405** or ~~12-61-807~~ **12-10-407**.

11 (c) Written disclosures and written agreements required by  
12 subsection (2) of this section shall contain a statement to the seller,  
13 landlord, buyer, or tenant that different brokerage relationships are  
14 available that include buyer agency, seller agency, or status as a  
15 transaction-broker. Should the seller, landlord, buyer, or tenant request  
16 information or ask questions concerning a brokerage relationship not  
17 offered by the broker pursuant to the broker's written office policy  
18 enumerated in subsection (1)(a) of this section, the broker shall provide  
19 to the party a written definition of that brokerage relationship that has  
20 been promulgated by the Colorado real estate commission.

21 (d) Disclosures made in accordance with this part ~~8 4~~ shall be  
22 sufficient to disclose brokerage relationships to the public.

23 (2) (a) (I) Prior to engaging in any of the activities enumerated in  
24 section ~~12-61-101~~ ~~(2)~~ **12-10-101 (10)**, a transaction-broker shall disclose  
25 in writing to the party to be assisted that ~~such~~ THE broker is not acting as  
26 agent for ~~such~~ THE party and that ~~such~~ THE broker is acting as a  
27 transaction-broker.

28 (II) As part of each relationship entered into by a broker pursuant  
29 to ~~subparagraph (I) of this paragraph~~ (a) SUBSECTION (2)(a)(I) OF THIS  
30 SECTION, written disclosure shall be made ~~which~~ THAT shall contain a  
31 signature block for the buyer, seller, landlord, or tenant to acknowledge  
32 receipt of ~~such~~ THE disclosure. ~~Such~~ THE disclosure and  
33 acknowledgment, by itself, shall not constitute a contract with the broker.  
34 If ~~such~~ THE buyer, seller, landlord, or tenant chooses not to sign the  
35 acknowledgment, the broker shall note that fact on a copy of the  
36 disclosure and shall retain ~~such~~ THE copy.

37 (III) If the transaction-broker undertakes any obligations or  
38 responsibilities in addition to or different from those set forth in section  
39 ~~12-61-807~~ ~~such~~ **12-10-407**, THE obligations or responsibilities shall be  
40 disclosed in a writing ~~which~~ THAT shall be signed by the involved parties.

41 (b) Prior to engaging in any of the activities enumerated in section  
42 ~~12-61-101~~ ~~(2)~~ **12-10-101 (10)**, a broker intending to establish a single  
43 agency relationship with a seller, landlord, buyer, or tenant shall enter into  
44 a written agency agreement with the party to be represented. ~~Such~~ THE  
45 agreement shall disclose the duties and responsibilities specified in  
46 section ~~12-61-804~~ **12-10-404** or ~~12-61-805~~ **12-10-405**, as applicable.  
47 Notice of the single agency relationship shall be furnished to any  
48 prospective party to the proposed transaction in a timely manner.

49 ~~(c) (Deleted by amendment, L. 2002, p. 1061, § 8, effective~~  
50 ~~January 1, 2003.)~~

51 ~~(d)~~ (c) (I) Prior to engaging in any of the activities enumerated in  
52 section ~~12-61-101~~ ~~(2)~~ **12-10-101 (10)**, a broker intending to work with a

1 buyer or tenant as an agent of the seller or landlord shall provide a written  
2 disclosure to ~~such~~ THE buyer or tenant that shall contain the following:

3 (A) A statement that the broker is an agent for the seller or  
4 landlord and is not an agent for the buyer or tenant;

5 (B) A list of the tasks that the agent intends to perform for the  
6 seller or landlord with the buyer or tenant; and

7 (C) A statement that the buyer or tenant shall not be vicariously  
8 liable for the acts of the agent unless the buyer or tenant approves, directs,  
9 or ratifies ~~such~~ THE acts.

10 (II) The written disclosure required pursuant to ~~subparagraph (f)~~  
11 ~~of this paragraph (d)~~ SUBSECTION (2)(c)(I) OF THIS SECTION, shall contain  
12 a signature block for the buyer or tenant to acknowledge receipt of ~~such~~  
13 THE disclosure. ~~Such~~ THE disclosure and acknowledgment, by itself, shall  
14 not constitute a contract with the broker. If the buyer or tenant does not  
15 sign ~~such~~ THE disclosure, the broker shall note that fact on a copy of ~~such~~  
16 THE disclosure and retain ~~such~~ THE copy.

17 ~~(e) (Deleted by amendment, L. 2002, p. 1061, § 8, effective~~  
18 ~~January 1, 2003.)~~

19 ~~(f) (d)~~ A broker who has already established a relationship with  
20 one party to a proposed transaction shall advise at the earliest reasonable  
21 opportunity any other potential parties or their agents of ~~such~~ THE  
22 established relationship.

23 ~~(g) (e)~~ (I) Prior to engaging in any of the activities enumerated in  
24 section ~~12-61-101 (2)~~ **12-10-101 (10)**, the seller, buyer, landlord, or  
25 tenant shall be advised in any written agreement with a broker that the  
26 brokerage relationship exists only with the designated broker, does not  
27 extend to the employing broker or to any other brokers employed or  
28 engaged by the employing broker who are not so designated, and does not  
29 extend to the brokerage company.

30 (II) Nothing in this ~~paragraph (g)~~ SUBSECTION (2)(e) shall be  
31 construed to limit the employing broker's or firm's responsibility to  
32 supervise licensees employed by ~~such~~ THE broker or firm nor to shield  
33 ~~such~~ THE broker or firm from vicarious liability.

34 **12-10-409. [Formerly 12-61-809]. Duration of relationship.**

35 (1) (a) The relationships set forth in this part ~~8 4~~ shall commence at the  
36 time that the broker is engaged by a party and shall continue until  
37 performance or completion of the agreement by which the broker was  
38 engaged.

39 (b) If the agreement by which the broker was engaged is not  
40 performed or completed for any reason, the relationship shall end at the  
41 earlier of the following:

42 (I) Any date of expiration agreed upon by the parties;

43 (II) Any termination or relinquishment of the relationship by the  
44 parties; or

45 (III) One year after the date of the engagement.

46 (2) (a) Except as otherwise agreed to in writing and pursuant to  
47 ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION,  
48 a broker engaged as a seller's agent or buyer's agent owes no further duty  
49 or obligation after termination or expiration of the contract or completion  
50 of performance.

51 (b) Notwithstanding ~~paragraph (a) of this subsection (2)~~  
52 SUBSECTION (2)(a) OF THIS SECTION, a broker shall be responsible after



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termination or expiration of the contract or completion of performance for the following:

(I) Accounting for all ~~moneys~~ MONEY and property related to and received during the engagement; and

(II) Keeping confidential all information received during the course of the engagement ~~which~~ THAT was made confidential by request or instructions from the engaging party unless:

(A) The engaging party grants written consent to disclose ~~such~~ THE information;

(B) Disclosure of ~~such~~ THE information is required by law; or

(C) The information is made public or becomes public by the words or conduct of the engaging party or from a source other than the broker.

(3) Except as otherwise agreed to in writing, a transaction-broker owes no further obligation or responsibility to the engaging party after termination or expiration of the contract for performance or completion of performance; except that ~~such~~ THE broker shall account for all ~~moneys~~ MONEY and property related to and received during the engagement.

**12-10-410. [Formerly 12-61-810]. Compensation.** (1) In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, the landlord, the tenant, a third party, or by the sharing or splitting of a commission or compensation between brokers.

(2) Payment of compensation shall not be construed to establish an agency relationship between the broker and the party who paid ~~such~~ THE compensation.

(3) A seller or landlord may agree that a transaction-broker or single agent may share the commission or other compensation paid by ~~such~~ THE seller or landlord with another broker.

(4) A buyer or tenant may agree that a single agent or transaction-broker may share the commission or other compensation paid by ~~such~~ THE buyer or tenant with another broker.

(5) A buyer's or tenant's agent shall obtain the written approval of ~~such~~ THE buyer or tenant before ~~such~~ THE agent may propose to the seller's or landlord's agent that ~~such~~ THE buyer's or tenant's agent be compensated by sharing compensation paid by ~~such~~ THE seller or landlord.

(6) Prior to entering into a brokerage or listing agreement or a contract to buy, sell, or lease, the identity of those parties, persons, or entities paying compensation or commissions to any broker shall be disclosed to the parties to the transaction.

(7) A broker may be compensated by more than one party for services in a transaction if those parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, or lease.

**12-10-411. [Formerly 12-61-811]. Violations.** The violation of any provision of this part ~~8 4~~ by a broker constitutes an act pursuant to section ~~12-61-113 (1)(k)~~ **12-10-217 (1)(m)** for which the real estate commission may investigate and take administrative action against any such broker pursuant to sections ~~12-61-113~~ **12-10-217** and ~~12-61-114~~ **12-10-219**.

PART 5

SUBDIVISIONS

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3 **12-10-501. [Formerly 12-61-401]. Definitions.** As used in this  
4 part 4 5, unless the context otherwise requires:

5 (1) "Commission" means the real estate commission established  
6 under section ~~12-61-105~~ **12-10-206**.

7 (2) "Developer" means any person, as defined in section ~~2-4-401~~  
8 (8), C.R.S., which participates as owner, promoter, or sales agent in the  
9 promotion, sale, or lease of a subdivision or any part thereof.

10 (2.5) "HOA" or "homeowners' association" means an association  
11 or unit owners' association formed before, on, or after July 1, 1992, as  
12 part of a common interest community as defined in section ~~38-33.3-103~~,  
13 C.R.S.

14 (3)(a) "Subdivision" means any real property divided into twenty  
15 or more interests intended solely for residential use and offered for sale,  
16 lease, or transfer.

17 (b) (I) The term "subdivision" also includes:

18 (A) The conversion of an existing structure into a common  
19 interest community of twenty or more residential units, as defined in  
20 article 33.3 of title 38, C.R.S.;

21 (B) A group of twenty or more time shares intended for residential  
22 use; and

23 (C) A group of twenty or more proprietary leases in a cooperative  
24 housing corporation, as defined in article 33.5 of title 38, C.R.S.

25 (H) The term "subdivision" does not include:

26 (A) The selling of memberships in campgrounds;

27 (B) Bulk sales and transfers between developers;

28 (C) Property upon which there has been or upon which there will  
29 be erected residential buildings that have not been previously occupied  
30 and where the consideration paid for such property includes the cost of  
31 such buildings;

32 (D) Lots which, at the time of closing of a sale or occupancy  
33 under a lease, are situated on a street or road and street or road system  
34 improved to standards at least equal to streets and roads maintained by the  
35 county, city, or town in which the lots are located; have a feasible plan to  
36 provide potable water and sewage disposal; and have telephone and  
37 electricity facilities and systems adequate to serve the lots, which  
38 facilities and systems are installed and in place on the lots or in a street,  
39 road, or easement adjacent to the lots and which facilities and systems  
40 comply with applicable state, county, municipal, or other local laws,  
41 rules, and regulations; or any subdivision that has been or is required to  
42 be approved after September 1, 1972, by a regional, county, or municipal  
43 planning authority pursuant to article 28 of title 30 or article 23 of title 31,  
44 C.R.S.;

45 (E) Sales by public officials in the official conduct of their duties.

46 (4) "Time share" means a time share estate, as defined in section  
47 ~~38-33-110~~ (5), C.R.S., or a time share use, but the term does not include  
48 group reservations made for convention purposes as a single transaction  
49 with a hotel, motel, or condominium owner or association. For the  
50 purposes of this subsection (4), "time share use" means a contractual or  
51 membership right of occupancy (which cannot be terminated at the will  
52 of the owner) for life or for a term of years, to the recurrent, exclusive use

1 or occupancy of a lot, parcel, unit, or specific or nonspecific segment of  
2 real property, annually or on some other periodic basis, for a period of  
3 time that has been or will be allotted from the use or occupancy periods  
4 into which the property has been divided.

5 **12-10-502. [Formerly 12-61-402]. Registration required.**

6 (1) Unless exempt under the provisions of section ~~12-61-401~~ (3)  
7 **12-10-101 (11)**, a developer, before selling, leasing, or transferring or  
8 agreeing or negotiating to sell, lease, or transfer, directly or indirectly, any  
9 subdivision or any part thereof, shall register pursuant to this part 4 5.

10 (2) Upon approval by the commission, a developer who has  
11 applied for registration pursuant to section ~~12-61-403~~ **12-10-503** may  
12 offer reservations in a subdivision during the pendency of ~~such~~ THE  
13 application and until ~~such~~ THE application is granted or denied if the fees  
14 for ~~such~~ THE reservations are held in trust by an independent third party  
15 and are fully refundable.

16 **12-10-503. [Formerly 12-61-403]. Application for registration.**

17 (1) Every person who is required to register as a developer under this part  
18 4 5 shall submit to the commission an application ~~which~~ THAT contains  
19 the information described in subsections (2) and (3) of this section. If  
20 ~~such~~ THE information is not submitted, the commission may deny the  
21 application for registration. If a developer is currently regulated in  
22 another state that has registration requirements substantially equivalent  
23 to the requirements of this part 4 5 or that provide substantially  
24 comparable protection to a purchaser, the commission may accept proof  
25 of ~~such~~ THE registration along with the developer's disclosure or  
26 equivalent statement from the other state in full or partial satisfaction of  
27 the information required by this section. In addition, the applicant shall  
28 be under a continuing obligation to notify the commission within ten days  
29 of any change in the information so submitted, and a failure to do so shall  
30 be a cause for disciplinary action.

31 (2) (a) Registration information concerning the developer shall  
32 include:

33 (I) The principal office of the applicant wherever situate;

34 (II) The location of the principal office and the branch offices of  
35 the applicant in this state;

36 ~~(III) Repealed.~~

37 ~~(IV) (III)~~ (III) The names and residence and business addresses of all  
38 natural persons who have a twenty-four percent or greater financial or  
39 ultimate beneficial interest in the business of the developer, either directly  
40 or indirectly, as principal, manager, member, partner, officer, director, or  
41 stockholder, specifying each such person's capacity, title, and percentage  
42 of ownership. If no natural person has a twenty-four percent or greater  
43 financial or beneficial interest in the business of the developer, the  
44 information required in this ~~subparagraph (IV)~~ SUBSECTION (2)(a)(III)  
45 shall be submitted regarding the natural person having the largest single  
46 financial or beneficial interest.

47 (V) The length of time and the locations where the applicant has  
48 been engaged in the business of real estate sales or development;

49 (VI) Any felony of which the applicant has been convicted within  
50 the preceding ten years. In determining whether a certificate of  
51 registration shall be issued to an applicant who has been convicted of a  
52 felony within ~~such~~ THE period of time, the commission shall be governed

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by the provisions of section 24-5-101. ~~C.R.S.~~

(VII) The states in which the applicant has had a license or registration similar to the developer's registration in this state granted, refused, suspended, or revoked or is currently the subject of an investigation or charges that could result in refusal, suspension, or revocation;

(VIII) Whether the developer or any other person financially interested in the business of the developer as principal, partner, officer, director, or stockholder has engaged in any activity that would constitute a violation of this part ~~4~~ 5.

(b) If the applicant is a corporate developer, a copy of the certificate of authority to do business in this state or a certificate of incorporation issued by the secretary of state shall accompany the application.

(3) Registration information concerning the subdivision shall include:

(a) The location of each subdivision from which sales are intended to be made;

(b) The name of each subdivision and the trade, corporate, or partnership name used by the developer;

(c) Evidence or certification that each subdivision offered for sale or lease is registered or will be registered in accordance with state or local requirements of the state in which each subdivision is located;

(d) Copies of documents evidencing the title or other interest in the subdivision;

(e) If there is a blanket encumbrance upon the title of the subdivision or any other ownership, leasehold, or contractual interest that could defeat all possessory or ownership rights of a purchaser, a copy of the instruments creating ~~such~~ THE liens, encumbrances, or interests, with dates as to the recording, along with documentary evidence that any beneficiary, mortgagee, or trustee of a deed of trust or any other holder of ~~such~~ THE ownership, leasehold, or contractual interest will release any lot or time share from the blanket encumbrance or has subordinated its interest in the subdivision to the interest of any purchaser or has established any other arrangement acceptable to the real estate commission that protects the rights of the purchaser;

(f) A statement that standard commission-approved forms will be used for contracts of sale, notes, deeds, and other legal documents used to effectuate the sale or lease of the subdivision or any part thereof, unless the forms to be used were prepared by an attorney representing the developer;

(g) A true statement by the developer that, in any conveyance by means of an installment contract, the purchaser shall be advised to record the contract with the proper authorities in the jurisdiction in which the subdivision is located. In no event shall any developer specifically prohibit the recording of the installment contract.

(h) A true statement by the developer of the provisions for and availability of legal access, sewage disposal, and public utilities, including water, electricity, gas, and telephone facilities, in the subdivision offered for sale or lease, including whether such are to be a developer or purchaser expense;

(i) A true statement as to whether or not a survey of each lot, site,

1 or tract offered for sale or lease from ~~such~~ THE subdivision has been made  
2 and whether survey monuments are in place;

3 ~~(i.5)~~ (j) A true statement by the developer as to whether or not a  
4 common interest community is to be or has been created within the  
5 subdivision and whether or not ~~such~~ THE common interest community is  
6 or will be a small cooperative or small and limited expense planned  
7 community created pursuant to section 38-33.3-116; ~~C.R.S.~~;

8 ~~(j)~~ (k) A true statement by the developer concerning the existence  
9 of any common interest community association, including whether the  
10 developer controls funds in ~~such~~ THE association.

11 ~~(3.5)~~ (4) The commission may disapprove the form of the  
12 documents submitted pursuant to ~~paragraph (f) of subsection (3)~~  
13 SUBSECTION (3)(f) of this section and may deny an application for  
14 registration until such time as the applicant submits ~~such~~ THE documents  
15 in a form that is satisfactory to the commission.

16 ~~(4) Repealed.~~

17 (5) Each registration shall be accompanied by fees established  
18 pursuant to section ~~12-61-111.5~~ 12-10-215.

19 **12-10-504. [Formerly 12-61-404] Registration of developers.**

20 (1) The commission shall register all applicants who meet the  
21 requirements of this part 4 5 and provide each applicant so registered with  
22 a certificate indicating that the developer named therein is registered in  
23 the state of Colorado as a subdivision developer. The developer ~~which~~  
24 THAT will sign as seller or lessor in any contract of sale, lease, or deed  
25 purporting to convey any site, tract, lot, or divided or undivided interest  
26 from a subdivision shall secure a certificate before offering, negotiating,  
27 or agreeing to sell, lease, or transfer before ~~such~~ THE sale, lease, or  
28 transfer is made. If ~~such~~ THE person INDIVIDUAL or entity is acting only  
29 as a trustee, the beneficial owner of the subdivision shall secure a  
30 certificate. A certificate issued to a developer shall entitle all sales agents  
31 and employees of ~~such~~ THE developer to act in the capacity of a developer  
32 as agent for ~~such~~ THE developer. The developer shall be responsible for  
33 all actions of ~~such~~ THE sales agents and employees.

34 (2) All certificates issued under this section shall expire on  
35 December 31 following the date of issuance. In the absence of any reason  
36 or condition under this part 4 5 that might warrant the denial or  
37 revocation of a registration, a certificate shall be renewed by payment of  
38 a renewal fee established pursuant to section ~~12-61-111.5~~ 12-10-215. A  
39 registration that has expired may be reinstated within two years after ~~such~~  
40 THE expiration upon payment of the appropriate renewal fee if the  
41 applicant meets all other requirements of this part 4 5.

42 (3) All fees collected under this part 4 5 shall be deposited in  
43 accordance with section ~~12-61-111~~ 12-10-214.

44 (4) With regard to any subdivision for which the information  
45 required by section ~~12-61-403(3)~~ 12-10-503 (3) has not been previously  
46 submitted to the commission, each registered developer shall register ~~such~~  
47 THE subdivision by providing the commission with ~~such~~ THE information  
48 before sale, lease, or transfer, or negotiating or agreeing to sell, lease, or  
49 transfer, any such subdivision or any part thereof.

50 **12-10-505. [Formerly 12-61-405] Refusal, revocation, or**  
51 **suspension of registration - letter of admonition - probation.** (1) The  
52 commission may impose an administrative fine not to exceed two

1 thousand five hundred dollars for each separate offense; may issue a letter  
2 of admonition; may place a registrant on probation under its close  
3 supervision on such terms and for such time as it deems appropriate; and  
4 may refuse, revoke, or suspend the registration of any developer or  
5 registrant if, after an investigation and after notice and a hearing pursuant  
6 to the provisions of section 24-4-104, ~~C.R.S.~~, the commission determines  
7 that the developer or any director, officer, or stockholder with controlling  
8 interest in the corporation:

9 (a) Has used false or misleading advertising or has made a false  
10 or misleading statement or a concealment in his OR HER application for  
11 registration;

12 (b) Has misrepresented or concealed any material fact from a  
13 purchaser of any interest in a subdivision;

14 (c) Has employed any device, scheme, or artifice with intent to  
15 defraud a purchaser of any interest in a subdivision;

16 (d) Has been convicted of or pled guilty or nolo contendere to a  
17 crime involving fraud, deception, false pretense, theft, misrepresentation,  
18 false advertising, or dishonest dealing in any court;

19 (e) Has disposed of, concealed, diverted, converted, or otherwise  
20 failed to account for any funds or assets of any purchaser of any interest  
21 in a subdivision or any homeowners' association under the control of ~~such~~  
22 THE developer or director, officer, or stockholder;

23 (f) Has failed to comply with any stipulation or agreement made  
24 with the commission;

25 (g) Has failed to comply with or has violated any provision of this  
26 article **10**, including any failure to comply with the registration  
27 requirements of section ~~12-61-403~~ **12-10-503**, or any lawful rule ~~or~~  
28 ~~regulation~~ promulgated by the commission under this article **10**;

29 (~~h~~) (~~Deleted by amendment, L. 89, p. 740, § 17, effective July 1,~~  
30 ~~1989.~~)

31 (i) (~~h~~) Has refused to honor a buyer's request to cancel a contract  
32 for the purchase of a time share or subdivision or part thereof if ~~such~~ THE  
33 request was made within five calendar days after execution of the contract  
34 and was made either by telegram, mail, or hand delivery. A request is  
35 considered made if by ELECTRONIC MAIL WHEN SENT, IF BY mail when  
36 postmarked, ~~if by telegram when filed for telegraphic transmission,~~ or if  
37 by hand delivery when delivered to the seller's place of business. No  
38 developer shall employ a contract that contains any provision waiving a  
39 buyer's right to such a cancellation period.

40 (j) (~~i~~) Has committed any act that constitutes a violation of the  
41 "Colorado Consumer Protection Act", article 1 of title 6; ~~C.R.S.~~;

42 (~~k~~) (~~j~~) Has employed any sales agent or employee who violates the  
43 provisions of this part ~~4~~ **5**;

44 (~~l~~) (~~k~~) Has used documents for sales or lease transactions other  
45 than those described in section ~~12-61-403 (3)(f)~~ **12-10-503 (3)(f)**;

46 (~~m~~) (~~l~~) Has failed to disclose encumbrances to prospective  
47 purchasers or has failed to transfer clear title at the time of sale, if the  
48 parties agreed that ~~such~~ THE transfer would be made at that time.

49 (~~1.5~~) (**2**) A disciplinary action relating to the business of  
50 subdivision development taken by any other state or local jurisdiction or  
51 the federal government shall be deemed to be prima facie evidence of  
52 grounds for disciplinary action, including denial of registration, under this

1 part ~~4~~ 5. This subsection ~~(1.5)~~ (2) shall apply only to such disciplinary  
2 actions as are substantially similar to those set out as grounds for  
3 disciplinary action or denial of registration under this part ~~4~~ 5.

4 ~~(2)~~ (3) Any hearing held under this section shall be in accordance  
5 with the procedures established in sections 24-4-105 and 24-4-106.  
6 ~~C.R.S.~~

7 ~~(2.5)~~ (4) When a complaint or investigation discloses an instance  
8 of misconduct that, in the opinion of the commission, does not initially  
9 warrant formal action by the commission but which should not be  
10 dismissed as being without merit, the commission may send a letter of  
11 admonition by certified mail, return receipt requested, to the registrant  
12 who is the subject of the complaint or investigation and a copy thereof to  
13 any person making ~~such~~ THE complaint. ~~Such~~ THE letter shall advise the  
14 registrant that he OR SHE has the right to request in writing, within twenty  
15 days after proven receipt, that formal disciplinary proceedings be initiated  
16 against him OR HER to adjudicate the propriety of the conduct upon which  
17 the letter of admonition is based. If ~~such~~ THE request is timely made, the  
18 letter of admonition shall be deemed vacated, and the matter shall be  
19 processed by means of formal disciplinary proceedings.

20 ~~(3)~~ (5) All administrative fines collected pursuant to this section  
21 shall be transmitted to the state treasurer, who shall credit the same to the  
22 division of real estate cash fund.

23 **12-10-506. [Formerly 12-61-406] Powers of commission -**  
24 **injunction - rules.** (1) The commission may apply to a court of  
25 competent jurisdiction for an order enjoining any act or practice ~~which~~  
26 THAT constitutes a violation of this part ~~4~~ 5, and, upon a showing that a  
27 person is engaging or intends to engage in any such act or practice, an  
28 injunction, restraining order, or other appropriate order shall be granted  
29 by ~~such~~ THE court, regardless of the existence of another remedy therefor.  
30 Any notice, hearing, or duration of any injunction or restraining order  
31 shall be made in accordance with the provisions of the Colorado rules of  
32 civil procedure.

33 ~~(1.2)~~ (2) The commission may apply to a court of competent  
34 jurisdiction for the appointment of receiver if it determines that ~~such~~ THE  
35 appointment is necessary to protect the property or interests of purchasers  
36 of a subdivision or part thereof.

37 ~~(1.5)~~ (3) The commission shall issue or deny a certificate or  
38 additional registration within sixty days from the date of receipt of the  
39 application by the commission. The commission may make necessary  
40 investigations and inspections to determine whether any developer has  
41 violated this part ~~4~~ 5 or any lawful rule ~~or regulation~~ promulgated by the  
42 commission. If, after an application by a developer has been submitted  
43 pursuant to section ~~12-61-403~~ **12-10-503** or information has been  
44 submitted pursuant to section ~~12-61-404~~ **12-10-504**, the commission  
45 determines that an inspection of a subdivision is necessary, it shall  
46 complete the inspection within sixty days from the date of filing of the  
47 application or information, or the right of inspection is waived and the  
48 lack thereof shall not be grounds for denial of a registration.

49 ~~(1.6)~~ (4) The commission, the director ~~for the commission~~, or the  
50 administrative law judge appointed for a hearing may issue a subpoena  
51 compelling the attendance and testimony of witnesses and the production  
52 of books, papers, or records pursuant to an investigation or hearing of

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such THE commission. Any such subpoena shall be served in the same manner as for subpoenas issued by district courts.

~~(2)~~ (5) The commission has the power to make any rules necessary for the enforcement or administration of this part 4 5.

~~(2.5)~~ (6) The commission shall adopt, promulgate, amend, or repeal such rules and regulations as are necessary to:

(a) Require written disclosures to any purchasers as provided in subsection ~~(3)~~ (7) of this section and to prescribe and require that standardized forms be used by subdivision developers in connection with the sale or lease of a subdivision or any part thereof, except as otherwise provided in section ~~12-61-403 (3)(f)~~ **12-10-503 (3)(f)**; and

(b) Require that developers maintain certain business records for a period of at least seven years.

~~(3)~~ (7) The commission may require any developer to make written disclosures to purchasers in their contracts of sale or by separate written documents if the commission finds that such THE disclosures are necessary for the protection of such THE purchasers.

~~(4)~~ (8) The commission or its designated representative may audit the accounts of any ~~homeowner~~ HOMEOWNERS' association, the funds of which are controlled by a developer.

**12-10-507. [Formerly 12-61-407] Violation - penalty.** Any person who fails to register as a developer in violation of this part 4 5 commits a class 6 felony and shall be punished as provided in section 18-1.3-401. C.R.S. Any agreement or contract for the sale or lease of a subdivision or part thereof shall be voidable by the purchaser and unenforceable by the developer unless such THE developer was duly registered under the provisions of this part 4 5 when such THE agreement or contract was made.

**12-10-508. [Formerly 12-61-408] Repeal of part.** This part 4 5 is repealed, effective September 1, 2026. Before its repeal, this part 4 5 is scheduled for review in accordance with section 24-34-104.

**~~12-61-501 to 12-61-507. (Repealed)~~**

PART 6  
REAL ESTATE APPRAISERS

**12-10-601. [Formerly 12-61-701] Legislative declaration.** The general assembly finds, determines, and declares that sections ~~12-61-702 12-10-602~~ to ~~12-61-723 12-10-623~~ are enacted pursuant to the requirements of the "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", as amended, 12 U.S.C. secs. 3331 to 3351. The general assembly further finds, determines, and declares that sections ~~12-61-702 12-10-602~~ to ~~12-61-723 12-10-623~~ are intended to implement the requirements of federal law in the least burdensome manner to real estate appraisers and appraisal management companies. Licensed ad valorem appraisers licensed under this article 10 are not regulated by the federal "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", as amended, 12 U.S.C. secs. 3331 to 3351.

**12-10-702. [Formerly 12-61-702] Definitions.** As used in this part



1           7 6, unless the context otherwise requires:

2           (1) (a) ~~"Appraisal", "appraisal report", or "real estate appraisal"~~  
3 means a written or oral analysis, opinion, or conclusion relating to the  
4 nature, quality, value, or utility of specified interests in, or aspects of,  
5 identified real estate that is transmitted to the client upon the completion  
6 of an assignment. These terms include a valuation, which is an opinion of  
7 the value of real estate, and an analysis, which is a general study of real  
8 estate not specifically performed only to determine value; except that the  
9 terms include a valuation completed by an appraiser employee of a county  
10 assessor as defined in section 39-1-102 (2), C.R.S.

11           (b) ~~The terms do not include an analysis, valuation, opinion,~~  
12 ~~conclusion, notation, or compilation of data by an officer, director, or~~  
13 ~~regular salaried employee of a financial institution or its affiliate, made~~  
14 ~~for internal use only by the financial institution or affiliate, concerning an~~  
15 ~~interest in real estate that is owned or held as collateral by the financial~~  
16 ~~institution or affiliate and that is not represented or deemed to be an~~  
17 ~~appraisal except to the financial institution, the agencies regulating the~~  
18 ~~financial institution, and any secondary markets that purchase real estate~~  
19 ~~secured loans. An appraisal prepared by an officer, director, or regular~~  
20 ~~salaried employee of a financial institution who is not licensed or certified~~  
21 ~~under this part 7 shall contain a written notice that the preparer is not~~  
22 ~~licensed or certified as an appraiser under this part 7.~~

23           (c) ~~"Appraisal", "appraisal report", or "real estate appraisal" does~~  
24 ~~not include a federally authorized "waiver valuation", as defined in 49~~  
25 ~~CFR 24.2 (a)(33), as amended.~~

26           (2) (I) (a) "Appraisal management company" or "AMC" means,  
27 in connection with valuing properties collateralizing mortgage loans or  
28 mortgages incorporated into a securitization, any external third party  
29 authorized either by a creditor in a consumer credit transaction secured by  
30 a consumer's principal dwelling that oversees an appraiser panel or by an  
31 underwriter of, or other principal in, the secondary mortgage markets that  
32 oversees an appraiser panel to:

33           (I) Recruit, select, and train appraisers;

34           (II) Contract with licensed and certified appraisers to perform  
35 appraisal assignments;

36           (III) Manage the process of having an appraisal performed,  
37 including providing administrative duties such as receiving appraisal  
38 orders and appraisal reports, submitting completed appraisal reports to  
39 creditors and underwriters, collecting fees from creditors and  
40 underwriters for services provided, and reimbursing appraisers for  
41 services performed; or

42           (IV) Review and verify the work of appraisers.

43           (b) "Appraisal management company" does not include:

44           (I) A corporation, limited liability company, sole proprietorship,  
45 or other entity that directly performs appraisal services;

46           (II) A corporation, limited liability company, sole proprietorship,  
47 or other entity that does not contract with appraisers for appraisal  
48 services, but that solely distributes orders to a client-selected panel of  
49 appraisers; and

50           (III) A mortgage company, or its subsidiary, that manages a panel  
51 of appraisers who are engaged to provide appraisal services on mortgage  
52 loans either originated by the mortgage company or funded by the

1 mortgage company with its own funds.

2 ~~(3)~~ (2) "Board" means the board of real estate appraisers created  
3 in section ~~12-61-703~~ **12-10-603**.

4 ~~(4)~~ (3) "Client" means the party or parties who engage an  
5 appraiser or an appraisal management company for a specific assignment.

6 ~~(5)~~ Repealed.

7 ~~(6)~~ (4) "Consulting services" means services performed by an  
8 appraiser that do not fall within the definition of an "independent  
9 appraisal" in subsection ~~(10)~~ (6) of this section. "Consulting services"  
10 includes marketing, financing and feasibility studies, valuations, analyses,  
11 and opinions and conclusions given in connection with real estate  
12 brokerage, mortgage banking, and counseling and advocacy in regard to  
13 property tax assessments and appeals thereof; except that, if in rendering  
14 ~~such~~ THE services the appraiser acts as a disinterested third party, the  
15 work is deemed an independent appraisal and not a consulting service.  
16 Nothing in this subsection ~~(6)~~ (4) precludes a person from acting as an  
17 expert witness in valuation appeals.

18 ~~(7)~~ "Director" means the director of the division of real estate.

19 ~~(8)~~ "Division" means the division of real estate.

20 ~~(9)~~ (5) "Financial institution" means any "bank" or "savings  
21 association", as ~~such~~ THOSE terms are defined in 12 U.S.C. sec. 1813, any  
22 state bank incorporated under title 11, ~~C.R.S.~~; any state or federally  
23 chartered credit union, or any company that has direct or indirect control  
24 over any of those entities.

25 ~~(10)~~ (6) "Independent appraisal" means an engagement for which  
26 an appraiser is employed or retained to act as a disinterested third party  
27 in rendering an unbiased analysis, opinion, or conclusion relating to the  
28 nature, quality, value, or utility of specified interests in or aspects of  
29 identified real estate.

30 ~~(10.5)~~ (7) (a) "Panel" or "appraiser panel" means a network, list,  
31 or roster of licensed or certified appraisers approved by an AMC to  
32 perform appraisals as independent contractors for the AMC.

33 (b) Appraisers on an AMC's appraiser panel include both:

34 (I) Appraisers accepted by the AMC for consideration for future  
35 appraisal assignments in covered transactions or for secondary mortgage  
36 market participants in connection with covered transactions; and

37 (II) Appraisers engaged by the AMC to perform one or more  
38 appraisals in covered transactions or for secondary mortgage market  
39 participants in connection with covered transactions.

40 (c) An appraiser is an independent contractor for purposes of this  
41 subsection ~~(10.5)~~ (7) if the appraiser is treated as an independent  
42 contractor by the AMC for purposes of federal income taxation.

43 ~~(11)(a)~~ "Real estate appraiser" or "appraiser" means a person who  
44 provides an estimate of the nature, quality, value, or utility of an interest  
45 in, or aspect of, identified real estate and includes one who estimates  
46 value and who possesses the necessary qualifications, ability, and  
47 experience to execute or direct the appraisal of real property.

48 (b) "Real estate appraiser" does not include:

49 (I) A person who conducts appraisals strictly of personal property;

50 (II) A person licensed as a broker pursuant to part 1 of this article  
51 who provides an opinion of value that is not represented as an appraisal  
52 and is not used for purposes of obtaining financing;

1 ~~(HH) A person licensed as a certified public accountant pursuant~~  
2 ~~to article 2 of this title, and otherwise regulated, as long as the person~~  
3 ~~does not represent his or her opinions of value for real estate as an~~  
4 ~~appraisal;~~

5 ~~(IV) A corporation, acting through its officers or regular salaried~~  
6 ~~employees, when conducting a valuation of real estate property rights~~  
7 ~~owned, to be purchased, or sold by the corporation;~~

8 ~~(V) A person who conducts appraisals strictly of water rights or~~  
9 ~~of mineral rights;~~

10 ~~(VI) A right-of-way acquisition agent, an appraiser who is~~  
11 ~~licensed and certified pursuant to this part 7, or any other individual who~~  
12 ~~has sufficient understanding of the local real estate market to be qualified~~  
13 ~~to make a waiver valuation when the agent, appraiser, or other qualified~~  
14 ~~individual is employed by or contracts with a public entity and provides~~  
15 ~~an opinion of value that is not represented as an appraisal and when, for~~  
16 ~~any purpose, the property or portion of property being valued is valued at~~  
17 ~~twenty-five thousand dollars or less, as permitted by federal law and 49~~  
18 ~~CFR 24.102 (c)(2), as amended;~~

19 ~~(VII) An officer, director, or regular salaried employee of a~~  
20 ~~financial institution or its affiliate who makes, for internal use only by the~~  
21 ~~financial institution or affiliate, an analysis, evaluation, opinion,~~  
22 ~~conclusion, notation, or compilation of data with respect to an appraisal~~  
23 ~~so long as the person does not make a written adjustment of the~~  
24 ~~appraisal's conclusion as to the value of the subject real property;~~

25 ~~(VIII) An officer, director, or regular salaried employee of a~~  
26 ~~financial institution or its affiliate who makes an internal analysis,~~  
27 ~~valuation, opinion, conclusion, notation, or compilation of data~~  
28 ~~concerning an interest in real estate that is owned or held as collateral by~~  
29 ~~the financial institution or its affiliate; or~~

30 ~~(IX) A person who represents property owners as an advocate in~~  
31 ~~tax or valuation protests and appeals pursuant to title 39, C.R.S.~~

32 **12-10-603. [Formerly 12-61-703] Board of real estate**  
33 **appraisers - creation - compensation - immunity - legislative**  
34 **declaration - repeal of part.** (1) (a) There is hereby created in the  
35 division a board of real estate appraisers consisting of seven members  
36 appointed by the governor with the consent of the senate. Of the  
37 members, three shall be licensed or certified appraisers, one of whom  
38 shall have expertise in eminent domain matters; one shall be a county  
39 assessor in office; one shall be an officer or employee of a commercial  
40 bank experienced in real estate lending; one shall be an officer or  
41 employee of an appraisal management company; and one shall be a  
42 member of the public at large not engaged in any of the businesses  
43 represented by the other members of the board.

44 (b) Members of the board shall hold office for terms of three  
45 years. In the event of a vacancy by death, resignation, removal, or  
46 otherwise, the governor shall appoint a member to fill the unexpired term.  
47 The governor has the authority to remove any member for misconduct,  
48 neglect of duty, or incompetence.

49 (2) (a) The board shall exercise its powers and perform its duties  
50 and functions under the division as if transferred to the division by a **type**  
51 **1** transfer, as defined in the "Administrative Organization Act of 1968",  
52 article 1 of title 24. C.R.S.

1 (b) The general assembly finds, determines, and declares that the  
2 organization of the board under the division as a **type 1** agency will  
3 provide the autonomy necessary to avoid potential conflicts of interest  
4 between the responsibility of the board in the regulation of real estate  
5 appraisers and the responsibility of the division in the regulation of real  
6 estate brokers and salespersons. The general assembly further finds,  
7 determines, and declares that the placement of the board as a **type 1**  
8 agency under the division is consistent with the organizational structure  
9 of state government.

10 (3) Each member of the board shall receive the same  
11 compensation and reimbursement of expenses as is provided for members  
12 of boards and commissions in the division of professions and occupations  
13 pursuant to section 24-34-102 (13). ~~C.R.S.~~ Payment for all per diem  
14 compensation and expenses shall be made out of annual appropriations  
15 from the division of real estate cash fund provided for in section  
16 ~~12-61-705~~ **12-10-605**.

17 (4) Members of the board, consultants, and expert witnesses are  
18 immune from liability in any civil action based upon any disciplinary  
19 proceedings or other official acts they performed in good faith pursuant  
20 to this part 7.

21 (5) A majority of the board constitutes a quorum for the  
22 transaction of all business, and actions of the board require a vote of a  
23 majority of the members present in favor of the action taken.

24 (6) This part ~~7 6~~ is repealed, effective September 1, 2022. ~~Prior~~  
25 ~~to the~~ BEFORE ITS repeal, ~~the department of regulatory agencies shall~~  
26 ~~review the functions of the board of real estate appraisers as provided in~~  
27 THIS PART 6 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH section  
28 24-34-104. ~~C.R.S.~~

29 **12-10-604. [Formerly 12-61-704] Powers and duties of the**  
30 **board - rules.** (1) In addition to all other powers and duties imposed  
31 upon it by law, the board has the following powers and duties:

32 (a) (I) To promulgate and amend, as necessary, rules pursuant to  
33 article 4 of title 24 ~~C.R.S.~~, for the implementation and administration of  
34 this part ~~7 6~~ and as required to comply with the federal "Real Estate  
35 Appraisal Reform Amendments", Title XI of the federal "Financial  
36 Institutions Reform, Recovery, and Enforcement Act of 1989", as  
37 amended, 12 U.S.C. secs. 3331 to 3351, and with any requirements  
38 imposed by amendments to that federal law.

39 (II) The board shall not establish any requirements that are more  
40 stringent than the requirements of any applicable federal law.

41 (III) Licensed ad valorem appraisers are not regulated by the  
42 federal "Real Estate Appraisal Reform Amendments", Title XI of the  
43 federal "Financial Institutions Reform, Recovery, and Enforcement Act  
44 of 1989", as amended, 12 U.S.C. secs. 3331 to 3351, but the board shall  
45 adopt rules regarding minimum qualifications and standards of practice  
46 for licensed ad valorem appraisers.

47 (IV) In any list or registry it maintains, the board shall identify or  
48 separately account for any appraisal management company that oversees  
49 a panel of more than fifteen certified or licensed appraisers in Colorado,  
50 or more than twenty-five in all states in which it does business, within a  
51 given year.

52 (b) To charge application, examination, and license and certificate

1 renewal fees established pursuant to section ~~12-61-111.5~~ **12-10-215** from  
2 all applicants for licensure, certification, examination, and renewal under  
3 this part **7 6**. The board shall not refund any fees received from applicants  
4 seeking licensure, certification, examination, or renewal.

5 (c) Through the department of ~~regulatory agencies~~ and subject to  
6 appropriations made to the department, ~~of regulatory agencies~~, to employ  
7 administrative law judges, appointed pursuant to part 10 of article 30 of  
8 title 24, ~~C.R.S.~~, on a full-time or part-time basis to conduct any hearings  
9 required by this part **7 6**;

10 (d) To issue, deny, or refuse to renew a license or certificate  
11 pursuant to this part **7 6**;

12 (e) To take disciplinary actions in conformity with this part **7 6**;

13 (f) To delegate to the director the administration and enforcement  
14 of this part **7 6** and the authority to act on behalf of the board on  
15 occasions and in circumstances that the board directs;

16 (g) (I) To develop, purchase, or contract for any examination  
17 required for the administration of this part **7 6**, to offer each examination  
18 at least twice a year or, if demand warrants, at more frequent intervals,  
19 and to establish a passing score for each examination that reflects a  
20 minimum level of competency.

21 (II) If study materials are developed by a testing company or other  
22 entity, the board shall make the materials available to persons desiring to  
23 take examinations pursuant to this part **7 6**. The board may charge fees for  
24 the materials to defray any costs associated with making the materials  
25 available.

26 (h) In compliance with article 4 of title 24, ~~C.R.S.~~, to make  
27 investigations; subpoena persons and documents, which subpoenas may  
28 be enforced by a court of competent jurisdiction if not obeyed; hold  
29 hearings; and take evidence in all matters relating to the exercise of the  
30 board's power under this part **7 6**;

31 (i) Pursuant to sec. 1119 (b) of Title XI of the federal "Financial  
32 Institutions Reform, Recovery, and Enforcement Act of 1989", Pub.L.  
33 101-73, to apply, if necessary, for a federal waiver of the requirement  
34 relating to certification or licensing of a person to perform appraisals and  
35 to make the necessary written determinations specified in ~~said~~ THAT  
36 section for purposes of making the application;

37 (j) If the board has reasonable cause to believe that a person,  
38 partnership, limited liability company, or corporation is violating this part  
39 **7 6**, to enter an order requiring the individual or appraisal management  
40 company to cease and desist the violation; and

41 (k) To establish classroom education and experience requirements  
42 for an appraiser who prepares an appraisal for a conservation easement  
43 for which a tax credit is claimed pursuant to section 39-22-522. The  
44 requirements must ensure that appraisers have a sufficient amount of  
45 training and expertise to accurately prepare appraisals that comply with  
46 the uniform standards of professional appraisal practice and any other  
47 provision of law related to the appraisal of conservation easements for  
48 which a tax credit is claimed. A tax credit certificate for a conservation  
49 easement shall not be given in accordance with sections ~~12-61-1105~~  
50 **12-15-105** and ~~12-61-1106~~ **12-15-106** unless the appraiser who prepared  
51 the appraisal of the easement met all requirements established in  
52 accordance with this subsection (1)(k) in effect at the time the appraisal

1 certification is signed.

2 (2) The board shall maintain or preserve, for seven years,  
3 licensing history records of a person licensed or certified under this part  
4 ~~7~~ **6**. Complaints of record in the office of the board and board  
5 investigations, including board investigative files, are closed to public  
6 inspection. Stipulations and final agency orders are public record and are  
7 subject to sections 24-72-203 and 24-72-204. ~~C.R.S.~~

8 **12-10-605. [Formerly 12-61-705] Fees, penalties, and fines**  
9 **collected under part 6.** All fees, penalties, and fines collected pursuant  
10 to this part ~~7~~ **6**, not including fees retained by contractors pursuant to  
11 contracts entered into in accordance with section ~~12-61-103, 12-61-706,~~  
12 **12-10-203, 12-10-606**, or 24-34-101, ~~C.R.S.~~, shall be transmitted to the  
13 state treasurer, who shall credit the same to the division of real estate cash  
14 fund, created in section ~~12-61-111.5~~ **12-10-215**.

15 **12-10-606. [Formerly 12-61-706] Qualifications for licensing**  
16 **and certification of appraisers - continuing education - definitions -**  
17 **rules.** (1) (a) The board shall, by rule, prescribe requirements for the  
18 initial licensing or certification of persons under this part ~~7~~ **6** to meet the  
19 requirements of the "Real Estate Appraisal Reform Amendments", Title  
20 XI of the federal "Financial Institutions Reform, Recovery, and  
21 Enforcement Act of 1989", as amended, 12 U.S.C. secs. 3331 to 3351,  
22 and shall develop, purchase, or contract for examinations to be passed by  
23 applicants. The board shall not establish any requirements for initial  
24 licensing or certification that are more stringent than the requirements of  
25 any applicable federal law; except that all applicants shall pass an  
26 examination offered by the board. If there is no applicable federal law, the  
27 board shall consider and may use as guidelines the most recent available  
28 criteria published by the appraiser qualifications board of the appraisal  
29 foundation or its successor organization.

30 (b) The four levels of appraiser licensure and certification,  
31 pursuant to ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS  
32 SECTION, are defined as follows:

33 (I) "Certified general appraiser" means an appraiser meeting the  
34 requirements set by the board for general certification.

35 (II) "Certified residential appraiser" means an appraiser meeting  
36 the requirements set by the board for residential certification.

37 (III) "Licensed ad valorem appraiser" means an appraiser meeting  
38 the requirements set by the board for ad valorem appraiser certification.  
39 Only a county assessor, employee of a county assessor's office, or  
40 employee of the division of property taxation in the department of local  
41 affairs may obtain or possess an ad valorem appraiser certification. ~~and~~

42 (IV) "Licensed appraiser" means an appraiser meeting the  
43 requirements set by the board for a license.

44 (c) A county assessor or employee of a county assessor's office  
45 who is a licensed ad valorem appraiser may not perform real estate  
46 appraisals outside of his or her official duties.

47 (d) The board shall transfer ~~persons~~ INDIVIDUALS employed in a  
48 county assessor's office or in the division of property taxation in the  
49 department of local affairs who are registered appraisers as of July 1,  
50 2013, to the category of licensed ad valorem appraiser. The board shall  
51 allow these ~~persons~~ INDIVIDUALS, until December 31, 2015, to meet any  
52 additional requirements imposed by the board pursuant to section

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~~12-61-704 (1)(a)~~ **12-10-604 (1)(a)**, as amended.

(2) (a) The board shall, by rule, prescribe continuing education requirements for ~~persons~~ INDIVIDUALS licensed or certified as certified general appraisers, certified residential appraisers, or licensed appraisers as needed to meet the requirements of the "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", as amended, 12 U.S.C. secs. 3331 to 3351. The board shall not establish any continuing education requirements that are more stringent than the requirements of any applicable FEDERAL law; except that all ~~persons~~ individuals licensed or certified under this part ~~7 6~~ are subject to continuing education requirements. If there is no applicable federal law, the board shall consider and may use as guidelines the most recent available criteria published by the Appraiser Qualifications Board of the Appraisal Foundation or its successor organization.

(b) The board shall, by rule, prescribe continuing education requirements for licensed ad valorem appraisers.

(3) Notwithstanding any provision of this section to the contrary, the criteria established by the board for the licensing or certification of appraisers pursuant to this part ~~7 6~~ shall not include membership or lack of membership in any appraisal organization.

(4) (a) Subject to section ~~12-61-719 (2)~~ **12-10-619 (2)**, all appraiser employees of county assessors shall be licensed or certified as provided in subsections (1) and (2) of this section. Obtaining and maintaining a license or certificate under either ~~of said subsections~~ SUBSECTION (1) ~~and~~ OR (2) entitles an appraiser employee of a county assessor to perform all real estate appraisals required to fulfill the ~~person's~~ INDIVIDUAL'S official duties.

(b) Appraiser employees of county assessors who are employed to appraise real property are subject to this part ~~7 6~~; except that appraiser employees of county assessors who are employed to appraise real property are not subject to disciplinary actions by the board on the ground that they have performed appraisals beyond their level of competency when appraising real estate in fulfillment of their official duties. County assessors, if licensed or certified as provided in subsections (1) and (2) of this section, are not subject to disciplinary actions by the board on the ground that they have performed appraisals beyond their level of competency when appraising real estate in fulfillment of their official duties.

(c) The county in which an appraiser employee of a county assessor is employed shall pay all reasonable costs incurred by the appraiser employee of the county assessor to obtain and maintain a license or certificate pursuant to this section.

(5) The board shall not issue an appraiser's license as referenced in ~~subparagraph (IV) of paragraph (b) of subsection (1)~~ SUBSECTION (1)(b)(IV) of this section unless the applicant has at least twelve months' appraisal experience.

(6) (a) The board shall not issue a license or certification until the applicant demonstrates that he or she meets the fitness standards established by board rule and submits a set of fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the

1 Colorado bureau of investigation and the federal bureau of investigation.  
2 Each person submitting a set of fingerprints shall pay the fee established  
3 by the Colorado bureau of investigation for conducting the  
4 fingerprint-based criminal history record check to the bureau. Upon  
5 completion of the criminal history record check, the bureau shall forward  
6 the results to the board. The board may require a name-based criminal  
7 history record check for an applicant who has twice submitted to a  
8 fingerprint-based criminal history record check and whose fingerprints  
9 are unclassifiable. The board may deny an application for licensure or  
10 certification based on the outcome of the criminal history record check  
11 and may establish criminal history requirements more stringent than those  
12 established by any applicable federal law. At a minimum, the board shall  
13 adopt the criminal history requirements established by any applicable  
14 federal law.

15 (b) An applicant for certification as a licensed ad valorem  
16 appraiser is not subject to the fingerprinting and criminal background  
17 check requirements of ~~paragraph (a) of this subsection (6)~~ SUBSECTION  
18 (6)(a) OF THIS SECTION.

19 **12-10-607. [Formerly 12-61-707] Appraisal management**  
20 **companies - application for license - exemptions.** (1) An applicant  
21 shall apply for a license as an appraisal management company, or as a  
22 controlling appraiser, to the board in a manner prescribed by the board.

23 (2) The board may grant appraisal management company licenses  
24 to individuals, partnerships, limited liability companies, or corporations.  
25 A partnership, limited liability company, or corporation, in its application  
26 for a license, shall designate a controlling appraiser who is actively  
27 certified in a state recognized by the appraisal subcommittee of the  
28 federal financial institutions examinations council or its successor entity.  
29 The controlling appraiser is responsible for the licensed practices of the  
30 partnership, limited liability company, or corporation and all ~~persons~~  
31 INDIVIDUALS employed by the entity. The application of the partnership,  
32 limited liability company, or corporation and the application of the  
33 appraiser designated by it as the controlling appraiser shall be filed with  
34 the board. The board has jurisdiction over the appraiser so designated and  
35 over the partnership, limited liability company, or corporation.

36 (3) The board shall not issue a license to any partnership, limited  
37 liability company, or corporation unless and until the appraiser designated  
38 by the partnership, limited liability company, or corporation as controlling  
39 appraiser and each individual who owns more than ten percent of the  
40 entity demonstrates that he or she meets the fitness standards established  
41 by board rule and submits a set of fingerprints to the Colorado bureau of  
42 investigation for the purpose of conducting a state and national  
43 fingerprint-based criminal history record check utilizing records of the  
44 Colorado bureau of investigation and the federal bureau of investigation.  
45 Each ~~person~~ INDIVIDUAL submitting a set of fingerprints shall pay the fee  
46 established by the Colorado bureau of investigation for conducting the  
47 fingerprint-based criminal history record check to the bureau. Upon  
48 completion of the criminal history record check, the bureau shall forward  
49 the results to the board. The board may require a name-based criminal  
50 history record check for an applicant who has twice submitted to a  
51 fingerprint-based criminal history record check and whose fingerprints  
52 are unclassifiable. The board may deny an application for licensure or



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refuse to renew a license based on the outcome of the criminal history record check. The board may require criminal history requirements more stringent than those established by any applicable federal law. At a minimum, the board shall adopt the criminal history requirements established by any applicable federal law.

(4) The board shall not issue a license to any partnership, limited liability company, or corporation if the appraiser designated by the entity as controlling appraiser has previously had, in any state, an appraiser registration, license, or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked. A disciplinary action resulting in refusal, denial, cancellation, surrender in lieu of revocation, or revocation relating to a registration, license, or certification as an appraiser registered, licensed, or certified under this part ~~7~~ 6 or any related occupation in any other state, territory, or country for disciplinary reasons is prima facie evidence of grounds for denial of a license by the board.

(5) The board shall not issue a license to any partnership, limited liability company, or corporation if it is owned, in whole or in part, directly or indirectly, by any person who has had, in any state, an appraiser license, registration, or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked. A disciplinary action resulting in refusal, denial, cancellation, surrender in lieu of revocation, or revocation relating to a license, registration, or certification as an appraiser licensed, registered, or certified under this part ~~7~~ 6 or any related occupation in any other state, territory, or country for disciplinary reasons is prima facie evidence of grounds for denial of a license by the board.

(6) The board may deny an application for a license for any partnership, limited liability company, or corporation if the partnership, limited liability company, or corporation has previously had a license revoked or surrendered a license in lieu of revocation. A disciplinary action resulting in the surrender in lieu of revocation or the revocation of a license as an appraisal management company under this part ~~7~~ 6 or any related occupation in any other state, territory, or country for disciplinary reasons may be deemed to be prima facie evidence of grounds for denial of a license by the board.

(7) Each appraisal management company must maintain a definite place of business. If the appraisal management company is domiciled in another state, the appraiser designated by the appraisal management company as controlling appraiser is responsible for supervising all licensed activities that occur in Colorado. All licensed actions occurring within the state of Colorado must occur under the name under which the appraisal management company is licensed or its trade name adopted in accordance with Colorado law.

(8) An application that is submitted by an appraisal management company that is:

(a) A partnership must be properly registered with the Colorado department of revenue or properly filed with the Colorado secretary of state and in good standing, proof of which must be included in the application. If an assumed or trade name is to be used, it must be properly filed with the Colorado department of revenue or filed and accepted by the Colorado secretary of state, proof of which must be included with the application.

1 (b) A limited liability company must be properly registered with  
2 the Colorado secretary of state and in good standing, proof of which must  
3 be included with the application. If an assumed or trade name is to be  
4 used, it must be properly filed with the Colorado secretary of state, proof  
5 of which must be included with the application.

6 (c) A corporation must be registered as a foreign corporation or  
7 properly incorporated with the Colorado secretary of state and in good  
8 standing, proof of which must be included with the application. If an  
9 assumed or trade name is to be used, it must be properly filed with the  
10 Colorado secretary of state, proof of which must be included with the  
11 application.

12 (9) Financial institutions and appraisal management company  
13 subsidiaries that are owned and controlled by the financial institution and  
14 regulated by a federal financial institution regulatory agency are not  
15 required to register with or be licensed by the board. This exemption  
16 includes a panel of appraisers who are engaged to provide appraisal  
17 services and are administered by a financial institution regulated by a  
18 federal financial regulatory agency.

19 **12-10-608. [Formerly 12-61-708] Errors and omissions**  
20 **insurance - duties of the division - certificate of coverage - group plan**  
21 **made available - rules.** (1) Every licensee under this part 7 6, except an  
22 appraiser who is employed by a state or local governmental entity or an  
23 inactive appraiser or appraisal management company, shall maintain  
24 errors and omissions insurance to cover all activities contemplated under  
25 this part 7 6. The division shall make the errors and omissions insurance  
26 available to all licensees by contracting with an insurer for a group policy  
27 after a competitive bid process in accordance with article 103 of title 24.  
28 ~~C.R.S.~~ A group policy obtained by the division must be available to all  
29 licensees with no right on the part of the insurer to cancel any licensee.  
30 A licensee may obtain errors and omissions insurance independently if the  
31 coverage complies with the minimum requirements established by the  
32 division.

33 (2) (a) If the division is unable to obtain errors and omissions  
34 insurance coverage to insure all licensees who choose to participate in the  
35 group program at a reasonable annual premium, as determined by the  
36 division, a licensee shall independently obtain the errors and omissions  
37 insurance required by this section.

38 (b) The division shall solicit and consider information and  
39 comments from interested persons when determining the reasonableness  
40 of annual premiums.

41 (3) The division shall determine the terms and conditions of  
42 coverage required under this section based on rules promulgated by the  
43 board. Each licensee shall be notified of the required terms and conditions  
44 at least thirty days before the annual premium renewal date as determined  
45 by the division. Each licensee shall file a certificate of coverage showing  
46 compliance with the required terms and conditions with the division by  
47 the annual premium renewal date, as determined by the division.

48 (4) In addition to all other powers and duties conferred upon the  
49 board by this part 7 6, the board is authorized and directed to adopt rules  
50 it deems necessary or proper to carry out the requirements of this section.

51 **12-10-609. [Formerly 12-61-709] Bond required.** (1) Before the  
52 board issues a license to an applicant for an appraisal management

1 company license, the applicant shall post with the board a surety bond in  
2 the amount of twenty-five thousand dollars. A licensed appraisal  
3 management company shall maintain the required bond at all times.

4 (2) The surety bond shall require the surety to provide notice to  
5 the board within thirty days if payment is made from the surety bond or  
6 if the bond is cancelled.

7 **12-10-610. [Formerly 12-61-710] Expiration of licenses -**  
8 **renewal - penalties - fees - rules.** (1) (a) All licenses or certificates  
9 expire pursuant to a schedule established by the director and may be  
10 renewed or reinstated pursuant to this section. Upon compliance with this  
11 section and any applicable rules of the board regarding renewal, including  
12 the payment of a renewal fee plus a reinstatement fee established pursuant  
13 to ~~paragraph (b) of this subsection~~ (1) SUBSECTION (1)(b) OF THIS  
14 SECTION, the expired license or certificate shall be reinstated. A real estate  
15 appraiser's license or certificate that has not been renewed for a period  
16 greater than two years shall not be reinstated, and the person must submit  
17 a new application for licensure or certification.

18 (b) A person who fails to renew his or her license or certificate  
19 before the applicable renewal date may have it reinstated if the person  
20 submits an application as prescribed by the board:

21 (I) Within thirty-one days after the date of expiration, by payment  
22 of the regular renewal fee;

23 (II) More than thirty-one days, but within one year, after the date  
24 of expiration, by payment of the regular renewal fee and payment of a  
25 reinstatement fee equal to one-third of the regular renewal fee; or

26 (III) More than one year, but within two years, after the date of  
27 expiration, by payment of the regular renewal fee and payment of a  
28 reinstatement fee equal to two-thirds of the regular renewal fee.

29 (2) If the federal registry fee collected by the board and  
30 transmitted to the federal financial institutions examination council is  
31 increased prior to expiration of a license or certificate, the board shall  
32 collect the amount of the increase in the fee from the holder of the license  
33 or certificate and forward the amount to the council annually. The federal  
34 registry fee does not apply to licensed ad valorem appraisers licensed  
35 under this article **10**.

36 (3) (a) If the applicant has complied with this section and any  
37 applicable rules of the board regarding renewal, except for the continuing  
38 education requirements pursuant to section ~~12-61-706~~ **12-10-606**, the  
39 licensee may renew the license on inactive status. An inactive license may  
40 be activated if the licensee submits written certification of compliance  
41 with section ~~12-61-706~~ **12-10-606** for the previous licensing period. The  
42 board may adopt rules establishing procedures to facilitate reactivation of  
43 licenses.

44 (b) The holder of an inactive license shall not perform a real estate  
45 appraisal or appraisal management duties.

46 (c) The holder of an inactive license shall not hold himself or  
47 herself out as having an active license pursuant to this part **7 6**.

48 (4) At the time of renewal or reinstatement, every licensee,  
49 certificate holder, ~~and person~~ or individual who owns more than ten  
50 percent of an appraisal management company shall submit a set of  
51 fingerprints to the Colorado bureau of investigation for the purpose of  
52 conducting a state and national fingerprint-based criminal history record

1 check utilizing records of the Colorado bureau of investigation and the  
2 federal bureau of investigation, if the person has not previously done so  
3 for issuance of a license or certification by the board. Each person  
4 INDIVIDUAL submitting a set of fingerprints shall pay the fee established  
5 by the Colorado bureau of investigation for conducting the  
6 fingerprint-based criminal history record check to the bureau. The bureau  
7 shall forward the results to the board. The board may require a  
8 name-based criminal history record check for an applicant who has twice  
9 submitted to a fingerprint-based criminal history record check and whose  
10 fingerprints are unclassifiable. The board may refuse to renew or reinstate  
11 a license or certification based on the outcome of the criminal history  
12 record check.

13 **12-10-611. [Formerly 12-61-711] Licensure or certification by**  
14 **endorsement - temporary practice.** (1) The board may issue a license  
15 or certification to an appraiser by endorsement to engage in the  
16 occupation of real estate appraisal to any applicant who has a license or  
17 certification in good standing as a real estate appraiser under the laws of  
18 another jurisdiction if:

19 (a) The applicant presents proof satisfactory to the board that, at  
20 the time of application for a Colorado license or certificate by  
21 endorsement, the applicant possesses credentials and qualifications that  
22 are substantially equivalent to the requirements of this part 7 6; or

23 (b) The jurisdiction that issued the applicant a license or  
24 certificate to engage in the occupation of real estate appraisal has a law  
25 similar to this subsection (1) pursuant to which it licenses or certifies  
26 persons who are licensed real estate appraisers in this state.

27 (2) The board may specify, by rule, what constitutes substantially  
28 equivalent credentials and qualifications and the manner in which the  
29 board will review credentials and qualifications of an applicant.

30 (3) Pursuant to section 1122 (a) of Title XI of the federal  
31 "Financial Institutions Reform, Recovery, and Enforcement Act of 1989",  
32 Pub.L. 101-73, the board shall recognize, on a temporary basis, the  
33 license or certification of an appraiser issued by another state if:

34 (a) The appraiser's business is of a temporary nature; and  
35 (b) The appraiser applies for and is granted a temporary practice  
36 permit by the board.

37 **12-10-612. [Formerly 12-61-712] Denial of license or certificate**  
38 **- renewal - definition.** (1) The board may determine whether an  
39 applicant for licensure or certification possesses the necessary  
40 qualifications for licensure or certification required by this part 7 6. The  
41 board may consider such qualities as the applicant's fitness and prior  
42 professional licensure and whether the applicant has been convicted of a  
43 crime. As used in this subsection (1), "applicant" includes any individual  
44 who owns, in whole or in part, directly or indirectly, an appraisal  
45 management company and any appraiser designated as a controlling  
46 appraiser by a partnership, limited liability company, or corporation  
47 acting as an appraisal management company.

48 (2) If the board determines that an applicant does not possess the  
49 applicable qualifications required by this part 7 6, or the applicant has  
50 violated this part 7 6, rules promulgated by the board, or any board order,  
51 the board may deny the applicant a license or certificate or deny the  
52 renewal or reinstatement of a license or certificate pursuant to section

1 ~~12-61-710~~ **12-10-610**, and, in such instance, the board shall provide the  
2 applicant with a statement in writing setting forth the basis of the board's  
3 determination that the applicant does not possess the qualifications or  
4 professional competence required by this part ~~7 6~~. The applicant may  
5 request a hearing on the determination as provided in section 24-4-104  
6 (9). ~~C.R.S.~~

7 **12-10-613. [Formerly 12-61-713] Prohibited activities -**  
8 **grounds for disciplinary actions - procedures.** (1) A real estate  
9 appraiser is in violation of this part ~~7 6~~ if the appraiser:

10 (a) Has been convicted of a felony or has had accepted by a court  
11 a plea of guilty or nolo contendere to a felony if the felony is related to  
12 the ability to act as a real property appraiser. A certified copy of the  
13 judgment of a court of competent jurisdiction of the conviction or plea is  
14 conclusive evidence of the conviction or plea. In considering the  
15 disciplinary action, the board shall be governed by the provisions of  
16 section 24-5-101. ~~C.R.S.~~

17 (b) Has violated, or attempted to violate, directly or indirectly, or  
18 assisted in or abetted the violation of, or conspired to violate this part ~~7~~  
19 ~~6~~, a rule promulgated pursuant to this part ~~7 6~~, or an order of the board  
20 issued pursuant to this part ~~7 6~~;

21 (c) Has accepted any fees, compensation, or other valuable  
22 consideration to influence the outcome of an appraisal;

23 (d) Has used advertising that is misleading, deceptive, or false;

24 (e) Has used fraud or misrepresentation in obtaining a license or  
25 certificate under this part ~~7 6~~;

26 (f) Has conducted an appraisal in a fraudulent manner or used  
27 misrepresentation in any such activity;

28 (g) Has acted or failed to act in a manner that does not meet the  
29 generally accepted standards of professional appraisal practice as adopted  
30 by the board by rule. A certified copy of a malpractice judgment of a  
31 court of competent jurisdiction is conclusive evidence of the act or  
32 omission, but evidence of the act or omission is not limited to a  
33 malpractice judgment.

34 (h) Has performed appraisal services beyond his or her level of  
35 competency;

36 (i) Has been subject to an adverse or disciplinary action in another  
37 state, territory, or country relating to a license, certificate, or other  
38 authorization to practice as an appraiser. A disciplinary action relating to  
39 a license or certificate as an appraiser licensed or certified under this part  
40 ~~7 6~~ or any related occupation in any other state, territory, or country for  
41 disciplinary reasons is prima facie evidence of grounds for disciplinary  
42 action or denial of licensure or certification by the board. This paragraph  
43 (i) SUBSECTION (1)(i) applies only to violations based upon acts or  
44 omissions in the other state, territory, or country that are also violations  
45 of this part ~~7 6~~.

46 (j) Has failed to disclose in the appraisal report the fee paid to the  
47 appraiser for a residential real property appraisal if the appraiser was  
48 engaged by an appraisal management company to complete the  
49 assignment; or

50 (k) Has engaged in conduct that would be grounds for the denial  
51 of a license or certification under section ~~12-61-712~~ **12-10-612**.

52 (2) If an applicant, a licensee, or a certified person has violated

1 any provision of this section, the board may deny or refuse to renew the  
2 license or certificate, or, as specified in subsections (3) and (6) of this  
3 section, revoke or suspend the license or certificate, issue a letter of  
4 admonition to a licensee or certified person, place a licensee or certified  
5 person on probation, or impose public censure.

6 (3) When a complaint or an investigation discloses an instance of  
7 misconduct by a licensed or certified appraiser that, in the opinion of the  
8 board, does not warrant formal action by the board but should not be  
9 dismissed as being without merit, the board may send a letter of  
10 admonition by certified mail to the appraiser against whom a complaint  
11 was made. The letter shall advise the appraiser of the right to make a  
12 written request, within twenty days after receipt of the letter of  
13 admonition, to the board to begin formal disciplinary proceedings as  
14 provided in this section to adjudicate the conduct or acts on which the  
15 letter was based.

16 (4) The board may start a proceeding for discipline of a licensee  
17 or certified person when the board has reasonable grounds to believe that  
18 a licensee or certified person has committed any act or failed to act  
19 pursuant to the grounds established in subsection (1) of this section or  
20 when a request for a hearing is timely made under subsection (3) of this  
21 section.

22 (5) Disciplinary proceedings shall be conducted in the manner  
23 prescribed by the "State Administrative Procedure Act", article 4 of title  
24 24. C.R.S.

25 (6) As authorized in subsection (2) of this section, disciplinary  
26 actions by the board may consist of the following:

27 (a) **Revocation of a license or certificate.** (I) Revocation of a  
28 license or certificate by the board means that the licensed or certified  
29 person shall surrender his or her license or certificate immediately to the  
30 board.

31 (II) Any person whose license or certificate to practice is revoked  
32 is ineligible to apply for a license or certificate issued under this part 7 6  
33 until more than two years have elapsed from the date of surrender of the  
34 license or certificate. A reapplication after the two-year period is treated  
35 as a new application.

36 (b) **Suspension of a license or certificate.** Suspension of a  
37 license or certificate by the board is for a period to be determined by the  
38 board.

39 (c) **Probationary status.** The board may impose probationary  
40 status on a licensee or certified person. If the board places a licensee or  
41 certified person on probation, the board may include conditions for  
42 continued practice that the board deems appropriate to assure that the  
43 licensee or certified person is otherwise qualified to practice in  
44 accordance with generally accepted professional standards of professional  
45 appraisal practice, as specified in board rules, including any or all of the  
46 following:

47 (I) A requirement that the licensee or certified person take courses  
48 of training or education as needed to correct deficiencies found in the  
49 hearing;

50 (II) A review or supervision of his or her practice as may be  
51 necessary to determine the quality of the practice and to correct  
52 deficiencies in the practice; and

1 (III) The imposition of restrictions upon the nature of his or her  
2 appraisal practice to assure that he or she does not practice beyond the  
3 limits of his or her capabilities.

4 (d) **Public censure.** If, after notice and hearing, the director or the  
5 director's designee determines that the licensee or certified person has  
6 committed any of the acts specified in this section, the board may impose  
7 public censure.

8 (7) In addition to any other discipline imposed pursuant to this  
9 section, any person who violates this part 7 6 or the rules promulgated  
10 pursuant to this article 10 may be penalized by the board upon a finding  
11 of a violation pursuant to article 4 of title 24 ~~C.R.S.~~, as follows:

12 (a) In the first administrative proceeding against a person, a fine  
13 of not less than three hundred dollars but not more than five hundred  
14 dollars per violation;

15 (b) In any subsequent administrative proceeding against a person  
16 for transactions occurring after a final agency action determining that a  
17 violation of this part 7 6 has occurred, a fine of not less than one thousand  
18 dollars but not more than two thousand dollars.

19 (8) A person participating in good faith in making a complaint or  
20 report or participating in an investigative or administrative proceeding  
21 before the board pursuant to this article 10 is immune from any liability,  
22 civil or criminal, that otherwise might result by reason of the action.

23 (9) A licensee or certified person who has direct knowledge that  
24 a person has violated this part 7 6 shall report his or her knowledge to the  
25 board.

26 (10) The board, on its own motion or upon application at any time  
27 after the imposition of discipline as provided in this section, may  
28 reconsider its prior action and reinstate or restore a license or certificate,  
29 terminate probation, or reduce the severity of its prior disciplinary action.  
30 The decision of whether to take any further action or hold a hearing with  
31 respect to a prior disciplinary action rests in the sole discretion of the  
32 board.

33 **12-10-614. [Formerly 12-61-714] Appraisal management**  
34 **companies - prohibited activities - grounds for disciplinary actions -**  
35 **procedures - rules.** (1) The board, upon its own motion, may, and upon  
36 a complaint submitted to the board in writing by any person, shall,  
37 investigate the activities of a licensed appraisal management company; an  
38 appraiser designated as a controlling appraiser by a partnership, limited  
39 liability company, or corporation acting as an appraisal management  
40 company; or a person INDIVIDUAL or entity that assumes to act in that  
41 capacity within the state. The board, upon finding a violation, may impose  
42 an administrative fine not to exceed two thousand five hundred dollars for  
43 each separate offense; censure a licensee; place the licensee on probation  
44 and set the terms of probation; or temporarily suspend or permanently  
45 revoke a license, when the licensee has performed, is performing, or is  
46 attempting to perform any of the following acts:

47 (a) Failing to:

48 (I) Exercise due diligence when hiring or engaging a real estate  
49 appraiser to ensure that the real estate appraiser is appropriately  
50 credentialed by the board and competent to perform the assignment; and

51 (II) In the case of an AMC, establish and comply with processes  
52 and controls reasonably designed to ensure that the AMC conducts its

1 appraisal management services in accordance with the requirements of  
2 the federal "Truth in Lending Act", 15 U.S.C. sec. 1639e (a) to (i), and  
3 regulations adopted pursuant to that act.

4 (b) Requiring an appraiser to indemnify the appraisal management  
5 company against liability, damages, losses, or claims other than those  
6 arising out of the services performed by the appraiser, including  
7 performance or nonperformance of the appraiser's duties and obligations,  
8 whether as a result of negligence or willful misconduct;

9 (c) Influencing or attempting to influence the development,  
10 reporting, result, or review of a real estate appraisal or the engagement of  
11 an appraiser through coercion, extortion, collusion, compensation,  
12 inducement, intimidation, bribery, or in any other manner. This  
13 prohibition does not prohibit an appraisal management company from  
14 requesting an appraiser to:

- 15 (I) Consider additional, appropriate property information;
- 16 (II) Provide further detail, substantiation, or explanation for the  
17 appraiser's value conclusion; or
- 18 (III) Correct errors in the appraisal report.

19 (d) Prohibiting an appraiser, in the completion of an appraisal  
20 service, from communicating with the client, any intended users, real  
21 estate brokers, tenants, property owners, management companies, or any  
22 other entity that the appraiser reasonably believes has information  
23 pertinent to the completion of an appraisal assignment; except that this  
24 paragraph ~~(d)~~ SUBSECTION (1)(d) does not apply to communications  
25 between an appraiser and an appraisal management company's client if  
26 the client has adopted an explicit policy prohibiting such THE  
27 communication. If the client has adopted an explicit policy prohibiting  
28 communication by the appraiser with the client, communication by an  
29 appraiser to the client must be made in writing and submitted to the  
30 appraisal management company.

31 (e) Altering or modifying a completed appraisal report without the  
32 authoring appraiser's knowledge and written consent, and the consent of  
33 the intended user, except to modify the format of the report solely for  
34 transmission to the client and in a manner acceptable to the client;

35 (f) Requiring an appraiser to provide to the appraisal management  
36 company access to the appraiser's electronic signature;

37 (g) Failing to validate or verify that the work completed by an  
38 appraiser who is hired or engaged by the appraisal management company  
39 complies with state and federal regulations, including the uniform  
40 standards of professional appraisal practice, by conducting an annual  
41 audit of a random sample of the appraisals received within the previous  
42 year by the appraisal management company. The board shall establish  
43 annual appraisal review requirements by rule and shall solicit and  
44 consider information and comments from interested persons.

45 (h) Failing to make payment to an appraiser within sixty days after  
46 completion of the appraisal, unless otherwise agreed or unless the  
47 appraiser has been notified in writing that a bona fide dispute exists  
48 regarding the performance or quality of the appraisal;

49 (i) Failing to perform the terms of a written agreement with an  
50 appraiser hired or engaged to complete an appraisal assignment;

51 (j) Failing to disclose to an appraiser, at the time of engagement,  
52 the identity of the client;



1 (k) Using an appraisal report for a client other than the one  
2 originally contracted with, without the original client's written consent;

3 (l) Failing to maintain possession of, for future use or inspection  
4 by the board, for a period of at least five years or at least two years after  
5 final disposition of any judicial proceeding in which a representative of  
6 the appraisal management company provided testimony related to the  
7 assignment, whichever period expires last, the documents or records  
8 prescribed by the rules of the board or to produce the documents or  
9 records upon reasonable request by the board;

10 (m) Having been convicted of, or entering a plea of guilty, an  
11 Alford plea, or a plea of nolo contendere to, any misdemeanor or felony  
12 relating to the conduct of an appraisal, theft, embezzlement, bribery,  
13 fraud, misrepresentation, or deceit, or any other like crime under  
14 Colorado law, federal law, or the laws of other states. A certified copy of  
15 the judgment of a court of competent jurisdiction of the conviction or  
16 other official record indicating that a plea was entered is conclusive  
17 evidence of the conviction or plea in any hearing under this part 7 6.

18 (n) Having been the subject of an adverse or disciplinary action  
19 in another state, territory, or country relating to a license, registration,  
20 certification, or other authorization to practice as an appraisal  
21 management company. A disciplinary action relating to a registration,  
22 license, or certificate as an appraisal management company under this  
23 part 7 6 or any related occupation in any other state, territory, or country  
24 for disciplinary reasons is prima facie evidence of grounds for  
25 disciplinary action or denial of a license by the board. This paragraph (n)  
26 SUBSECTION (1)(n) applies only to violations based upon acts or omissions  
27 in the other state, territory, or country that would violate this part 7 6 if  
28 committed in Colorado.

29 (o) Violating the "Colorado Consumer Protection Act", article 1  
30 of title 6; ~~C.R.S.~~;

31 (p) Procuring, or attempting to procure, an appraisal management  
32 company license or renewing, reinstating, or reactivating, or attempting  
33 to renew, reinstate, or reactivate, an appraisal management company  
34 license by fraud, misrepresentation, or deceit or by making a material  
35 misstatement of fact in an application for a license;

36 (q) Knowingly misrepresenting or making false promises through  
37 agents, advertising, or otherwise;

38 (r) Failing to disclose to a client the fee amount paid to the  
39 appraiser hired or engaged to complete the appraisal upon completion of  
40 the assignment; or

41 (s) Disregarding, violating, or abetting, directly or indirectly, a  
42 violation of this part 7 6, a rule promulgated by the board pursuant to this  
43 part 7 6, or an order of the board entered pursuant to this part 7 6.

44 (2) When a complaint or an investigation discloses an instance of  
45 misconduct that, in the opinion of the board, does not warrant formal  
46 action by the board but should not be dismissed as being without merit,  
47 the board may send a letter of admonition by certified mail, return receipt  
48 requested, to the licensee against whom the complaint was made. The  
49 letter shall advise the licensee of the right to make a written request,  
50 within twenty days after receipt of the letter of admonition, to the board  
51 to begin formal disciplinary proceedings as provided in this section to  
52 adjudicate the conduct or acts on which the letter was based.

1 (3) Disciplinary proceedings must be conducted in the manner  
2 prescribed by the "State Administrative Procedure Act", article 4 of title  
3 24. ~~C.R.S.~~

4 (4) If a partnership, limited liability company, or corporation  
5 operating under the license of an appraiser designated and licensed as a  
6 controlling appraiser by the partnership, limited liability company, or  
7 corporation is guilty of any act listed in subsection (1) of this section, the  
8 board may suspend or revoke the right of the partnership, limited liability  
9 company, or corporation to conduct its business under the license of the  
10 controlling appraiser, whether or not the controlling appraiser had  
11 personal knowledge of the violation and whether or not the board  
12 suspends or revokes the individual license of the controlling appraiser.

13 (5) This part ~~7 6~~ does not relieve any person from civil liability or  
14 criminal prosecution under the laws of this state.

15 (6) A licensee or certified person having direct knowledge that a  
16 person or licensed partnership, limited liability company, or corporation  
17 has violated this part ~~7 6~~ shall report his or her knowledge to the board.

18 (7) The board, on its own motion or upon application, at any time  
19 after the imposition of discipline as provided in this section, may  
20 reconsider its prior action and reinstate or restore a license, terminate  
21 probation, or reduce the severity of its prior disciplinary action. The  
22 decision of whether to take any further action or hold a hearing with  
23 respect to the action rests in the sole discretion of the board.

24 **12-10-615. [Formerly 12-61-715] Judicial review of final board**  
25 **actions and orders.** Final actions and orders of the board under sections  
26 ~~12-61-712, 12-61-713, 12-10-612, 12-10-613~~ and ~~12-61-714~~ **12-10-614**  
27 appropriate for judicial review are subject to judicial review in the court  
28 of appeals in accordance with section 24-4-106 (11). ~~C.R.S.~~

29 **12-10-616. [Formerly 12-61-716] Unlawful acts - penalties.**  
30 (1) It is unlawful for a person to:

31 (a) Violate section ~~12-61-713 (1)(c), (1)(e), or (1)(f)~~ **12-10-613**  
32 **(1)(c), (1)(e) OR (1)(f)** or perform a real estate appraisal without first  
33 having obtained a license or certificate from the board pursuant to this  
34 part ~~7 6~~;

35 (b) Accept a fee for an independent appraisal assignment that is  
36 contingent upon:

- 37 (I) Reporting a predetermined analysis, opinion, or conclusion; or  
38 (II) The analysis, opinion, or conclusion reached; or  
39 (III) The consequences resulting from the analysis, opinion, or  
40 conclusion;

41 (c) Misrepresent a consulting service as an independent appraisal;  
42 or

43 (d) Fail to disclose, in connection with a consulting service for  
44 which a contingent fee is or will be paid, the fact that a contingent fee is  
45 or will be paid.

46 (2) Any person who violates any provision of subsection (1) of  
47 this section commits a class 1 misdemeanor and shall be punished as  
48 provided in section 18-1.3-501. ~~C.R.S.~~ Any person who subsequently  
49 violates any provision of subsection (1) of this section within five years  
50 after the date of a conviction for a violation of subsection (1) of this  
51 section commits a class 5 felony and shall be punished as provided in  
52 section 18-1.3-401. ~~C.R.S.~~

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**12-10-617. [Formerly 12-61-717] Appraisal management company license required - violations - injunction.** (1) Except as provided in section ~~12-61-707 (9)~~ **12-10-607 (9)**, it is unlawful for any person INDIVIDUAL, partnership, limited liability company, or corporation to engage in the business of appraisal management in this state without first having obtained a license from the board. The board shall not grant a license to a person INDIVIDUAL, partnership, limited liability company, or corporation until the person INDIVIDUAL, partnership, limited liability company, or corporation demonstrates compliance with this part ~~7 6~~.

(2) The board may apply to a court of competent jurisdiction for an order enjoining an act or practice that constitutes a violation of this part ~~7 6~~, and, upon a showing that a person INDIVIDUAL, partnership, limited liability company, or corporation is engaging or intends to engage in an act or practice that violates this part ~~7 6~~, the court shall grant an injunction, restraining order, or other appropriate order, regardless of the existence of another remedy for the violation. Any notice, hearing, or duration of an injunction or restraining order shall be made in accordance with the Colorado rules of civil procedure.

(3) Any person INDIVIDUAL, partnership, limited liability company, or corporation violating this part ~~7 6~~ by acting as an appraisal management company without having obtained a license or acting as an appraisal management company after the appraisal management company's license has been revoked or during any period for which the license was suspended is guilty of a misdemeanor and, upon conviction thereof:

(a) If a natural person, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both ~~such~~ A fine and imprisonment, for the first violation and, for a second or subsequent violation, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both ~~such~~ A fine and imprisonment; and

(b) If an entity, shall be punished by a fine of not more than five thousand dollars.

**12-10-618. [Formerly 12-61-718] Injunctive proceedings.** (1) The board may, in the name of the people of the state of Colorado, through the attorney general of the state of Colorado, apply for an injunction in any court of competent jurisdiction to perpetually enjoin a person or appraisal management company from committing an act prohibited by this part ~~7 6~~.

(2) Injunctive proceedings under this section are in addition to and not in lieu of penalties and other remedies provided in this part ~~7 6~~.

(3) When seeking an injunction under this section, the board is not required to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from a continued violation.

**12-10-619. [Formerly 12-61-719] Special provision for appraiser employees of county assessors.** (1) Except as provided in subsection (2) of this section, unless a federal waiver is applied for and granted pursuant to section ~~12-61-704 (1)(i)~~ **12-10-604 (1)(i)**, a person acting as a real estate appraiser in this state shall be licensed or certified as provided in this part ~~7 6~~. No person shall practice without a license or

1 certificate or hold himself or herself out to the public as a licensed or  
2 certified real estate appraiser unless licensed or certified pursuant to this  
3 part 7 6.

4 (2) An appraiser employee of a county assessor who is employed  
5 to appraise real property shall be licensed or certified as provided in this  
6 part 7 6 and shall have two years from the date of taking office or the  
7 beginning of employment to comply with this part 7 6.

8 **12-10-620. [Formerly 12-61-720] Duties of board under federal**  
9 **law.** (1) The board shall:

10 (a) Transmit to the appraisal subcommittee of the federal financial  
11 institutions examinations council or its successor entity, no less than  
12 annually, a roster listing individuals and appraisal management  
13 companies that have received a certificate or license as provided in this  
14 part 7;

15 (b) Collect and transmit, on an annual basis, to the federal  
16 financial institutions examinations council an annual registry fee, as  
17 prescribed by the appraisal subcommittee of the federal financial  
18 institutions examinations council or its successor entity, from the  
19 following individuals and entities:

20 (I) Individuals and appraisal management companies that are  
21 licensed or certified pursuant to this part 7 6; and

22 (II) Appraisal management companies that operate as subsidiaries  
23 of federally regulated financial institutions; and

24 (c) Conduct its business and promulgate rules in a manner  
25 consistent with Title XI of the federal "Financial Institutions Reform,  
26 Recovery, and Enforcement Act of 1989", as amended, Pub.L. 101-73.

27 (2) The board shall not collect or transmit the information  
28 required by this section for licensed ad valorem appraisers.

29 **12-10-621. [Formerly 12-61-721] Business entities.** (1) A  
30 corporation, partnership, bank, savings and loan association, savings  
31 bank, credit union, or other business entity may provide appraisal services  
32 if the appraisal is prepared by a certified general appraiser, a certified  
33 residential appraiser, or a licensed appraiser. An individual who is not a  
34 certified general appraiser, a certified residential appraiser, or a licensed  
35 appraiser may assist in the preparation of an appraisal if:

36 (a) The assistant is under the direct supervision of a certified or  
37 licensed appraiser; and

38 (b) The final appraisal document is approved and signed by an  
39 individual who is a certified or licensed appraiser.

40 **12-10-622. [Formerly 12-61-722] Provisions found not to**  
41 **comply with federal law null and void - severability.** (1) If any  
42 provision of this part 7 6 is found by a court of competent jurisdiction or  
43 by the appropriate federal agency not to comply with the federal  
44 "Financial Institutions Reform, Recovery, and Enforcement Act of 1989",  
45 as amended, Pub.L. 101-73, the provision is null and void, but the  
46 remaining provisions of this part 7 6 are valid unless the remaining  
47 provisions alone are incomplete and are incapable of being executed in  
48 accordance with the legislative intent of this part 7 6.

49 (2) If the regulation of appraisal management companies is  
50 repealed from Title XI of the federal "Financial Institutions Reform,  
51 Recovery, and Enforcement Act of 1989", as amended, Pub.L. 101-73,  
52 the board's jurisdiction over these entities is also repealed. Before the

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repeal, the division shall review the regulation of appraisal management companies as provided in section 24-34-104. ~~C.R.S.~~ If the board's jurisdiction is repealed, the director shall notify the revisor of statutes of the date of the repeal.

**12-10-623. [Formerly 12-61-723] Scope of article - regulated financial institutions - de minimis exemption.** (1) (a) This article *10* does not apply to an appraisal relating to any real estate-related transaction or loan made or to be made by a financial institution or its affiliate if the real estate-related transaction or loan is excepted from appraisal regulations established by the primary federal regulator of the financial institution and the appraisal is performed by:

(I) An officer, director, or regular salaried employee of the financial institution or its affiliate; or

(II) A real estate broker licensed under this article *10* with whom ~~said~~ THE institution or affiliate has contracted for performance of the appraisal.

(b) The appraisal must not be represented or deemed to be an appraisal except to the financial institution, the agencies regulating the financial institution, and any secondary markets that purchase real estate secured loans. The appraisal must contain a written notice that the preparer is not licensed or certified as an appraiser under this part ~~7 6~~. Nothing in this subsection (1) exempts a person licensed or certified as an appraiser under this part ~~7 6~~ from regulation as provided in this part ~~7 6~~.

(2) Nothing in this article *10* limits the ability of any federal or state regulator of a financial institution to require the financial institution to obtain appraisals as specified by the regulator.

~~12-61-724. Certification of conservation easement holders - rules - definition - repeal. (Repealed)~~

~~12-61-725. Conservation easement oversight commission - created - repeal. (Repealed)~~

~~12-61-726. Conservation easement tax credit certificates - rules. (Repealed)~~

~~12-61-727. Conservation easement tax credit certificate application process - definitions - rules. (Repealed)~~

PART 7  
MORTGAGE LOAN ORIGINATORS

**12-10-701. [Formerly 12-61-901] Short title.** THE SHORT TITLE OF this part ~~9 7~~ shall be known and may be cited as IS the "Mortgage Loan Originator Licensing and Mortgage Company Registration Act".

**12-10-702. [Formerly 12-61-902] Definitions.** As used in this part ~~9 7~~, unless the context otherwise requires:

(1) "Affiliate" means a person who, directly or indirectly, through intermediaries, controls, is controlled by, or is under the common control of another person addressed by this part ~~9 7~~.

~~(1.2)~~ (2) "Affordable housing dwelling unit" means an affordable housing dwelling unit as defined in section 29-26-102. ~~C.R.S.~~

~~(1.3)~~ (3) "Board" means the board of mortgage loan originators created in section ~~12-61-902.5~~ **12-10-703.**

~~(1.5)~~ (4) "Borrower" means any person who consults with or retains a mortgage loan originator in an effort to obtain or seek advice or

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information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

~~(1.7)~~ **(5)** "Community development organization" means any community housing development organization or community land trust as defined by the federal "Cranston-Gonzalez National Affordable Housing Act of 1990" or a community-based development organization as defined by the federal "Housing and Community Development Act of 1974", that is also either a private or public nonprofit organization that is exempt from taxation under section 501 (a) of the federal "Internal Revenue Code of 1986" pursuant to section 501 (c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501 (a) and 501 (c), and that receives funding from the United States department of housing and urban development, Colorado division of housing, Colorado housing and finance authority, or United States department of agriculture rural development, or through a grantee of the United States department of housing and urban development, purely for the purpose of community housing development activities.

~~(2)~~ **(6)** "Depository institution" has the same meaning as set forth in the "Federal Deposit Insurance Act", 12 U.S.C. sec. 1813 (c), and includes a credit union.

~~(3)~~ "Director" means the director of the division of real estate.

~~(4)~~ "Division" means the division of real estate.

~~(4.3)~~ **(7)** "Dwelling" shall have the same meaning as set forth in the federal "Truth in Lending Act", 15 U.S.C. sec. 1602 (v).

~~(4.5)~~ **(8)** "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, or the federal deposit insurance corporation.

~~(4.6)~~ **(9)** "HUD-approved housing counseling agency" means an agency that is either a private or public nonprofit organization that is exempt from taxation under section 501 (a) of the federal "Internal Revenue Code of 1986" pursuant to section 501 (c) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501 (a) and 501 (c), and approved by the United States department of housing and urban development, in accordance with the housing counseling program handbook section 7610.1 and 24 CFR 214.

~~(4.7)~~ "Individual" means a natural person.

~~(4.9)~~ **(10)** (a) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of, and subject to supervision by, a state-licensed loan originator or a registered loan originator.

(b) As used in this subsection ~~(4.9)~~ **(10)**, "clerical or support duties" includes duties performed after receipt of an application for a residential mortgage loan, including:

(I) The receipt, collection, distribution, and analysis of information commonly used for the processing or underwriting of a residential mortgage loan; and

(II) Communicating with a borrower to obtain the information necessary to process or underwrite a loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or

1 terms.

2 ~~(5)~~ **(11)** "Mortgage company" means a person other than an  
3 individual who, through employees or other individuals, takes residential  
4 loan applications or offers or negotiates terms of a residential mortgage  
5 loan.

6 ~~(5.5)~~ **(12)** "Mortgage lender" means a lender who is in the  
7 business of making residential mortgage loans if:

8 (a) The lender is the payee on the promissory note evidencing the  
9 loan; and

10 (b) The loan proceeds are obtained by the lender from its own  
11 funds or from a line of credit made available to the lender from a bank or  
12 other entity that regularly loans money to lenders for the purpose of  
13 funding mortgage loans.

14 ~~(6)~~ (a) ~~"Mortgage loan originator" means an individual who:~~

15 ~~(I) Takes a residential mortgage loan application; or~~

16 ~~(II) Offers or negotiates terms of a residential mortgage loan.~~

17 ~~(b) "Mortgage loan originator" does not include:~~

18 ~~(I) An individual engaged solely as a loan processor or~~  
19 ~~underwriter;~~

20 ~~(II) A person that only performs real estate brokerage or sales~~  
21 ~~activities and is licensed or registered pursuant to part 1 of this article;~~  
22 ~~unless the person is compensated by a mortgage lender or a mortgage loan~~  
23 ~~originator;~~

24 ~~(III) A person solely involved in extensions of credit relating to~~  
25 ~~time share plans, as defined in 11 U.S.C. sec. 101 (53D);~~

26 ~~(IV) An individual who is servicing a mortgage loan; or~~

27 ~~(V) A person that only performs the services and activities of a~~  
28 ~~dealer, as defined in section 24-32-3302, C.R.S.~~

29 ~~(6.3)~~ **(13)** "Nationwide mortgage licensing system and registry"  
30 means a mortgage licensing system developed pursuant to the federal  
31 "Secure and Fair Enforcement for Mortgage Licensing Act of 2008", 12  
32 U.S.C. sec. 5101 et seq., to track the licensing and registration of  
33 mortgage loan originators and that is established and maintained by:

34 (a) The Conference of State Bank Supervisors and the American  
35 Association of Residential Mortgage Regulators, or their successor  
36 entities; or

37 (b) The secretary of the United States department of housing and  
38 urban development.

39 ~~(6.5)~~ **(14)** "Nontraditional mortgage product" means a mortgage  
40 product other than a thirty-year, fixed-rate mortgage.

41 ~~(7)~~ **(15)** "Originate a mortgage" means to act, directly or  
42 indirectly, as a mortgage loan originator.

43 ~~(7.5)~~ "Person" means a natural person, corporation, company,  
44 limited liability company, partnership, firm, association, or other legal  
45 entity.

46 ~~(7.6)~~ **(16)** "Quasi-government agency" means an agency that is  
47 either a private or public nonprofit organization that is exempt from  
48 taxation under section 501 (a) of the federal "Internal Revenue Code of  
49 1986" pursuant to section 501 (c) of the federal "Internal Revenue Code  
50 of 1986", 26 U.S.C. sec. 501 (a) and 501 (c), and was created to operate  
51 in accordance with article 4 of title 29 ~~C.R.S.~~; as a public housing  
52 authority.

1           ~~(7.7)~~ **(17)** "Real estate brokerage activity" means an activity that  
2 involves offering or providing real estate brokerage services to the public,  
3 including, without limitation:

4           (a) Acting as a real estate agent or real estate broker for a buyer,  
5 seller, lessor, or lessee of real property;

6           (b) Bringing together parties interested in the sale, purchase, lease,  
7 rental, or exchange of real property;

8           (c) Negotiating, on behalf of any party, any portion of a contract  
9 relating to the sale, purchase, lease, rental, or exchange of real property,  
10 other than matters related to financing for the transaction;

11           (d) Engaging in an activity for which a person engaged in the  
12 activity is required under applicable law to be registered or licensed as a  
13 real estate agent or real estate broker; or

14           (e) Offering to engage in any activity, or act in any capacity  
15 related to ~~such~~ THE activity, described in this subsection ~~(7.7)~~ **(17)**.

16           ~~(8)~~ **(18)** "Residential mortgage loan" means a loan that is  
17 primarily for personal, family, or household use and that is secured by a  
18 mortgage, deed of trust, or other equivalent, consensual security interest  
19 on a dwelling or residential real estate upon which is constructed or  
20 intended to be constructed a single-family dwelling or multiple-family  
21 dwelling of four or fewer units.

22           ~~(9)~~ **(19)** "Residential real estate" means any real property upon  
23 which a dwelling is or will be constructed.

24           ~~(9.5)~~ **(20)** "Self-help housing organization" means a private or  
25 public nonprofit organization that is exempt from taxation under section  
26 501 (a) of the federal "Internal Revenue Code of 1986" pursuant to  
27 section 501 (c) of the federal "Internal Revenue Code of 1986", 26 U.S.C.  
28 sec. 501 (a) and 501 (c), and that purely originates residential mortgage  
29 loans with interest rates no greater than zero percent for borrowers who  
30 have provided part of the labor to construct the dwelling securing the loan  
31 or that receives funding from the United States department of agriculture  
32 rural development section 502 mutual self-help housing program for  
33 borrowers that have provided part of the labor to construct the dwelling  
34 securing the loan.

35           ~~(10)~~ **(21)** "Servicing a mortgage loan" means collecting, receiving,  
36 or obtaining the right to collect or receive payments on behalf of a  
37 mortgage lender, including payments of principal, interest, escrow  
38 amounts, and other amounts due on obligations due and owing to the  
39 mortgage lender.

40           ~~(11)~~ **(22)** "State-licensed loan originator" means an individual who  
41 is:

42           (a) A mortgage loan originator or engages in the activities of a  
43 mortgage loan originator;

44           (b) Not an employee of a depository institution or a subsidiary that  
45 is:

46           (I) Owned and controlled by a depository institution; and

47           (II) Regulated by a federal banking agency;

48           (c) Licensed or required to be licensed pursuant to this part 9 7;  
49 and

50           (d) Registered as a state-licensed loan originator with, and  
51 maintains a unique identifier through, the nationwide mortgage licensing  
52 system and registry.



1           ~~(12)~~ (23) "Unique identifier" means a number or other identifier  
2 assigned to a mortgage loan originator pursuant to protocols established  
3 by the nationwide mortgage licensing system and registry.

4           **12-10-703. [Formerly 12-61-902.5] Board of mortgage loan**  
5 **originators - creation - compensation - enforcement of part after**  
6 **board creation - immunity.** (1) (a) There is hereby created in the  
7 division a board of mortgage loan originators, consisting of five members  
8 appointed by the governor with the consent of the senate.

9           (b) Of the members of the board:

10           (I) Three must be licensed mortgage loan originators. The general  
11 assembly encourages the governor to appoint to at least one of these three  
12 positions a licensed mortgage loan originator who is an employee or  
13 exclusive agent of, or works as an independent contractor for, a  
14 Colorado-based mortgage company.

15           (II) Two must be members of the public at large not engaged in  
16 mortgage loan origination or mortgage lending.

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

25           (d) In the event of a vacancy by death, resignation, removal, or  
26 otherwise, the governor shall appoint a member to fill the unexpired term.  
27 The governor has the authority to remove any member for misconduct,  
28 neglect of duty, or incompetence.

29           (2) (a) The board shall exercise its powers and perform its duties  
30 and functions under the department ~~of regulatory agencies~~ as if  
31 transferred to the department by a **type 1** transfer, as such transfer is  
32 defined in the "Administrative Organization Act of 1968", article 1 of title  
33 24. ~~C.R.S.~~

34           (b) Notwithstanding any other provision of this part ~~9 7~~, on and  
35 after the creation of the board by this section, the board shall exercise all  
36 of the rule-making, enforcement, and administrative authority of the  
37 director set forth in this part ~~9 7~~. The board has the authority to delegate  
38 to the director any enforcement and administrative authority under this  
39 part ~~9 7~~ that the board deems necessary and appropriate. If the board  
40 delegates any enforcement or administrative authority under this part ~~9 7~~  
41 to the director, the director shall only be entitled to exercise such  
42 authority as specifically delegated in writing to the director by the board.

43           (3) Each member of the board shall receive the same  
44 compensation and reimbursement of expenses as those provided for  
45 members of boards and commissions in the division of professions and  
46 occupations pursuant to section 24-34-102 (13). Payment for all per diem  
47 compensation and expenses shall be made out of annual appropriations  
48 from the division of real estate cash fund created in section ~~12-61-111.5~~  
49 **12-10-215.**

50           (4) Members of the board, consultants, and expert witnesses shall  
51 be immune from suit in any civil action based upon any disciplinary  
52 proceedings or other official acts they performed in good faith pursuant

1 to this part 9 7.

2 (5) A majority of the board shall constitute a quorum for the  
3 transaction of all business, and actions of the board shall require a vote  
4 of a majority of the members present in favor of the action taken.

5 (6) (a) All rules promulgated by the director prior to August 11,  
6 2010, shall remain in full force and effect until repealed or modified by  
7 the board. The board shall have the authority to enforce any previously  
8 promulgated rules of the director under this part 9 7 and any rules  
9 promulgated by the board.

10 (b) Nothing in this section shall affect any action taken by the  
11 director prior to August 11, 2010. No person who, on or before August  
12 11, 2010, holds a license issued under this part 9 7 shall be required to  
13 secure an additional license under this part 9 7, but shall otherwise be  
14 subject to all the provisions of this part 9 7. A license previously issued  
15 shall, for all purposes, be considered a license issued by the board under  
16 this part 9 7.

17 **12-10-704. [Formerly 12-61-903] License required - rules.**

18 (1) (a) Unless licensed by the board and registered with the nationwide  
19 mortgage licensing system and registry as a state-licensed loan originator,  
20 an individual shall not originate or offer to originate a mortgage or act or  
21 offer to act as a mortgage loan originator.

22 (b) On and after January 1, 2010, a licensed mortgage loan  
23 originator shall apply for license renewal in accordance with subsection  
24 ~~(4)~~ (5) of this section every calendar year as determined by the board by  
25 rule.

26 ~~(c) (Deleted by amendment, L. 2009, (HB 09-1085), ch. 303, p.~~  
27 ~~1615, § 1, effective August 5, 2009.)~~

28 ~~(1.5)~~ (2) An independent contractor may not engage in residential  
29 mortgage loan origination activities as a loan processor or underwriter  
30 unless the independent contractor is a state-licensed loan originator.

31 ~~(2)~~ (3) An applicant for initial licensing as a mortgage loan  
32 originator shall submit to the board the following:

33 (a) A criminal history record check in compliance with subsection  
34 ~~(5)~~ (6) of this section;

35 (b) A disclosure of all administrative discipline taken against the  
36 applicant concerning the categories listed in section ~~12-61-905 (1)(c)~~  
37 **12-10-711 (1)(c)**; and

38 (c) The application fee established by the board in accordance  
39 with section ~~12-61-908~~ **12-10-718**.

40 ~~(3)~~ (4) (a) In addition to the requirements imposed by subsection  
41 ~~(2)~~ (3) of this section, on or after August 5, 2009, each individual  
42 applicant for initial licensing as a mortgage loan originator must have  
43 satisfactorily completed:

44 (I) At least twenty hours of education as administered and  
45 approved by the Nationwide Multistate Licensing System and Registry or  
46 its successor; and

47 (II) A written examination approved by the board. For the portion  
48 of the examination that represents the state-specific test required in the  
49 federal "Secure and Fair Enforcement for Mortgage Licensing Act of  
50 2008", 12 U.S.C. sec. 5101 et seq., the board may adopt the uniform state  
51 test administered through the Nationwide Multistate Licensing System  
52 and Registry or its successor.

1 (b) The board may contract with one or more independent testing  
2 services to develop, administer, and grade the examinations required by  
3 paragraph (a) of this subsection (3) SUBSECTION (4)(a) OF THIS SECTION  
4 and to maintain and administer licensee records. The contract may allow  
5 the testing service to recover from applicants its costs incurred in  
6 connection with these functions. The board may contract separately for  
7 these functions and may allow the costs to be collected by a single  
8 contractor for distribution to other contractors.

9 (c) The board may publish reports summarizing statistical  
10 information prepared by the nationwide mortgage licensing system and  
11 registry relating to mortgage loan originator examinations.

12 (4) (5) An applicant for license renewal shall submit to the board  
13 the following:

14 (a) A disclosure of all administrative discipline taken against the  
15 applicant concerning the categories listed in section ~~12-61-905 (1)(c)~~  
16 *12-10-711 (1)(c)*; and

17 (b) The renewal fee established by the board in accordance with  
18 section ~~12-61-908~~ *12-10-718*.

19 (5) (6) (a) Prior to submitting an application for a license, an  
20 applicant shall submit a set of fingerprints to the Colorado bureau of  
21 investigation. Upon receipt of the applicant's fingerprints, the Colorado  
22 bureau of investigation shall use the fingerprints to conduct a state and  
23 national criminal history record check using records of the Colorado  
24 bureau of investigation and the federal bureau of investigation. All costs  
25 arising from such THE criminal history record check shall be borne by the  
26 applicant and shall be paid when the set of fingerprints is submitted.  
27 Upon completion of the criminal history record check, the bureau shall  
28 forward the results to the board. The board may acquire a name-based  
29 criminal history record check for an applicant who has twice submitted  
30 to a fingerprint-based criminal history record check and whose  
31 fingerprints are unclassifiable.

32 (b) If the board determines that the criminal background check  
33 provided by the nationwide mortgage licensing system and registry is a  
34 sufficient method of screening license applicants to protect Colorado  
35 consumers, the board may, by rule, authorize the use of that criminal  
36 background check instead of the criminal history record check otherwise  
37 required by this subsection (5) (6).

38 (5.5) (7) (a) On and after January 1, 2010, in connection with an  
39 application for a license as a mortgage loan originator, the applicant shall  
40 furnish information concerning the applicant's identity to the nationwide  
41 mortgage licensing system and registry. The applicant shall furnish, at a  
42 minimum, the following:

43 (I) Fingerprints for submission to the federal bureau of  
44 investigation and any government agency or entity authorized to receive  
45 fingerprints for a state, national, or international criminal history record  
46 check; and

47 (II) Personal history and experience, in a form prescribed by the  
48 nationwide mortgage licensing system and registry, including submission  
49 of authorization for the nationwide mortgage licensing system and  
50 registry to obtain:

51 (A) An independent credit report from the consumer reporting  
52 agency described in the federal "Fair Credit Reporting Act", 15 U.S.C.

1 sec. 1681a (p); and  
2 (B) Information related to any administrative, civil, or criminal  
3 findings by a government jurisdiction.  
4 (b) An applicant is responsible for paying all costs arising from a  
5 criminal history record check and shall pay ~~such~~ THE costs upon  
6 submission of fingerprints.  
7 (c) The board may acquire a name-based criminal history record  
8 check for an applicant who has twice submitted to a fingerprint-based  
9 criminal history record check and whose fingerprints are unclassifiable.  
10 ~~(5.7) Repeated.~~  
11 ~~(6) (8)~~ (8) Before granting a license to an applicant, the board shall  
12 require the applicant to post a bond as required by section ~~12-61-907~~  
13 **12-10-717**.  
14 ~~(7) (9)~~ (9) The board shall issue or deny a license within sixty days  
15 after:  
16 (a) The applicant has submitted the requisite information to the  
17 board and the Nationwide Multistate Licensing System and Registry,  
18 including the completed application and any necessary supplementary  
19 information, the application fee, and proof that the applicant has posted  
20 a surety bond and obtained errors and omissions insurance; and  
21 (b) The board receives the completed criminal history record  
22 check and all other relevant information or documents necessary to  
23 reasonably ascertain facts underlying the applicant's criminal history.  
24 ~~(8) (10)~~ (10) (a) The board may require, as a condition of license  
25 renewal on or after January 1, 2009, continuing education of licensees for  
26 the purpose of enhancing the professional competence and professional  
27 responsibility of all licensees.  
28 (b) Continuing professional education requirements shall be  
29 determined by the board by rule; except that licensees shall be required  
30 to complete at least eight credit hours of continuing education each year.  
31 The board may contract with one or more independent service providers  
32 to develop, review, or approve continuing education courses. The contract  
33 may allow the independent service provider to recover from licensees its  
34 costs incurred in connection with these functions. The board may contract  
35 separately for these functions and may allow the costs to be collected by  
36 a single contractor for distribution to other contractors.  
37 ~~(9) (11)~~ (11) (a) The board may require contractors and prospective  
38 contractors for services under subsections ~~(3) (4)~~ and ~~(8) (10)~~ of this  
39 section to submit, for the board's review and approval, information  
40 regarding the contents and materials of proposed courses and other  
41 documentation reasonably necessary to further the purposes of this  
42 section.  
43 (b) The board may set fees for the initial and continuing review  
44 of courses for which credit hours will be granted. The initial filing fee for  
45 review of materials shall not exceed five hundred dollars, and the fee for  
46 continued review shall not exceed two hundred fifty dollars per year per  
47 course offered.  
48 ~~(10) (12)~~ (12) The board may adopt reasonable rules to implement this  
49 section. The board may adopt rules necessary to implement provisions  
50 required in the federal "Secure and Fair Enforcement for Mortgage  
51 Licensing Act of 2008", 12 U.S.C. sec. 5101 et seq., and for participation  
52 in the nationwide mortgage licensing system and registry.

1           ~~(11)~~ **(13)** In order to fulfill the purposes of this part ~~9 7~~, the board  
2 may establish relationships or contracts with the nationwide mortgage  
3 licensing system and registry or other entities designated by the  
4 nationwide mortgage licensing system and registry to collect and maintain  
5 records and process transaction fees or other fees related to licensees or  
6 other persons subject to this part ~~9 7~~.

7           ~~(12)~~ **(14)** The board may use the nationwide mortgage licensing  
8 system and registry as a channeling agent for requesting information from  
9 or distributing information to the department of justice, a government  
10 agency, or any other source.

11           **12-10-705. [Formerly 12-61-903.1] Registration required -**  
12 **rules.** (1) On or after January 1, 2011, each mortgage company shall  
13 register with the nationwide mortgage licensing system and registry,  
14 unless exempted by rule by the board, and shall renew ~~such~~ ITS  
15 registration each calendar year based on the following criteria:

16           (a) (I) The mortgage company is legally operating in the state of  
17 Colorado in accordance with standards determined and administered by  
18 the Colorado secretary of state; and

19           (II) The mortgage company is not legally barred from operating  
20 in Colorado.

21           (b) Sole proprietors, general partnerships, and other mortgage  
22 companies not otherwise required to register with the secretary of state  
23 shall register using a trade name.

24           **12-10-706. [Formerly 12-61-903.3] License or registration**  
25 **inactivation.** (1) The board may inactivate a state license or a  
26 registration with the nationwide mortgage licensing system and registry  
27 when a licensee has failed to:

28           (a) Comply with the surety bond requirements of sections  
29 ~~12-61-903 (6)~~ **12-10-704 (8)** and ~~12-61-907~~ **12-10-717**;

30           (b) Comply with the errors and omissions insurance requirement  
31 in section ~~12-61-903.5~~ **12-10-707** or any rule of the board that directly or  
32 indirectly addresses errors and omissions insurance requirements;

33           (c) Maintain current contact information, surety bond information,  
34 or errors and omissions insurance information as required by this part ~~9~~  
35 **7** or by any rule of the board that directly or indirectly addresses ~~such~~ THE  
36 requirements;

37           (d) Respond to an investigation or examination;

38           (e) Comply with any of the education or testing requirements set  
39 forth in this part ~~9 7~~ or in any rule of the board that directly or indirectly  
40 addresses education or testing requirements; or

41           (f) Register with and provide all required information to the  
42 nationwide mortgage licensing system and registry.

43           **12-10-707. [Formerly 12-61-903.5] Errors and omissions**  
44 **insurance - duties of the board - certificate of coverage - when**  
45 **required - group plan made available - effect - rules.** (1) Every  
46 licensee under this part ~~9 7~~, except an inactive mortgage loan originator  
47 or an attorney licensee who maintains a policy of professional malpractice  
48 insurance that provides coverage for errors and omissions insurance for  
49 their activities as a licensee under this part ~~9 7~~, shall maintain errors and  
50 omissions insurance to cover all activities contemplated under this part ~~9~~  
51 **7**. The division shall make the errors and omissions insurance available  
52 to all licensees by contracting with an insurer for a group policy after a

1 competitive bid process in accordance with article 103 of title 24. ~~C.R.S.~~  
2 A group policy obtained by the division must be available to all licensees  
3 with no right on the part of the insurer to cancel a licensee. A licensee  
4 may obtain errors and omissions insurance independently if the coverage  
5 complies with the minimum requirements established by the division.

6 (2) (a) If the division is unable to obtain errors and omissions  
7 insurance coverage to insure all licensees who choose to participate in the  
8 group program at a reasonable annual premium, as determined by the  
9 division, a licensee shall independently obtain the errors and omissions  
10 insurance required by this section.

11 (b) The division shall solicit and consider information and  
12 comments from interested persons when determining the reasonableness  
13 of annual premiums.

14 (3) The division shall determine the terms and conditions of  
15 coverage required under this section based on rules promulgated by the  
16 board. Each licensee shall be notified of the required terms and conditions  
17 at least thirty days before the annual premium renewal date as determined  
18 by the division. Each licensee shall file a certificate of coverage showing  
19 compliance with the required terms and conditions with the division by  
20 the annual premium renewal date, as determined by the division.

21 (4) In addition to all other powers and duties conferred upon the  
22 board by this part 9 7, the board shall adopt such rules as it deems  
23 necessary or proper to carry out this section.

24 **12-10-708. [Formerly 12-61-903.7] License renewal.** (1) In  
25 order for a licensed mortgage loan originator to renew a license issued  
26 pursuant to this part 9 7, the mortgage loan originator shall:

27 (a) Continue to meet the minimum standards for issuance of a  
28 license pursuant to this part 9 7;

29 (b) Satisfy the annual continuing education requirements set forth  
30 in section ~~12-61-903~~ (8) **12-10-704 (10)** and in rules adopted by the  
31 board; and

32 (c) Pay applicable license renewal fees.

33 (2) If a licensed mortgage loan originator fails to satisfy the  
34 requirements of subsection (1) of this section for license renewal, the  
35 mortgage loan originator's license shall expire. The board shall adopt  
36 rules to establish procedures for the reinstatement of an expired license  
37 consistent with the standards established by the nationwide mortgage  
38 licensing system and registry.

39 **12-10-709. [Formerly 12-61-904] Exemptions - definition -**  
40 **rules.** (1) Except as otherwise provided in section ~~12-61-905.5~~  
41 **12-10-713**, this part 9 7 does not apply to the following, unless otherwise  
42 determined by the federal bureau of consumer financial protection or the  
43 United States department of housing and urban development:

44 (a) ~~(Deleted by amendment, L. 2010, (HB 10-1141), ch. 280, p.~~  
45 ~~1289, § 10, effective August 11, 2010.)~~

46 (b) (a) With respect to a residential mortgage loan:

47 (I) A person, estate, or trust that provides mortgage financing for  
48 the sale of no more than three properties in any twelve-month period to  
49 purchasers of ~~such~~ THE properties, each of which is owned by ~~such~~ THE  
50 person, estate, or trust and serves as security for the loan; or

51 (II) An individual who acts as a mortgage loan originator, without  
52 compensation or gain to the mortgage loan originator, in providing loan

1 financing for not more than three residential mortgage loans in any  
2 twelve-month period to a family member of the individual. The board  
3 shall define "family member" by rule. For purposes of this exemption  
4 only, "compensation or gain" excludes any interest paid under the loan  
5 financing provided.

6 ~~(e)~~ **(b)** A bank and a savings association as these terms are defined  
7 in the "Federal Deposit Insurance Act", a subsidiary that is owned and  
8 controlled by a bank or savings association, employees of a bank or  
9 savings association, employees of a subsidiary that is owned and  
10 controlled by a bank or savings association, credit unions, and employees  
11 of credit unions;

12 ~~(d)~~ **(c)** An attorney who renders services in the course of practice,  
13 who is licensed in Colorado, and who is not primarily engaged in the  
14 business of negotiating residential mortgage loans;

15 ~~(e)~~ ~~(Deleted by amendment, L. 2007, p. 1716, § 2, effective June~~  
16 ~~1, 2007, and p. 1734, § 6, effective January 1, 2008.)~~

17 ~~(f)~~ **(d)** A person who:

18 (I) Funds a residential mortgage loan that has been originated and  
19 processed by a licensed person or by an exempt person;

20 (II) Does not solicit borrowers in Colorado for the purpose of  
21 making residential mortgage loans; and

22 (III) Does not participate in the negotiation of residential  
23 mortgage loans with the borrower, except for setting the terms under  
24 which a person may buy or fund a residential mortgage loan originated by  
25 a licensed or exempt person;

26 ~~(g)~~ **(e)** A loan processor or underwriter who is not an independent  
27 contractor and who does not represent to the public that the individual can  
28 or will perform any activities of a mortgage loan originator. As used in  
29 this ~~paragraph~~ ~~(g)~~ **SUBSECTION (1)(e)**, "represent to the public" means  
30 communicating, through advertising or other means of communicating,  
31 or providing information, including the use of business cards, stationery,  
32 brochures, signs, rate lists, or other promotional items, that the individual  
33 is able to provide a particular service or activity for a consumer.

34 ~~(h)~~ **(f)** To the extent that it is providing programs benefitting  
35 affordable housing dwelling units, an agency of the federal government,  
36 the Colorado government, or any of Colorado's political subdivisions or  
37 employees of an agency of the federal government, of the Colorado  
38 government, or of any of Colorado's political subdivisions;

39 ~~(i)~~ **(g)** Quasi-government agencies, HUD-approved housing  
40 counseling agencies, or employees of quasi-government agencies or  
41 HUD-approved housing counseling agencies;

42 ~~(j)~~ **(h)** Community development organizations or employees of  
43 community development organizations;

44 ~~(k)~~ **(i)** Self-help housing organizations or employees of self-help  
45 housing organizations or volunteers acting as an agent of self-help  
46 housing organizations;

47 ~~(l)~~ **(j)** A person licensed under part ~~4~~ **2** of this article **10** who  
48 represents a person, estate, or trust providing mortgage financing under  
49 ~~paragraph (b) of this subsection~~ ~~(l)~~ **SUBSECTION (1)(a) OF THIS SECTION.**

50 (2) The exemptions in subsection (1) of this section shall not  
51 apply to persons acting beyond the scope of ~~such~~ **THE** exemptions.

52 (3) The board may adopt reasonable rules modifying the

1 exemptions in this section in accordance with rules adopted by the federal  
2 bureau of consumer financial protection or the United States department  
3 of housing and urban development.

4 **12-10-710. [Formerly 12-61-904.5] Originator's relationship to**  
5 **borrower - rules.** (1) A mortgage loan originator shall have a duty of  
6 good faith and fair dealing in all communications and transactions with  
7 a borrower. ~~Such~~ THE duty includes, but is not limited to:

8 (a) The duty to not recommend or induce the borrower to enter  
9 into a transaction that does not have a reasonable, tangible net benefit to  
10 the borrower, considering all of the circumstances, including the terms of  
11 a loan, the cost of a loan, and the borrower's circumstances;

12 (b) The duty to make a reasonable inquiry concerning the  
13 borrower's current and prospective income, existing debts and other  
14 obligations, and any other relevant information and, after making ~~such~~  
15 THE inquiry, to make his or her best efforts to recommend, broker, or  
16 originate a residential mortgage loan that takes into consideration the  
17 information submitted by the borrower, but the mortgage loan originator  
18 shall not be deemed to violate this section if the borrower conceals or  
19 misrepresents relevant information; and

20 (c) The duty not to commit any acts, practices, or omissions in  
21 violation of section 38-40-105. ~~C.R.S.~~

22 (2) For purposes of implementing subsection (1) of this section,  
23 the board may adopt rules defining what constitutes a reasonable, tangible  
24 net benefit to the borrower.

25 (3) A violation of this section constitutes a deceptive trade  
26 practice under the "Colorado Consumer Protection Act", article 1 of title  
27 6. ~~C.R.S.~~

28 **12-10-711. [Formerly 12-61-905] Powers and duties of the**  
29 **board.** (1) The board may deny an application for a license, refuse to  
30 renew, or revoke the license of an applicant or licensee who has:

31 (a) Filed an application with the board containing material  
32 misstatements of fact or omitted any disclosure required by this part 9 7;

33 (b) Within the last five years, been convicted of or pled guilty or  
34 nolo contendere to a crime involving fraud, deceit, material  
35 misrepresentation, theft, or the breach of a fiduciary duty, except as  
36 otherwise set forth in this part 9 7;

37 (c) Except as otherwise set forth in this part 9 7, within the last  
38 five years, had a license, registration, or certification issued by Colorado  
39 or another state revoked or suspended for fraud, deceit, material  
40 misrepresentation, theft, or the breach of a fiduciary duty, and ~~such~~ THE  
41 discipline denied the person authorization to practice as:

42 (I) A mortgage broker or a mortgage loan originator;

43 (II) A real estate broker, as defined by section ~~12-61-101~~ (2)  
44 **12-10-101 (10);**

45 (III) A real estate salesperson;

46 (IV) A real estate appraiser, as defined by section ~~12-61-702~~ (11)  
47 **12-10-101 (9);**

48 (V) An insurance producer, as defined by section 10-2-103 (6);  
49 ~~C.R.S.;~~

50 (VI) An attorney;

51 (VII) A securities broker-dealer, as defined by section 11-51-201  
52 (2); ~~C.R.S.;~~



1 (VIII) A securities sales representative, as defined by section  
2 11-51-201 (14); ~~C.R.S.~~;

3 (IX) An investment advisor, as defined by section 11-51-201  
4 (9.5); ~~C.R.S.~~; or

5 (X) An investment advisor representative, as defined by section  
6 11-51-201 (9.6); ~~C.R.S.~~;

7 (d) Been enjoined within the immediately preceding five years  
8 under the laws of this or any other state or of the United States from  
9 engaging in deceptive conduct relating to the brokering of or originating  
10 a mortgage loan;

11 (e) Been found to have violated the provisions of section  
12 ~~12-61-910.2~~ **12-10-721**;

13 (f) Been found to have violated the provisions of section  
14 ~~12-61-905.5~~ **12-10-713**;

15 ~~(g) to (i) Repealed.~~

16 ~~(j)~~ **(g)** Not demonstrated financial responsibility, character, and  
17 general fitness to command the confidence of the community and to  
18 warrant a determination that the individual will operate honestly, fairly,  
19 and efficiently, consistent with the purposes of this part ~~9~~ **7**;

20 ~~(k)~~ **(h)** Not completed the prelicense education requirements set  
21 forth in section ~~12-61-903~~ **12-10-704** and any applicable rules of the  
22 board; or

23 ~~(l)~~ **(i)** Not passed a written examination that meets the  
24 requirements set forth in section ~~12-61-903~~ **12-10-704** and any applicable  
25 rules of the board.

26 ~~(1.5)~~ **(2)** The board shall deny an application for a license, refuse  
27 to renew, or revoke the license of an applicant or licensee who has:

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

30 (II) If a revocation is subsequently formally nullified, the license  
31 is not revoked for purposes of this subsection ~~(1.5)(a)~~ **(2)(a)**.

32 (b) (I) At any time been convicted of, or pled guilty or nolo  
33 contendere to, a felony in a domestic, foreign, or military court if the  
34 felony involved an act of fraud, dishonesty, breach of trust, or money  
35 laundering.

36 (II) If the individual obtains a pardon of the conviction, the board  
37 shall not deem the individual convicted for purposes of this subsection  
38 ~~(1.5)(b)~~ **(2)(b)**.

39 (c) Been convicted of, or pled guilty or nolo contendere to, a  
40 felony within the immediately preceding seven years.

41 ~~(2)~~ **(3)** The board may investigate the activities of a licensee or  
42 other person that present grounds for disciplinary action under this part  
43 ~~9~~ **7** or that violate section ~~12-61-910(1)~~ **12-10-720 (1)**.

44 ~~(3)~~ **(4)** (a) If the board has reasonable grounds to believe that a  
45 mortgage loan originator is no longer qualified under subsection (1) of  
46 this section, the board may summarily suspend the mortgage loan  
47 originator's license pending a hearing to revoke the license. A summary  
48 suspension shall conform to article 4 of title 24. ~~C.R.S.~~

49 (b) The board shall suspend the license of a mortgage loan  
50 originator who fails to maintain the bond required by section ~~12-61-907~~  
51 **12-10-717** until the licensee complies with ~~such~~ THAT section.

52 ~~(4)~~ **(5)** The board or an administrative law judge appointed

1 pursuant to part 10 of article 30 of title 24 ~~C.R.S.~~, shall conduct  
2 disciplinary hearings concerning mortgage loan originators and mortgage  
3 companies. ~~Such~~ THE hearings shall conform to article 4 of title 24.  
4 ~~C.R.S.~~

5 ~~(5)~~ (6) (a) Except as provided in ~~paragraph (b) of this subsection~~  
6 ~~(5)~~ SUBSECTION (6)(b) OF THIS SECTION, an individual whose license has  
7 been revoked shall not be eligible for licensure for two years after the  
8 effective date of the revocation.

9 (b) If the board or an administrative law judge determines that an  
10 application contained a misstatement of fact or omitted a required  
11 disclosure due to an unintentional error, the board shall allow the  
12 applicant to correct the application. Upon receipt of the corrected and  
13 completed application, the board or administrative law judge shall not bar  
14 the applicant from being licensed on the basis of the unintentional  
15 misstatement or omission.

16 ~~(6)~~ (7) (a) The board or an administrative law judge may  
17 administer oaths, take affirmations of witnesses, and issue subpoenas to  
18 compel the attendance of witnesses and the production of all relevant  
19 papers, books, records, documentary evidence, and materials in any  
20 hearing or investigation conducted by the board or an administrative law  
21 judge. The board may request any information relevant to the  
22 investigation, including, but not limited to, independent credit reports  
23 obtained from a consumer reporting agency described in the federal "Fair  
24 Credit Reporting Act", 15 U.S.C. sec. 1681a (p).

25 (b) Upon failure of a witness to comply with a subpoena or  
26 process, the district court of the county in which the subpoenaed witness  
27 resides or conducts business may issue an order requiring the witness to  
28 appear before the board or administrative law judge; produce the relevant  
29 papers, books, records, documentary evidence, testimony, or materials in  
30 question; or both. Failure to obey the order of the court may be punished  
31 as a contempt of court. The board or an administrative law judge may  
32 apply for ~~such~~ AN order.

33 (c) The licensee or individual who, after an investigation under  
34 this part ~~9 7~~, is found to be in violation of a provision of this part ~~9 7~~ shall  
35 be responsible for paying all reasonable and necessary costs of the  
36 division arising from subpoenas or requests issued pursuant to this  
37 subsection ~~(6)~~ (7), including court costs for an action brought pursuant to  
38 ~~paragraph (b) of this subsection~~ (6) SUBSECTION (7)(b) OF THIS SECTION.

39 ~~(7)~~ (8) (a) If the board has reasonable cause to believe that an  
40 individual is violating this part ~~9 7~~, including but not limited to section  
41 ~~12-61-910 (1)~~ **12-10-720 (1)**, the board may enter an order requiring the  
42 individual to cease and desist ~~such~~ THE violations.

43 (b) The board, upon its own motion, may, and, upon the complaint  
44 in writing of any person, shall, investigate the activities of any licensee  
45 or any individual who assumes to act in such capacity within the state. In  
46 addition to any other penalty that may be imposed pursuant to this part ~~9 7~~  
47 ~~7~~, any individual violating any provision of this part ~~9 7~~ or any rules  
48 promulgated pursuant to this article **10** may be fined upon a finding of  
49 misconduct by the board as follows:

50 (I) In the first administrative proceeding, a fine not in excess of  
51 one thousand dollars per act or occurrence;

52 (II) In a second or subsequent administrative proceeding, a fine

1 not less than one thousand dollars nor in excess of two thousand dollars  
2 per act or occurrence.

3 (c) All fines collected pursuant to this subsection ~~(7)~~ (8) shall be  
4 transferred to the state treasurer, who shall credit them to the division of  
5 real estate cash fund created in section ~~12-61-111.5~~ 12-10-215.

6 ~~(8)~~ (9) The board shall keep records of the individuals licensed as  
7 mortgage loan originators and of disciplinary proceedings. The records  
8 kept by the board shall be open to public inspection in a reasonable time  
9 and manner determined by the board.

10 ~~(9)(a)~~ (10) The board shall maintain a system, which may include,  
11 without limitation, a hotline or website, that gives consumers a reasonably  
12 easy method for making complaints about a mortgage loan originator.

13 ~~(b)~~ ~~(Deleted by amendment, L. 2009, (HB 09-1085), ch. 303, p.~~  
14 ~~1621, § 1, effective August 5, 2009.)~~

15 ~~(10)~~ (11) The board shall promulgate rules to allow licensed  
16 mortgage loan originators to hire unlicensed mortgage loan originators  
17 under temporary licenses. If an unlicensed mortgage loan originator has  
18 initiated the application process for a license, he or she shall be assigned  
19 a temporary license for a reasonable period until a license is approved or  
20 denied. The licensed mortgage loan originator who employs an  
21 unlicensed mortgage loan originator shall be held responsible under all  
22 applicable provisions of law, including without limitation this part 97 and  
23 section 38-40-105 ~~C.R.S.~~, for the actions of the unlicensed mortgage loan  
24 originator to whom a temporary license has been assigned under this  
25 subsection ~~(10)~~ (11).

26 **12-10-712. [Formerly 12-61-905.1] Powers and duties of the**  
27 **board over mortgage companies - fines - rules.** (1) With respect to  
28 mortgage companies, the board may deny an application for registration;  
29 refuse to renew, suspend, or revoke the registration; enter  
30 cease-and-desist orders; and impose fines as set forth in this section as  
31 follows:

32 (a) If the board has reasonable cause to believe a person is acting  
33 without a license or registration;

34 (b) If the mortgage company fails to maintain possession, for  
35 future use or inspection by an authorized representative of the board, for  
36 a period of four years, of the documents or records prescribed by the rules  
37 of the board or to produce ~~such~~ THE documents or records upon  
38 reasonable request by the board or by an authorized representative of the  
39 board;

40 (c) If the mortgage company employs or contracts with individuals  
41 who are required to be licensed pursuant to this part 97 and who are not  
42 either:

43 (I) Licensed; or

44 (II) In the process of becoming licensed; or

45 (d) If the mortgage company directs, makes, or causes to be made,  
46 in any manner, a false or deceptive statement or representation with  
47 regard to the rates, points, or other financing terms or conditions for a  
48 residential mortgage loan; engages in bait and switch advertising as that  
49 term is used in section 6-1-105 (1)(n); ~~C.R.S.~~, or violates any rule of the  
50 board that directly or indirectly addresses advertising requirements.

51 (2) (a) The board upon its own motion or upon the complaint in  
52 writing of any person may investigate the activities of any registered

1 mortgage company or any mortgage company that is acting in a capacity  
2 that requires registration pursuant to this part 9 7.

3 (b) The board may fine a mortgage company that has violated this  
4 section or any rules promulgated pursuant to this section as follows:

5 (I) In the first administrative proceeding, a fine not in excess of  
6 one thousand dollars per act or occurrence;

7 (II) In a second or subsequent administrative proceeding, a fine  
8 not in excess of two thousand dollars per act or occurrence.

9 (c) All fines collected pursuant to this section shall be transmitted  
10 to the state treasurer, who shall credit them to the division of real estate  
11 cash fund created in section ~~12-61-111.5~~ **12-10-215**.

12 (3) The board may adopt reasonable rules for implementing this  
13 section.

14 (4) Nothing in this section automatically imputes a violation to the  
15 mortgage company if a licensed agent or employee, or an individual agent  
16 or employee who is required to be licensed, violates any other provision  
17 of this part 9 7.

18 **12-10-713. [Formerly 12-61-905.5] Disciplinary actions -**  
19 **grounds - procedures - rules.** (1) The board, upon its own motion, may,  
20 or upon the complaint in writing of any person, shall, investigate the  
21 activities of any mortgage loan originator. The board has the power to  
22 impose an administrative fine in accordance with section ~~12-61-905~~  
23 **12-10-711**, deny a license, censure a licensee, place the licensee on  
24 probation and set the terms of probation, order restitution, order the  
25 payment of actual damages, or suspend or revoke a license when the  
26 board finds that the licensee or applicant has performed, is performing,  
27 or is attempting to perform any of the following acts:

28 (a) Knowingly making any misrepresentation or knowingly  
29 making use of any false or misleading advertising;

30 (b) Making any promise that influences, persuades, or induces  
31 another person to detrimentally rely on ~~such~~ THE promise when the  
32 licensee could not or did not intend to keep ~~such~~ THE promise;

33 (c) Knowingly misrepresenting or making false promises through  
34 agents, salespersons, advertising, or otherwise;

35 (d) Violating any provision of the "Colorado Consumer Protection  
36 Act", article 1 of title 6, C.R.S., and, if the licensee has been assessed a  
37 civil or criminal penalty or been subject to an injunction under ~~said~~ THE  
38 act, the board shall revoke the licensee's license;

39 (e) Acting for more than one party in a transaction without  
40 disclosing any actual or potential conflict of interest or without disclosing  
41 to all parties any fiduciary obligation or other legal obligation of the  
42 mortgage loan originator to any party;

43 (f) Representing or attempting to represent a mortgage loan  
44 originator other than the licensee's principal or employer without the  
45 express knowledge and consent of that principal or employer;

46 (g) In the case of a licensee in the employ of another mortgage  
47 loan originator, failing to place, as soon after receipt as is practicably  
48 possible, in the custody of that licensed mortgage loan  
49 originator-employer any deposit money or other money or fund entrusted  
50 to the employee by any person dealing with the employee as the  
51 representative of that licensed mortgage loan originator-employer;

52 (h) Failing to account for or to remit, within a reasonable time,

1 any ~~moneys~~ MONEY coming into his or her possession that ~~belong~~  
2 BELONGS to others, whether acting as a mortgage loan originator, real  
3 estate broker, salesperson, or otherwise, and failing to keep records  
4 relative to ~~said moneys~~ THE MONEY, which records shall contain such  
5 information as may be prescribed by the rules of the board relative thereto  
6 and shall be subject to audit by the board;

7 (i) Converting funds of others, diverting funds of others without  
8 proper authorization, commingling funds of others with the licensee's  
9 own funds, or failing to keep ~~such~~ THE funds of others in an escrow or a  
10 trustee account with a bank or recognized depository in this state, which  
11 account may be any type of checking, demand, passbook, or statement  
12 account insured by an agency of the United States government, and to  
13 keep records relative to the deposit that contain such information as may  
14 be prescribed by the rules of the board relative thereto, which records  
15 shall be subject to audit by the board;

16 (j) Failing to provide the parties to a residential mortgage loan  
17 transaction with such information as may be prescribed by the rules of the  
18 board;

19 (k) Unless an employee of a duly registered mortgage company,  
20 failing to maintain possession, for future use or inspection by an  
21 authorized representative of the board, for a period of four years, of the  
22 documents or records prescribed by the rules of the board or to produce  
23 ~~such~~ THE documents or records upon reasonable request by the board or  
24 by an authorized representative of the board;

25 (l) Paying a commission or valuable consideration for performing  
26 any of the functions of a mortgage loan originator, as described in this  
27 part ~~9 7~~, to any person who is not licensed under this part ~~9 7~~ or is not  
28 registered in compliance with the federal "Secure and Fair Enforcement  
29 for Mortgage Licensing Act of 2008", 12 U.S.C. sec. 5101 et seq.;

30 (m) Disregarding or violating any provision of this part ~~9 7~~ or any  
31 rule adopted by the board pursuant to this part ~~9 7~~; violating any lawful  
32 orders of the board; or aiding and abetting a violation of any rule, order  
33 of the board, or provision of this part ~~9 7~~;

34 (n) Conviction of, entering a plea of guilty to, or entering a plea  
35 of nolo contendere to any crime in article 3 of title 18, ~~C.R.S.~~, in parts 1  
36 to 4 of article 4 of title 18, ~~C.R.S.~~, in article 5 of title 18, ~~C.R.S.~~, in part  
37 3 of article 8 of title 18, ~~C.R.S.~~, in article 15 of title 18, ~~C.R.S.~~, in article  
38 17 of title 18, ~~C.R.S.~~, or any other like crime under Colorado law, federal  
39 law, or the laws of other states. A certified copy of the judgment of a  
40 court of competent jurisdiction of ~~such~~ A conviction or other official  
41 record indicating that ~~such~~ A plea was entered shall be conclusive  
42 evidence of ~~such~~ THE conviction or plea in any hearing under this part ~~9~~  
43 ~~7~~.

44 (o) Violating or aiding and abetting in the violation of the  
45 Colorado or federal fair housing laws;

46 (p) Failing to immediately notify the board in writing of a  
47 conviction, plea, or violation pursuant to ~~paragraph (n) or (o) of this~~  
48 ~~subsection (1)~~ SUBSECTION (1)(n) OR (1)(o) OF THIS SECTION;

49 (q) Having demonstrated unworthiness or incompetency to act as  
50 a mortgage loan originator by conducting business in such a manner as to  
51 endanger the interest of the public;

52 (r) ~~(Deleted by amendment, L. 2009, (HB 09-1085), ch. 303, p.~~

1 ~~1625, § 1, effective August 5, 2009.)~~

2 ~~(s)~~ **(r)** Procuring, or attempting to procure, a mortgage loan  
3 originator's license or renewing, reinstating, or reactivating, or attempting  
4 to renew, reinstate, or reactivate, a mortgage loan originator's license by  
5 fraud, misrepresentation, or deceit or by making a material misstatement  
6 of fact in an application for ~~such~~ THE license;

7 ~~(t)~~ **(s)** Claiming, arranging for, or taking any secret or undisclosed  
8 amount of compensation, commission, or profit or failing to reveal to the  
9 licensee's principal or employer the full amount of ~~such~~ THE licensee's  
10 compensation, commission, or profit in connection with any acts for  
11 which a license is required under this part ~~9 7~~;

12 ~~(tt)~~ **(t)** Exercising an option to purchase in any agreement  
13 authorizing or employing ~~such~~ A licensee to sell, buy, or exchange real  
14 estate for compensation or commission except when ~~such~~ THE licensee,  
15 prior to or coincident with election to exercise ~~such~~ THE option to  
16 purchase, reveals in writing to the licensee's principal or employer the full  
17 amount of the licensee's profit and obtains the written consent of ~~such~~  
18 THE principal or employer approving the amount of ~~such~~ THE profit;

19 ~~(v)~~ **(u)** Fraud, misrepresentation, deceit, or conversion of trust  
20 funds that results in the payment of any claim pursuant to this part ~~9 7~~ or  
21 that results in the entry of a civil judgment for damages;

22 ~~(w)~~ **(v)** Any other conduct, whether of the same or a different  
23 character than specified in this subsection (1), that evinces a lack of good  
24 faith and fair dealing;

25 ~~(x)~~ **(w)** Having had a mortgage loan originator's license suspended  
26 or revoked in any jurisdiction or having had any disciplinary action taken  
27 against the mortgage loan originator in any other jurisdiction. A certified  
28 copy of the order of disciplinary action shall be prima facie evidence of  
29 ~~such~~ THE disciplinary action.

30 ~~(y)~~ **(x)** Engaging in any unfair or deceptive practice toward any  
31 person;

32 ~~(z)~~ **(y)** Obtaining property by fraud or misrepresentation;

33 ~~(aa)~~ **(z)** Soliciting or entering into a contract with a borrower that  
34 provides, in substance, that the mortgage loan originator may earn a fee  
35 or commission through the mortgage loan originator's best efforts to  
36 obtain a loan even though no loan is actually obtained for the borrower;

37 ~~(bb)~~ **(aa)** Soliciting, advertising, or entering into a contract for  
38 specific interest rates, points, or other financing terms unless the terms are  
39 actually available at the time of the solicitation, advertisement, or  
40 contract;

41 ~~(cc)~~ **(bb)** Failing to make a disclosure to a loan applicant or a  
42 noninstitutional investor as required by section ~~12-61-914~~ **12-10-725** and  
43 any other applicable state or federal law;

44 ~~(dd)~~ **(cc)** Making, in any manner, any false or deceptive statement  
45 or representation with regard to the rates, points, or other financing terms  
46 or conditions for a residential mortgage loan or engaging in bait and  
47 switch advertising;

48 ~~(ee)~~ **(dd)** Negligently making any false statement or knowingly  
49 and willfully omitting a material fact in connection with any reports filed  
50 by a mortgage loan originator or in connection with any investigation  
51 conducted by the division;

52 ~~(ff)~~ **(ee)** In any advertising of residential mortgage loans or any

1 other applicable mortgage loan originator activities covered by the  
2 following federal acts, failing to comply with any requirement of the  
3 "Truth in Lending Act", 15 U.S.C. sec. 1601 and Regulation Z, 12 CFR  
4 226 and 12 CFR 1026; the "Real Estate Settlement Procedures Act of  
5 1974", 12 U.S.C. sec. 2601 and Regulation X, 12 CFR 1024 et seq.; the  
6 "Equal Credit Opportunity Act", 15 U.S.C. sec. 1691 and Regulation B,  
7 12 CFR 202.9, 202.11, and 202.12 and 12 CFR 1002; Title V, Subtitle A  
8 of the "Financial Services Modernization Act of 1999", also known as the  
9 "Gramm-Leach-Bliley Act", 15 U.S.C. secs. 6801 to 6809, and the federal  
10 trade commission's privacy rules, 16 CFR 313 and 314, mandated by the  
11 "Gramm-Leach-Bliley Act"; the "Home Mortgage Disclosure Act of  
12 1975", 12 U.S.C. sec. 2801 et seq. and Regulation C, home mortgage  
13 disclosure, 12 CFR 203 and 12 CFR 1003; the "Federal Trade  
14 Commission Act" of 1914, 15 U.S.C. sec. 45 (a) and 16 CFR 233; and the  
15 "Telemarketing and Consumer Fraud and Abuse Prevention Act", 15  
16 U.S.C. secs. 6101 to 6108, and the federal trade commission's  
17 telemarketing sales rule, 16 CFR 310, as amended. The board may adopt  
18 rules requiring mortgage loan originators to comply with other applicable  
19 state and federal statutes and regulations.

20 ~~(gg)~~ **(ff)** Failing to pay a third-party provider, no later than thirty  
21 days after the recording of the loan closing documents or ninety days after  
22 completion of the third-party service, whichever comes first, unless  
23 otherwise agreed or unless the third-party service provider has been  
24 notified in writing that a bona fide dispute exists regarding the  
25 performance or quality of the third-party service; or

26 ~~(hh)~~ **(gg)** Collecting, charging, attempting to collect or charge, or  
27 using or proposing any agreement purporting to collect or charge any fee  
28 prohibited by section ~~12-61-914~~ **12-10-725** or ~~12-61-915~~ **12-10-726**.

29 ~~(2)~~ **(2)** ~~(Deleted by amendment, L. 2009, (HB 09-1085), ch. 303, p.~~  
30 ~~1625, § 1, effective August 5, 2009.)~~

31 ~~(3)~~ **(2)** Upon request of the board, when any mortgage loan  
32 originator is a party to any suit or proceeding, either civil or criminal,  
33 arising out of any transaction involving a residential mortgage loan and  
34 the mortgage loan originator participated in the transaction in his or her  
35 capacity as a licensed mortgage loan originator, the mortgage loan  
36 originator shall supply to the board a copy of the complaint, indictment,  
37 information, or other initiating pleading and the answer filed, if any, and  
38 advise the board of the disposition of the case and of the nature and  
39 amount of any judgment, verdict, finding, or sentence that may be made,  
40 entered, or imposed therein.

41 ~~(4)~~ **(3)** This part ~~9 7~~ shall not be construed to relieve any person  
42 from civil liability or criminal prosecution under the laws of this state.

43 ~~(5)~~ **(4)** Complaints of record in the office of the board and board  
44 investigations, including board investigative files, are closed to public  
45 inspection. Stipulations and final agency orders are public record and  
46 subject to sections 24-72-203 and 24-72-204. ~~C.R.S.~~

47 ~~(6)~~ **(5)** When a complaint or an investigation discloses an instance  
48 of misconduct that, in the opinion of the board, does not warrant formal  
49 action by the board but that should not be dismissed as being without  
50 merit, the board may send a letter of admonition by certified mail, return  
51 receipt requested, to the licensee against whom a complaint was made and  
52 a copy of the letter of admonition to the person making the complaint, but

1 the letter shall advise the licensee that the licensee has the right to request  
2 in writing, within twenty days after proven receipt, that formal  
3 disciplinary proceedings be initiated to adjudicate the propriety of the  
4 conduct upon which the letter of admonition is based. If ~~such~~ THE request  
5 is timely made, the letter of admonition shall be deemed vacated, and the  
6 matter shall be processed by means of formal disciplinary proceedings.

7 ~~(7)~~ (6) All administrative fines collected pursuant to this section  
8 shall be transmitted to the state treasurer, who shall credit them to the  
9 division of real estate cash fund created in section ~~12-61-111.5~~  
10 **12-10-215.**

11 ~~(8)~~ (7) (a) The board shall not consider an application for  
12 licensure from an individual whose license has been revoked until two  
13 years after the date of revocation.

14 (b) If an individual's license was suspended or revoked due to  
15 conduct that resulted in financial loss to another person, no new license  
16 shall be granted, nor shall a suspended license be reinstated, until full  
17 restitution has been made to the person suffering ~~such~~ THE financial loss.  
18 The amount of restitution shall include interest, reasonable attorney fees,  
19 and costs of any suit or other proceeding undertaken in an effort to  
20 recover the loss.

21 ~~(9)~~ (8) When the board or the division becomes aware of facts or  
22 circumstances that fall within the jurisdiction of a criminal justice or other  
23 law enforcement authority upon investigation of the activities of a  
24 licensee, the board or division shall, in addition to the exercise of its  
25 authority under this part 9 7, refer and transmit ~~such~~ THE information,  
26 which may include originals or copies of documents and materials, to one  
27 or more criminal justice or other law enforcement authorities for  
28 investigation and prosecution as authorized by law.

29 **12-10-714. [Formerly 12-61-905.6] Hearing - administrative**  
30 **law judge - review - rules.** (1) Except as otherwise provided in this  
31 section, all proceedings before the board with respect to disciplinary  
32 actions and denial of licensure under this part 9 7, at the discretion of the  
33 board, may be conducted by an authorized representative of the board or  
34 an administrative law judge pursuant to sections 24-4-104 and 24-4-105.  
35 ~~C.R.S.~~

36 (2) Proceedings shall be held in the county where the board has its  
37 office or in such other place as the board may designate. If the licensee  
38 is employed by another licensed mortgage loan originator or by a real  
39 estate broker, the board shall also notify the licensee's employer by  
40 mailing, by first-class mail, a copy of the written notice required under  
41 section 24-4-104 (3) ~~C.R.S.~~, to the employer's last-known business  
42 address.

43 (3) The board, an authorized representative of the board, or an  
44 administrative law judge shall conduct all hearings for denying,  
45 suspending, or revoking a license or certificate on behalf of the board,  
46 subject to appropriations made to the department of personnel. Each  
47 administrative law judge shall be appointed pursuant to part 10 of article  
48 30 of title 24. ~~C.R.S.~~ The administrative law judge shall conduct the  
49 hearing in accordance with sections 24-4-104 and 24-4-105. ~~C.R.S.~~ No  
50 license shall be denied, suspended, or revoked until the board has made  
51 its decision.

52 (4) The decision of the board in any disciplinary action or denial



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of licensure under this section is subject to judicial review by the court of appeals. In order to effectuate the purposes of this part 9 7, the board has the power to promulgate rules pursuant to article 4 of title 24. ~~C.R.S.~~

(5) In a judicial review proceeding, the court may stay the execution or effect of any final order of the board; but a hearing shall be held affording the parties an opportunity to be heard for the purpose of determining whether the public health, safety, and welfare would be endangered by staying the board's order. If the court determines that the order should be stayed, it shall also determine at the hearing the amount of the bond and adequacy of the surety, which bond shall be conditioned upon the faithful performance by ~~such~~ THE petitioner of all obligations as a mortgage loan originator and upon the prompt payment of all damages arising from or caused by the delay in the taking effect of or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with ~~such~~ THE proceedings.

(6) In any hearing conducted by the board or an authorized representative of the board in which there is a possibility of the denial, suspension, or revocation of a license because of the conviction of a felony or of a crime involving moral turpitude, the board or its authorized representative shall be governed by section 24-5-101. ~~C.R.S.~~

**12-10-715. [Formerly 12-61-905.7] Subpoena - misdemeanor.**

(1) The board or the administrative law judge appointed for hearings may issue subpoenas, as described in section ~~12-61-905 (6)~~ **12-10-711 (7)**, which shall be served in the same manner as subpoenas issued by district courts and shall be issued without discrimination between public or private parties requiring the attendance of witnesses or the production of documents at hearings.

(2) Any person who willfully fails or neglects to appear and testify or to produce books, papers, or records required by subpoena, duly served upon him or her in any matter conducted under this part 9 7, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred dollars or imprisonment in the county jail for not more than thirty days for each such offense, or by both such fine and imprisonment. Each day ~~such~~ A person so refuses or neglects constitutes a separate offense.

**12-10-716. [Formerly 12-61-906] Immunity.**

A person participating in good faith in the filing of a complaint or report or participating in an investigation or hearing before the board or an administrative law judge pursuant to this part 9 7 shall be immune from any liability, civil or criminal, that otherwise might result by reason of ~~such~~ THE action.

**12-10-717. [Formerly 12-61-907] Bond required - rules.**

(1) Before receiving a license, an applicant shall post with the board a surety bond in an amount prescribed by the board by rule. A licensed mortgage loan originator shall maintain the required bond at all times. The surety bond may be held by the individual mortgage loan originator or may be in the name of the company by which the mortgage loan originator is employed. The board may adopt rules to further define surety bond requirements.

(2) The surety shall not be required to pay a person making a claim upon the bond until a final determination of fraud, forgery, criminal impersonation, or fraudulent representation has been made by a court with

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jurisdiction.

(3) The surety bond shall require the surety to provide notice to the board within thirty days if payment is made from the surety bond or if the bond is cancelled.

**12-10-718. [Formerly 12-61-908] Fees.** ~~(1)~~ The board may set the fees for issuance and renewal of licenses and registrations under this part ~~9 7~~. The fees shall be set in amounts that offset the direct and indirect costs of implementing this part ~~9 7~~ and section 38-40-105. The money collected pursuant to this section shall be transferred to the state treasurer, who shall credit it to the division of real estate cash fund created in section ~~12-61-111.5~~ **12-10-215**.

~~(2) and (3) (Deleted by amendment, L. 2017.)~~

**12-10-719. [Formerly 12-61-909] Attorney general - district attorney - jurisdiction.** The attorney general shall have concurrent jurisdiction with the district attorneys of this state to investigate and prosecute allegations of criminal violations of this part ~~9 7~~.

**12-10-720. [Formerly 12-61-910] Violations - injunctions.**

(1) (a) Any individual violating this part ~~9 7~~ by acting as a mortgage loan originator in this state without having obtained a license or by acting as a mortgage loan originator after that individual's license has been revoked or during any period for which said THE license may have been suspended is guilty of a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501; ~~C.R.S.~~; except that, if the violator is not a natural person, the violator shall be punished by a fine of not more than five thousand dollars.

(b) Each residential mortgage loan negotiated or offered to be negotiated by an unlicensed person shall be a separate violation of this subsection (1).

~~(2) (Deleted by amendment, L. 2007, p. 1742, 11, effective January 1, 2008.)~~

~~(3)~~ (2) The board may request that an action be brought in the name of the people of the state of Colorado by the attorney general or the district attorney of the district in which the violation is alleged to have occurred to enjoin a person from engaging in or continuing the violation or from doing any act that furthers the violation. In such an action, an order or judgment may be entered awarding ~~such~~ THE preliminary or final injunction as is deemed proper by the court. The notice, hearing, or duration of an injunction or restraining order shall be made in accordance with the Colorado rules of civil procedure.

~~(4)~~ (3) A violation of this part ~~9 7~~ shall not affect the validity or enforceability of any mortgage.

**12-10-721. [Formerly 12-61-910.2] Prohibited conduct - influencing a real estate appraisal.** (1) A mortgage loan originator shall not, directly or indirectly, compensate, coerce, or intimidate an appraiser, or attempt, directly or indirectly, to compensate, coerce, or intimidate an appraiser, for the purpose of influencing the independent judgment of the appraiser with respect to the value of a dwelling offered as security for repayment of a residential mortgage loan. This prohibition shall not be construed as prohibiting a mortgage loan originator from requesting an appraiser to:

- (a) Consider additional, appropriate property information;
- (b) Provide further detail, substantiation, or explanation for the

1 appraiser's value conclusion; or

2 (c) Correct errors in the appraisal report.

3 **12-10-722. [Formerly 12-61-910.3] Rule-making authority.** The  
4 board has the authority to promulgate rules as necessary to enable the  
5 board to carry out the board's duties under this part 9 7.

6 ~~**12-61-910.4. Nontraditional mortgage products - consumer**~~  
7 ~~**protections - rules - incorporation of federal interagency guidance.**~~  
8 ~~**(Repealed)**~~

9 ~~**12-61-911. Prohibited conduct - fraud - misrepresentation -**~~  
10 ~~**conflict of interest - rules. (Repealed)**~~

11 **12-10-723. [Formerly 12-61-911.5] Acts of employee - mortgage**  
12 **loan originator's liability.** An unlawful act or violation of this part 9 7  
13 upon the part of an agent or employee of a licensed mortgage loan  
14 originator shall not be cause for disciplinary action against a mortgage  
15 loan originator unless it appears that the mortgage loan originator knew  
16 or should have known of the unlawful act or violation or had been  
17 negligent in the supervision of the agent or employee.

18 **12-10-724. [Formerly 12-61-912] Dual status as real estate**  
19 **broker - requirements.** (1) Unless a mortgage loan originator complies  
20 with both subsections (2) and (3) of this section, he or she shall not act as  
21 a mortgage loan originator in any transaction in which:

22 (a) The mortgage loan originator acts or has acted as a real estate  
23 broker or salesperson; or

24 (b) Another person doing business under the same licensed real  
25 estate broker acts or has acted as a real estate broker or salesperson.

26 (2) Before providing mortgage-related services to the borrower,  
27 a mortgage loan originator shall make a full and fair disclosure to the  
28 borrower, in addition to any other disclosures required by this part 9 7 or  
29 other laws, of all material features of the loan product and all facts  
30 material to the transaction.

31 (3) (a) A real estate broker or salesperson licensed under part 2  
32 of this article *10* who also acts as a mortgage loan originator shall carry  
33 on ~~such~~ THE mortgage loan originator business activities and shall  
34 maintain ~~such~~ THE person's mortgage loan originator business records  
35 separate and apart from the real estate broker or sales activities conducted  
36 pursuant to part 2 of this article *10*. ~~Such~~ THE activities shall be deemed  
37 separate and apart even if they are conducted at an office location with a  
38 common entrance and mailing address if:

39 (I) Each business is clearly identified by a sign visible to the  
40 public;

41 (II) Each business is physically separated within the office facility;  
42 and

43 (III) No deception of the public as to the separate identities of the  
44 broker business firms results.

45 (b) This subsection (3) shall not require a real estate broker or  
46 salesperson licensed under part 2 of this article *10* who also acts as a  
47 mortgage loan originator to maintain a physical separation within the  
48 office facility for the conduct of its real estate broker or sales and  
49 mortgage loan originator activities if the board determines that  
50 maintaining ~~such~~ THE physical separation would constitute an undue  
51 financial hardship upon the mortgage loan originator and is unnecessary  
52 for the protection of the public.

1 ~~12-61-913. Written contract required - effect. (Repealed)~~  
2 **12-10-725. [Formerly 12-61-914] Written disclosure of fees and**  
3 **costs - contents - limits on fees - lock-in agreement terms - rules.**

4 (1) (a) A mortgage loan originator's disclosures must comply with all  
5 applicable requirements of:

6 (I) The federal "Truth in Lending Act", 15 U.S.C. secs. 1601 et  
7 seq., and Regulation Z, 12 CFR 226 and 12 CFR 1026;

8 (II) The federal "Real Estate Settlement Procedures Act of 1974",  
9 12 U.S.C. secs. 2601 et seq., and Regulation X, 12 CFR 1024 et seq.;

10 (III) The federal "Equal Credit Opportunity Act", 15 U.S.C. sec.  
11 1691 and Regulation B, 12 CFR 202.9, 202.11, and 202.12 and 12 CFR  
12 1002;

13 (IV) Title V, Subtitle A of the federal "Financial Services  
14 Modernization Act of 1999", also known as the "Gramm-Leach-Bliley  
15 Act", 15 U.S.C. secs. 6801 to 6809, and the federal trade commission's  
16 privacy rules, 16 CFR 313 and 314, adopted in accordance with the  
17 federal "Gramm-Leach-Bliley Act";

18 (V) The federal "Home Mortgage Disclosure Act of 1975", 12  
19 U.S.C. secs. 2801 et seq., and Regulation C, 12 CFR 203 and 12 CFR  
20 1003, pertaining to home mortgage disclosure;

21 (VI) The "Federal Trade Commission Act of 1914", 15 U.S.C.  
22 sec. 45 (a), and 16 CFR 233;

23 (VII) The federal "Telemarketing and Consumer Fraud and Abuse  
24 Prevention Act", 15 U.S.C. secs. 6101 to 6108, and the federal trade  
25 commission's telemarketing sales rule, 16 CFR 310.

26 (b) The board may, by rule, require mortgage loan originators to  
27 comply with other mortgage loan disclosure requirements contained in  
28 applicable statutes and regulations in connection with making any  
29 residential mortgage loan or engaging in other activity subject to this part  
30 97.

31 ~~(2) to (4) (Deleted by amendment, L. 2016.)~~

32 **12-10-726. [Formerly 12-61-915] Fee, commission, or**  
33 **compensation - when permitted - amount.**

34 (1) Except as otherwise  
35 permitted by subsection (2) or (3) of this section, a mortgage loan  
36 originator shall not receive a fee, commission, or compensation of any  
37 kind in connection with the preparation or negotiation of a residential  
38 mortgage loan unless a borrower actually obtains a loan from a lender on  
39 the terms and conditions agreed to by the borrower and mortgage loan  
40 originator.

41 (2) If the mortgage loan originator has obtained for the borrower  
42 a written commitment from a lender for a loan on the terms and  
43 conditions agreed to by the borrower and the mortgage loan originator,  
44 and the borrower fails to close on the loan through no fault of the  
45 mortgage loan originator, the mortgage loan originator may charge a fee,  
46 not to exceed three hundred dollars, for services rendered, preparation of  
47 documents, or transfer of documents in the borrower's file that were  
48 prepared or paid for by the borrower if the fee is not otherwise prohibited  
49 by the federal "Truth in Lending Act", 15 U.S.C. sec. 1601, and  
50 Regulation Z, 12 CFR 226, as amended.

51 (3) A mortgage loan originator may solicit or receive fees for  
52 third-party provider goods or services in advance. Fees for any goods or  
services not provided shall be refunded to the borrower, and the mortgage

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loan originator may not charge more for the goods and services than the actual costs of the goods or services charged by the third-party provider.

**12-10-727. [Formerly 12-61-916] Confidentiality.** (1) Except as otherwise provided in the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008", 12 U.S.C. sec. 5111, the requirements under any federal law or law of this state regarding privacy or confidentiality of any information or material provided to the nationwide mortgage licensing system and registry, and any privilege arising under federal or state law, including the rules of any federal or state court with respect to ~~such~~ THE information or material, shall apply to the information or material after it has been disclosed to the nationwide mortgage licensing system and registry. The information or material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or confidentiality protections provided by federal or state law.

(2) The board may enter into agreements with other government agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, OR ITS SUCCESSOR ORGANIZATION, or other associations representing government agencies as established by rule.

(3) Information or material that is subject to privilege or confidentiality pursuant to subsection (1) of this section shall not be subject to the following:

(a) Disclosure under a federal or state law governing the disclosure to the public of information held by an officer or agency of the federal government or the respective state; or

(b) Subpoena, discovery, or admission into evidence in any private civil action or administrative process, unless with respect to a privilege held by the nationwide mortgage licensing system and registry regarding the information or material, the person to whom the information or material pertains waives the privilege, in whole or in part.

**12-10-728. [Formerly 12-61-917] Mortgage call reports - reports of violations.** (1) The board may require each licensee or registrant to submit to the nationwide mortgage licensing system and registry mortgage call reports, which shall be in the form and contain the information required by the nationwide mortgage licensing system and registry.

(2) The board may report violations of this part 9 7, enforcement actions, and other relevant information to the nationwide mortgage licensing system and registry.

**12-10-729. [Formerly 12-61-918] Unique identifier - clearly displayed.** Each person required to be licensed or registered shall show his or her or the entity's unique identifier clearly on all residential mortgage loan application forms and any other documents as specified by the board by rule or order.

**12-10-730. [Formerly 12-61-919] Repeal of part.** (1) This part 9 7 is repealed, effective September 1, 2029.

(2) ~~Prior to~~ BEFORE its repeal, the ~~department of regulatory agencies shall review~~ the licensing of mortgage loan originators and the registration of mortgage companies IS SCHEDULED FOR REVIEW in accordance with section 24-34-104. ~~C.R.S.~~ The department shall include in its review of mortgage loan originators and mortgage companies an

1 analysis of the number and types of complaints made about mortgage loan  
2 originators and mortgage companies and whether the licensing of  
3 mortgage loan originators and the registration of mortgage companies  
4 correlates with public protection from fraudulent activities in the  
5 residential mortgage loan industry.  
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7 PART 8  
8 HOA INFORMATION AND  
9 RESOURCE CENTER

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11 **12-10-801. [Formerly 12-61-406.5]. HOA information and**  
12 **resource center - creation - duties - rules - repeal.** (1) There is hereby  
13 created, within the division, ~~of real estate~~, the HOA information and  
14 resource center, the head of which shall be the HOA information officer.  
15 The HOA information officer shall be appointed by the executive director  
16 ~~of the department of regulatory agencies~~ pursuant to section 13 of article  
17 XII of the state constitution.

18 (2) The HOA information officer shall be familiar with the  
19 "Colorado Common Interest Ownership Act", article 33.3 of title 38,  
20 ~~C.R.S.~~, also referred to in this section as the "act". No person who is or,  
21 within the immediately preceding ten years, has been licensed by or  
22 registered with the division ~~of real estate~~ or who owns stocks, bonds, or  
23 any pecuniary interest in a corporation subject in whole or in part to  
24 regulation by the division ~~of real estate~~ shall be appointed as HOA  
25 information officer. In addition, in conducting the search for an  
26 appointee, the executive director ~~of the division of real estate~~ shall place  
27 a high premium on candidates who are balanced, independent, unbiased,  
28 and without any current financial ties to an HOA board or board member  
29 or to any person INDIVIDUAL or entity that provides HOA management  
30 services. After being appointed, the HOA information officer shall refrain  
31 from engaging in any conduct or relationship that would create a conflict  
32 of interest or the appearance of a conflict of interest.

33 (3) (a) The HOA information officer shall act as a clearing house  
34 for information concerning the basic rights and duties of unit owners,  
35 declarants, and unit owners' associations under the act by:

36 (I) Compiling a database about registered associations, including  
37 the name; address; e-mail address, if any; website, if any; and telephone  
38 number of each;

39 (II) Coordinating and assisting in the preparation of educational  
40 and reference materials, including materials to assist unit owners,  
41 executive boards, board members, and association managers in  
42 understanding their rights and responsibilities with respect to:

- 43 (A) Open meetings;  
44 (B) Proper use of executive sessions;  
45 (C) Removal of executive board members;  
46 (D) Unit owners' right to speak at meetings of the executive  
47 board;

48 (E) Unit owners' obligation to pay assessments and the  
49 association's rights and responsibilities in pursuing collection of past-due  
50 amounts; and

51 (F) Other educational or reference materials that the HOA  
52 information officer deems necessary or appropriate;

1 (III) Monitoring changes in federal and state laws relating to  
 2 common interest communities and providing information about the  
 3 changes on the ~~division of real estate's~~ DIVISION'S website; and  
 4 (IV) Providing information, including a "frequently asked  
 5 questions" resource, on the ~~division of real estate's~~ DIVISION'S website.  
 6 (b) The HOA information officer may:  
 7 (I) Employ one or more assistants as may be necessary to carry out  
 8 his or her duties; and  
 9 (II) Request certain records from associations as necessary to  
 10 carry out the HOA information officer's duties as set forth in this section.  
 11 (c) The HOA information officer shall track inquiries and  
 12 complaints and report annually to the director of the ~~division of real estate~~  
 13 regarding the number and types of inquiries and complaints received.  
 14 (4) The operating expenses of the HOA information and resource  
 15 center shall be paid from the division of real estate cash fund, created in  
 16 section ~~12-61-111.5~~ 12-10-215, subject to annual appropriation.  
 17 (5) The director of the ~~division of real estate~~ may adopt rules as  
 18 necessary to implement this section and section 38-33.3-401. ~~C.R.S.~~ This  
 19 subsection (5) shall not be construed to confer additional rule-making  
 20 authority upon the director for any other purpose.  
 21 (6) This section is repealed, effective September 1, 2020. ~~Prior to~~  
 22 ~~such~~ BEFORE ITS repeal, the HOA information and resource center and the  
 23 HOA information officer's powers and duties under this section ~~shall be~~  
 24 ~~reviewed~~ IS SCHEDULED FOR REVIEW in accordance with section  
 25 24-34-104. ~~C.R.S.~~

~~12-61-406.7. Study of comparable HOA information and resource centers - recommendations - report - repeal. (Repealed)~~

PART 9  
PREOWNED HOUSING HOME  
WARRANTY  
SERVICE CONTRACTS

~~12-61-601. Short title. (Repealed)~~

12-10-901. [Formerly 12-61-602]. **Definitions.** As used in this part 6 9, unless the context otherwise requires:

~~(1) and (2) Repealed.~~

~~(2.3)~~ (1) "Home warranty service company", referred to in this part 6 9 as the "company", means any person who undertakes a contractual obligation on a new or preowned home through a home warranty service contract.

~~(2.5)~~ (2) (a) "Home warranty service contract" means any contract or agreement whereby a person undertakes for a predetermined fee, with respect to a specified period of time, to maintain, repair, or replace any or all of the following elements of a specified new or preowned home:

(I) Structural components, such as the roof, foundation, basement, walls, ceilings, or floors;

(II) Utility systems, such as electrical, air conditioning, plumbing, and heating systems, including furnaces; and

(III) Appliances, such as stoves, washers, dryers, and dishwashers.

(b) "Home warranty service contract" does not include:

(I) Any contract or agreement whereby a public utility undertakes

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for a predetermined fee, with respect to a specified period of time, to repair or replace any or all of the elements of a specified new or preowned home as specified in ~~subparagraph (II) or (III) of paragraph (a) of this subsection (2.5)~~ SUBSECTION (2)(a)(II) OR (2)(a)(III) OF THIS SECTION; or

(II) A builder's warranty provided in connection with the sale of a new home.

~~(3) "Person" includes an individual, company, corporation, association, agent, and every other legal entity.~~

~~(4) (3) "Preowned" means a single-family residence, residential unit in a multiple-dwelling structure, or mobile home on a foundation that is occupied as a residence and not owned by the builder-developer or first occupant.~~

~~(5) and (6) Repealed.~~

~~**12-61-603. Registration required - exemption. (Repealed)**~~

~~**12-61-604. Deposit - bond - letter of credit or initial capitalization. (Repealed)**~~

~~**12-61-605. Registration - denial - expiration and renewal. (Repealed)**~~

~~**12-61-606. Grounds for suspension or revocation of registration. (Repealed)**~~

~~**12-61-607. Judgments - distribution. (Repealed)**~~

~~**12-61-608. Order of suspension or revocation of registration. (Repealed)**~~

~~**12-61-609. Annual statement - review. (Repealed)**~~

~~**12-61-610. Reporting of service of process. (Repealed)**~~

~~**12-10-902. [Formerly 12-61-611] Purchase of service contract**~~

~~**not to be compulsory.**~~ A company selling, offering to sell, or effecting the issuance of a home warranty service contract under this part ~~6~~ 9 shall not in any manner require a home buyer or seller, or prospective home buyer or seller, or person refinancing a home to purchase a home warranty service contract.

~~**12-10-903. [Formerly 12-61-611.5] Contract requirements.**~~

(1) Every home warranty service contract shall contain the following information:

(a) A specific listing of all items or elements excluded from coverage;

(b) A specific listing of all other limitations in coverage, including the exclusion of preexisting conditions if applicable;

(c) The procedure that is required to be followed in order to obtain repairs or replacements;

(d) A statement as to the time period, following notification to the company, within which the requested repairs will be made or replacements will be provided;

(e) The specific duration of the home warranty service contract, including an exact termination date that is not contingent upon an unspecified future closing date or other indefinite event;

(f) A statement as to whether the home warranty service contract is transferable;

(g) A statement that actions under a home warranty service contract may be covered by the provisions of the "Colorado Consumer Protection Act" or the "Unfair Practices Act", articles 1 and 2 of title 6,



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~~C.R.S.~~, and that a party to such a contract may have a right of civil action under those laws, including obtaining the recourse or penalties specified in those laws.

**12-10-904. [Formerly 12-61-612] Penalty for violation.** Any person who knowingly violates any provision of this part ~~6~~ 9 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~ Each instance of violation shall be considered a separate offense.

~~12-61-613. Rules and regulations. (Repealed)~~

**12-10-905. [Formerly 12-61-614] Prohibitions.** It is unlawful for any lending institution to require the purchase of home warranty insurance as a condition for granting financing for the purchase of the home.

**12-10-906. [Formerly 12-61-615] Repeal of part.** This part ~~6~~ 9 is repealed, effective July 1, 2020. ~~Prior to the~~ BEFORE ITS repeal, this part ~~6~~ shall be reviewed as provided for in 9 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

~~12-61-1001 to 12-61-1014. (Repealed)~~

ARTICLE 15  
DIVISION OF CONSERVATION

**12-15-101. [Formerly 12-61-1101] Legislative declaration.**

- (1) The general assembly finds, determines, and declares that:
  - (a) Colorado's conservation easement program is an important preservation tool used to balance economic needs with natural resources such as land and water preservation. Colorado's conservation easement tax credit and the federal tax deduction have allowed many farmers and ranchers the opportunity to donate their development rights to preserve a legacy of open spaces in Colorado for wildlife, agriculture, and ranching.
  - (b) Citizens throughout Colorado believe good, sound conservation practices are important to Colorado's quality of life, agriculture, and natural heritage;
  - (c) Colorado's conservation easement tax credit program was designed to give landowners an incentive to conserve and preserve their land in a predominantly natural, scenic, or open condition;
  - (d) Creating a division of conservation within the department of regulatory agencies will keep a firewall between professional evaluation and professional discipline, while creating a division to ensure this program allows landowners to exercise their private property rights while protecting taxpayers from the fraud and abuse that existed in the program prior to 2009;
  - (e) Establishing the division of conservation to administer the conservation easement tax credit program will:
    - (I) Allow the division to continue to certify conservation easement holders to identify fraudulent or unqualified organizations and prevent them from holding conservation easements for which tax credits are claimed in the state;
    - (II) Allow the conservation easement oversight commission to

1 advise the division of conservation and the department of revenue  
2 regarding conservation easements for which a tax credit is claimed and  
3 to review applications for conservation easement holder certification; and

4 (III) Ensure that the division of conservation and the department  
5 of revenue are sharing relevant information concerning conservation  
6 easement appraisals in order to ensure compliance with accepted  
7 appraisal practices and other provisions of law.

8 **12-15-102. [Formerly 12-61-1102] Division of conservation -**  
9 **director.** (1) The executive director ~~of the department of regulatory~~  
10 ~~agencies~~ is authorized by this section to employ, subject to the provisions  
11 of the state personnel system laws of the state, a director of the division  
12 of conservation, referred to in this ~~part~~ ARTICLE 15 as the "division",  
13 who in turn shall employ such deputies, clerks, and assistants as are  
14 necessary to discharge the duties imposed by this ~~part~~ ARTICLE 15. The  
15 division of conservation, which is a division in the department, ~~of~~  
16 ~~regulatory agencies~~, and the director of the division shall exercise their  
17 powers and perform their duties and functions under the department of  
18 regulatory agencies as if they were transferred to the department by a **type**  
19 **2** transfer.

20 (2) It is the duty of the director of the division, ~~personally~~ or his  
21 or her designee, to aid in the administration and enforcement of this ~~part~~  
22 ~~ARTICLE 15~~ and to administer, in consultation with the conservation  
23 easement oversight commission, the certification of conservation  
24 easement holders and issuance of tax credit certificates as provided in this  
25 ~~part~~ ARTICLE 15.

26 **12-15-103. [Formerly 12-61-1103] Conservation easement**  
27 **oversight commission - created - repeal.** (1) There is hereby created in  
28 the division a conservation easement oversight commission. The  
29 commission shall exercise its powers and perform its duties and functions  
30 under the division as if transferred thereto by a **type 2** transfer, as defined  
31 in the "Administrative Organization Act of 1968", article 1 of title 24.  
32 The commission consists of eight members as follows:

33 (a) One member representing the great outdoors Colorado  
34 program, appointed by and serving as an advisory, nonvoting member at  
35 the pleasure of the state board of the great outdoors Colorado trust fund  
36 established in article XXVII of the state constitution;

37 (b) One voting member representing the department of natural  
38 resources, appointed by and serving at the pleasure of the executive  
39 director of the department of natural resources;

40 (c) One voting member representing the department of agriculture,  
41 appointed by and serving at the pleasure of the ~~executive director~~  
42 COMMISSIONER of the department of agriculture;

43 (d) Three voting members appointed by the governor as follows:

44 (I) Two voting representatives of certified conservation easement  
45 holders; and

46 (II) A voting individual who is competent and qualified to analyze  
47 the conservation purpose of conservation easements; and

48 (e) Two voting members of the general public, one appointed by  
49 the president of the senate to serve at the pleasure of the president and  
50 one appointed by the speaker of the house of representatives to serve at  
51 the pleasure of the speaker. Appointments made pursuant to this  
52 subsection (1)(e) are for three-year terms and no member shall serve more

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than two consecutive terms.

(2) In making appointments to the commission, the governor shall consult with the three members of the commission appointed pursuant to subsections (1)(a) to (1)(c) of this section and with appropriate organizations representing the particular interest or area of expertise that the appointees in subsections (1)(d)(I) and (1)(d)(II) of this section represent. Not more than two of the governor's appointees serving at the same time shall be from the same political party. In making the initial appointments, the governor shall appoint one member for a term of two years. All other appointments by the governor are for terms of three years. No member shall serve more than two consecutive terms. In the event of a vacancy by death, resignation, removal, or otherwise, the governor shall appoint a member to fill the unexpired term. The governor may remove any member for misconduct, neglect of duty, or incompetence.

(3) (a) At the request of the division or the department of revenue, the commission shall advise the division and the department of revenue regarding conservation easements for which a state income tax credit is claimed pursuant to section 39-22-522.

(b) The commission shall review conservation easement tax credit certificate applications and requests for optional preliminary advisory opinions in accordance with section ~~12-61-1106~~ **12-15-106**.

(4) The commission shall meet at least quarterly. The division shall convene the meetings of the commission and provide staff support as requested by the commission. A majority of the voting members of the commission constitutes a quorum for the transaction of all business, and actions of the commission require a vote of a majority of the voting members present in favor of the action taken. The commission may delegate to the director of the division the authority to act on behalf of the commission on occasions and in circumstances that the commission deems necessary for the efficient and effective administration and execution of the commission's responsibilities under this ~~part~~ **ARTICLE 15**.

(5) The commission shall establish a conflict-of-interest policy to ensure that any member of the commission is disqualified from performing an act that conflicts with a private pecuniary interest of the member or from participating in the deliberation or decision-making process for certification for an applicant represented by the member.

(6) The commission shall advise and make recommendations to the director of the division regarding the certification of conservation easement holders in accordance with section ~~12-61-1104~~ **12-15-104**.

(7) Commission members are immune from liability in accordance with the provisions of the "Colorado Governmental Immunity Act", article 10 of title 24.

(8) This section is repealed, effective July 1, 2019.  
**12-15-104. [Formerly 12-61-1104] Certification of conservation easement holders - rules - definition - repeal.** (1) The division shall, in consultation with the commission created in section ~~12-61-1103~~ **12-15-103**, establish and administer a certification program for qualified organizations under section 170 (h) of the federal "Internal Revenue Code of 1986", as amended, that hold conservation easements for which a tax credit is claimed pursuant to section 39-22-522. The purposes of the program are to:

1 (a) Establish minimum qualifications for certifying organizations  
2 that hold conservation easements to encourage professionalism and  
3 stability; and

4 (b) Identify fraudulent or unqualified applicants, as determined  
5 under the rules of the division, to prevent them from becoming certified  
6 by the program.

7 (2) The division shall establish and accept applications for  
8 certification. The division shall conduct a review of each application and  
9 consider the recommendations of the commission before making a final  
10 determination to grant or deny certification. In reviewing an application  
11 and in granting certification, the division and the commission may  
12 consider:

13 (a) The applicant's process for reviewing, selecting, and approving  
14 a potential conservation easement;

15 (b) The applicant's stewardship practices and capacity, including  
16 the ability to maintain, monitor, and defend the purposes of the easement;

17 (c) An audit of the applicant's financial records;

18 (d) The applicant's system of governance and ethics regarding  
19 conflicts of interest and transactions with related parties as described in  
20 section 267 (b) of the federal "Internal Revenue Code of 1986", as  
21 amended, donors, board members, and insiders. For purposes of this  
22 subsection (2)(d), "insiders" means board and staff members, substantial  
23 contributors, parties related to those above, those who have an ability to  
24 influence decisions of the organization, and those with access to  
25 information not available to the general public.

26 (e) Any other information deemed relevant by the division or the  
27 commission; and

28 (f) The unique circumstances of the different entities to which this  
29 certification applies as set forth in subsection (4) of this section.

30 (3) At the time of submission of an application, and each year the  
31 entity is certified pursuant to this section, the applicant shall pay the  
32 division a fee, as prescribed by the division, to cover the costs of the  
33 division and the commission in administering the certification program  
34 for entities that hold conservation easements for which tax credits are  
35 claimed pursuant to section 39-22-522. The division shall have the  
36 authority to accept and expend gifts, grants, and donations for the  
37 purposes of this section. The state treasurer shall credit fees, gifts, grants,  
38 and donations collected pursuant to this subsection (3) to the conservation  
39 cash fund created in section ~~12-61-1107~~ **12-15-107**. On or before each  
40 January 1, the division shall certify to the general assembly the amount of  
41 the fee prescribed by the division pursuant to this subsection (3).

42 (4) The certification program applies to:

43 (a) Nonprofit entities holding easements on property with  
44 conservation values consisting of recreation or education, protection of  
45 environmental systems, or preservation of open space;

46 (b) Nonprofit entities holding easements on property for historic  
47 preservation; and

48 (c) The state and any municipality, county, city and county,  
49 special district, or other political subdivision of the state that holds an  
50 easement.

51 (5) The certification program shall contain a provision allowing  
52 for the expedited or automatic certification of an entity that is currently

1 accredited by national land conservation organizations that are broadly  
2 accepted by the conservation industry.

3 (6) The commission shall meet at least quarterly and make  
4 recommendations to the division regarding the certification program. The  
5 division is authorized to determine whether an applicant for certification  
6 possesses the necessary qualifications for certification required by the  
7 rules adopted by the division. If the division determines that an applicant  
8 does not possess the applicable qualifications for certification or that the  
9 applicant has violated any provision of this ~~part~~ ~~11~~ ARTICLE 15, the rules  
10 promulgated by the division, or any division order, the division may deny  
11 the applicant a certification or deny the renewal of a certification, and, in  
12 such instance, the division shall provide the applicant with a statement in  
13 writing setting forth the basis of the division's determination. The  
14 applicant may request a hearing on the determination as provided in  
15 section 24-4-104 (9). The division shall notify successful applicants in  
16 writing. An applicant that is not certified may reapply for certification in  
17 accordance with procedures established by the division.

18 (7) The division shall promulgate rules to effectuate the duties of  
19 the commission pursuant to article 4 of title 24. ~~Such~~ THE rules shall  
20 specifically address the following:

21 (a) Allowing for the expedited or automatic certification of an  
22 entity that is currently accredited by national land conservation  
23 organizations that are broadly accepted by the conservation industry;

24 (b) A streamlined and lower-cost process for conservation  
25 easement holders that do not intend to accept new donations of  
26 conservation easements for which tax credits would be claimed that  
27 focuses on the holder's stewardship capabilities;

28 (c) The fees charged pursuant to subsection (3) of this section or  
29 section ~~12-61-1106~~ ~~(6)~~ **12-15-106 (6)**, specifically ensuring that the fees  
30 are adequate to pay for administrative costs but not so high as to act as a  
31 disincentive to the creation of conservation easements in the state; and

32 (d) The adoption of best practices, processes, and procedures used  
33 by other entities that regularly review conservation easement transactions,  
34 including a practice, process, or procedure deeming qualified  
35 conservation easement appraisals approved by these entities based on  
36 their independent reviews as credible for purposes of the conservation  
37 easement tax credit.

38 (8) A conservation easement tax credit certificate application may  
39 be submitted pursuant to section ~~12-61-1106~~ **12-15-106** only if the entity  
40 has been certified in accordance with this section at the time the donation  
41 of the easement is made. The division shall make information available  
42 to the public concerning the date that it commences accepting  
43 applications for entities that hold conservation easements and the  
44 requirements of this subsection (8).

45 (9) The division shall maintain and update an online list,  
46 accessible to the public, of the organizations that have applied for  
47 certification and whether each has been certified, rejected for  
48 certification, or had its certification revoked or suspended in accordance  
49 with this section.

50 (10) The division may investigate the activities of any entity that  
51 is required to be certified pursuant to this section and to impose discipline  
52 for noncompliance, including the suspension or revocation of a

1 certification or the imposition of fines. The division may promulgate rules  
2 in accordance with article 4 of title 24 for the certification program and  
3 discipline authorized by this section.

4 (11) The division may subpoena persons and documents, which  
5 subpoenas may be enforced by a court of competent jurisdiction if not  
6 obeyed, for purposes of conducting investigations pursuant to subsection  
7 (10) of this section.

8 (12) Nothing in this section:

9 (a) Affects any tax credit that was claimed pursuant to section  
10 39-22-522 before certification was required by this section; or

11 (b) Requires the certification of an entity that holds a conservation  
12 easement for which a tax credit is not claimed pursuant to section  
13 39-22-522.

14 (13) This section is repealed, effective July 1, 2019.

15 **12-15-105. [Formerly 12-61-1105] Conservation easement tax**  
16 **credit certificates - rules.** (1) The division shall receive tax credit  
17 certificate applications from and issue certificates to landowners for  
18 income tax credits for conservation easements donated on or after January  
19 1, 2011, in accordance with section 39-22-522 (2.5) and this ~~part~~  
20 ~~ARTICLE 15~~. Nothing in this section restricts or limits the authority of the  
21 division to enforce this ~~part~~ ~~ARTICLE 15~~. The division may promulgate  
22 rules in accordance with article 4 of title 24 for the issuance of the  
23 certificates. In promulgating rules, the division may include provisions  
24 governing:

25 (a) The review of the tax credit certificate application pursuant to  
26 this ~~part~~ ~~ARTICLE 15~~;

27 (b) The administration and financing of the certification process;

28 (c) The notification to the public regarding the aggregate amount  
29 of tax credit certificates that have been issued and that are on the wait list  
30 pursuant to section 39-25-522 (2.5);

31 (d) The notification to the landowner, the entity to which the  
32 easement was granted, and the department of revenue regarding the tax  
33 credit certificates issued; and

34 (e) Any other matters related to administering section 39-22-522  
35 (2.5) or this ~~part~~ ~~ARTICLE 15~~.

36 (2) The division shall apply the amount claimed in a completed  
37 tax credit certificate application against the annual tax credit limit in the  
38 order that completed applications are received. The division shall apply  
39 claimed tax credit amounts that exceed the annual limit in any year  
40 against the limit for the next available year and issue tax credit certificates  
41 for use in the year in which the amount was applied to the annual limit.

42 (3) The division shall not issue tax credit certificates that in  
43 aggregate exceed the limit set forth in section 39-22-522 (2.5) during a  
44 particular calendar year.

45 **12-15-106. [Formerly 12-61-1106] Conservation easement tax**  
46 **credit certificate application process - definitions - rules.** (1) For  
47 purposes of this section:

48 (a) "Application" means an application for a tax credit certificate  
49 submitted pursuant to section ~~12-61-1105~~ **12-15-105** or this section.

50 (b) "Conservation purpose" means conservation purpose as  
51 defined in section 170 (h) of the federal "Internal Revenue Code of  
52 1986", as amended, and any federal regulations promulgated in

1 connection with ~~such~~ THAT section.

2 (c) "Credibility" means the results are worthy of belief and are  
3 supported by relevant evidence and logic to the degree necessary for the  
4 intended use.

5 (d) "Deficiency" means noncompliance with a requirement for  
6 obtaining a tax credit certificate that, unless ~~such~~ THE noncompliance is  
7 remedied, is grounds for the denial of a tax credit certificate application  
8 submitted pursuant to this section.

9 (e) "Director" means the director of the division of conservation  
10 or his or her designee.

11 (f) "Landowner" means the record owner of the surface of the  
12 land and, if applicable, owner of the water or water rights beneficially  
13 used thereon who creates a conservation easement in gross pursuant to  
14 section 38-30.5-104.

15 (g) "Tax credit certificate" means the conservation easement tax  
16 credit certificate issued pursuant to section ~~12-61-1105~~ **12-15-105** and  
17 this section.

18 (2) (a) The division shall establish and administer a process by  
19 which a landowner seeking to claim an income tax credit for any  
20 conservation easement donation made on or after January 1, 2014, must  
21 apply for a tax credit certificate as required by section 39-22-522 (2.5)  
22 and (2.7). The purpose of the application process is to determine whether  
23 a conservation easement donation for which a tax credit will be claimed:

24 (I) Is a contribution of a qualified real property interest to a  
25 qualified organization to be used exclusively for a conservation purpose;

26 (II) Is substantiated with a qualified appraisal prepared by a  
27 qualified appraiser in accordance with the uniform standards of  
28 professional appraisal practice; and

29 (III) Complies with the requirements of this section.

30 (b) The landowner has the burden of proof regarding compliance  
31 with all applicable laws, rules, and regulations.

32 (3) For the purpose of reviewing applications and making  
33 determinations regarding the issuance of tax credit certificates, including  
34 the dollar amount of the tax credit certificate to be issued:

35 (a) Division staff shall review each application and advise and  
36 make recommendations to the director and the commission regarding the  
37 application;

38 (b) The director has authority and responsibility to determine the  
39 credibility of the appraisal. In determining credibility, the director shall  
40 consider, at a minimum, compliance with the following requirements:

41 (I) The appraisal for a conservation easement donation for which  
42 a tax credit is claimed pursuant to section 39-22-522 is a qualified  
43 appraisal from a qualified appraiser, as defined in section 170 (f) of the  
44 federal "Internal Revenue Code of 1986", as amended, and any federal  
45 regulations promulgated in connection with ~~such~~ THAT section;

46 (II) The appraisal conforms with THE SUBSTANCE AND PRINCIPLES  
47 OF the uniform standards of professional appraisal practice promulgated  
48 by the appraisal standards board of the appraisal foundation and any other  
49 provision of law;

50 (III) The appraiser holds a valid license as a certified general  
51 appraiser in accordance with part ~~7 6~~ of ~~this article 6~~ ARTICLE 10; and

52 (IV) The appraiser meets any education and experience

1 requirements established by the board of real estate appraisers in  
2 accordance with section ~~12-61-704 (1)(k)~~ **12-10-604 (1)(k)**.

3 (c) The director has the authority and responsibility to determine  
4 compliance with the requirements of section ~~12-61-1104~~ **12-15-104**.

5 (d) The commission has the authority and responsibility to  
6 determine whether a conservation easement donation for which a tax  
7 credit is claimed pursuant to section 39-22-522 is a qualified conservation  
8 contribution as defined in section 170 (h) of the federal "Internal Revenue  
9 Code of 1986", as amended, and any federal regulations promulgated in  
10 connection with ~~such~~ THAT section.

11 (4) The department of revenue is not authorized to disallow a  
12 conservation easement tax credit based on any requirements that are  
13 under the jurisdiction of the division, the director, or the commission  
14 pursuant to this section.

15 (5) A complete tax credit certificate application must be made by  
16 the landowner to the division and must include:

- 17 (a) A copy of the final conservation easement appraisal;
- 18 (b) A copy of the recorded deed granting the conservation  
19 easement;
- 20 (c) Documentation supporting the conservation purpose of the  
21 easement;
- 22 (d) Any other information or documentation the director or the  
23 commission deems necessary to make a final determination regarding the  
24 application; and

25 (e) The fee required pursuant to subsection (6) of this section.

26 (6) A landowner submitting an application for a tax credit  
27 certificate pursuant to this section or an application for an optional  
28 preliminary advisory opinion pursuant to subsection (14) of this section  
29 shall pay the division a fee as prescribed by the division. The application  
30 fee for an optional preliminary advisory opinion may be a different dollar  
31 amount than the application fee for a tax credit certificate. The fees must  
32 be adequate to pay for the administrative costs of the division and the  
33 commission in administering the requirements of this section, but not so  
34 high as to act as a disincentive to the creation of conservation easements  
35 in the state. The state treasurer shall credit the fees collected pursuant to  
36 this subsection (6) to the conservation cash fund created in section  
37 ~~12-61-1107~~ **12-15-107**. On or before January 1, 2014, and on or before  
38 each January 1 thereafter, the division shall certify to the general  
39 assembly the amount of any fees prescribed by the division pursuant to  
40 this subsection (6).

41 (7) (a) If, during the review of an application for a tax credit  
42 certificate, the director or the commission identifies any potential  
43 deficiencies, the director or commission shall document the potential  
44 deficiencies in a letter sent to the landowner by first-class mail. The  
45 division shall send letters documenting potential deficiencies to  
46 landowners in a timely manner so that the number of days between the  
47 date a completed application is received by the division and the mailing  
48 date of the division's letter to the landowner does not exceed one hundred  
49 twenty days.

50 (b) The landowner has sixty days after the mailing date of the  
51 division's letter to address the potential deficiencies identified by the  
52 director and the commission and provide additional information or



1 documentation that the director or the commission deems necessary to  
2 make a final determination regarding the application.

3 (c) The director and the commission have ninety days after the  
4 date of receipt of any additional information or documentation provided  
5 by the landowner to review the information and documentation and make  
6 a final determination regarding the application.

7 (d) The deadlines prescribed by this subsection (7) may be  
8 extended upon mutual agreement between the director and the  
9 commission and the landowner.

10 (8) The director or the commission may deny an application if the  
11 landowner:

12 (a) Has not demonstrated to the satisfaction of the director or the  
13 commission that the application complies with any requirement of this  
14 ~~part 11~~ ARTICLE 15;

15 (b) Does not provide the information and documentation required  
16 pursuant to this ~~part 11~~ ARTICLE 15; or

17 (c) Fails to timely respond to any written request or notice from  
18 the division, the director, or the commission.

19 (9) If the director reasonably believes that any appraisal submitted  
20 in accordance with this section is not credible, the director, after  
21 consultation with the commission, may request that the landowner, at the  
22 landowner's expense, obtain either a second appraisal or a review of the  
23 appraisal submitted with the application from an appraiser who meets the  
24 requirements of ~~part 7 6 of this article 61~~ ARTICLE 10 OF THIS TITLE 12 and  
25 is in good standing with the board before making a final determination  
26 regarding the application.

27 (10) If the director and the commission do not identify any  
28 potential deficiencies with an application, the director and the  
29 commission shall approve the application, and the division shall issue a  
30 tax credit certificate to the landowner pursuant to section ~~12-61-1105~~  
31 **12-15-105** in a timely manner so that the number of days between the date  
32 a completed application is received by the division and the date the tax  
33 credit certificate is issued does not exceed one hundred twenty days. Once  
34 a tax credit certificate is issued, the landowner may claim and use the tax  
35 credit subject to any other applicable procedures and requirements under  
36 title 39.

37 (11) (a) If all potential deficiencies that have been identified are  
38 subsequently addressed to the satisfaction of the director and the  
39 commission, the director and the commission shall approve the  
40 application, and the division shall issue a tax credit certificate to the  
41 landowner pursuant to section ~~12-61-1105~~ **12-15-105**. Once a tax credit  
42 certificate is issued, the landowner may claim and use the tax credit  
43 subject to any other applicable procedures and requirements under title  
44 39.

45 (b) If any potential deficiencies that have been identified are not  
46 subsequently addressed to the satisfaction of the director and the  
47 commission, the division shall issue a written denial of the application to  
48 the landowner documenting those deficiencies that were the specific basis  
49 for the denial. The division shall date the written denial and send it by  
50 first-class mail to the landowner at the address provided by the landowner  
51 on the application. The director may act on behalf of the commission for  
52 purposes of administering the process for issuing approvals and denials

1 of applications and for administering subsection (12) of this section.

2 (12) (a) The landowner may appeal to the director either the  
3 director's or the commission's denial of an application, in writing, within  
4 thirty days after the issuance of the denial. This written appeal constitutes  
5 a request for an administrative hearing.

6 (b) If the landowner fails to appeal the denial of an application  
7 within thirty days after the issuance of the denial, the denial becomes  
8 final, and the division shall not issue a tax credit certificate to the  
9 landowner.

10 (c) Administrative hearings must be conducted in accordance with  
11 section 24-4-105. At the discretion of the director, hearings may be  
12 conducted by an authorized representative of the director or the  
13 commission or an administrative law judge from the office of  
14 administrative courts in the department of personnel. All hearings must  
15 be held in the county where the division is located unless the director  
16 designates otherwise. The decision of the director or the commission is  
17 subject to judicial review by the court of appeals and is subject to the  
18 provisions of section 24-4-106.

19 (d) In conducting settlement discussions with a landowner, the  
20 director and the commission may compromise on any of the deficiencies  
21 identified in the application and supporting documentation, including the  
22 dollar amount of the tax credit certificate to be issued. The director shall  
23 place on file in the division a record of any compromise and the reasons  
24 for the compromise.

25 (e) The director may promulgate rules pursuant to article 4 of title  
26 24 to effectuate the purposes of this subsection (12).

27 (13) (a) Commencing with the 2014 calendar year, and for each  
28 calendar year thereafter, the division shall create a report, which shall be  
29 made available to the public, containing the following aggregate  
30 information:

31 (I) The total number of tax credit certificate applications received,  
32 approved, and denied in accordance with this section, along with average  
33 processing times;

34 (II) For applications approved in accordance with this section:

35 (A) The total acreage under easement summarized by the  
36 allowable conservation purposes as defined in section 170 (h) of the  
37 federal "Internal Revenue Code of 1986", as amended, and any federal  
38 regulations promulgated in connection with ~~such~~ THAT section;

39 (B) The total appraised value of the easements;

40 (C) The total donated value of the easements; and

41 (D) The total dollar amount of tax credit certificates issued.

42 (b) The division may include additional easement-specific  
43 information in the public report that, notwithstanding the provisions of  
44 this ~~part~~ ~~+~~ ARTICLE 15 or any other law to the contrary, would otherwise  
45 be publicly available.

46 (c) The director is authorized to share publicly available  
47 information regarding conservation easements with a third-party vendor  
48 for the purpose of developing and maintaining a registry of conservation  
49 easements in the state with a corresponding map displaying the  
50 boundaries of each easement in the state relative to county boundaries and  
51 other relevant mapping information. Prior to sharing the information, the  
52 director shall consult with the commission regarding the appropriate types

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of information and the methods used for collecting the information. The department of regulatory agencies shall annually report on the information contained in the registry as a part of its presentation to its committee of reference at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". The information to be shared shall include the following:

(I) Any deeds, contracts, or other instruments creating, assigning, or terminating the easement, including the reception numbers on all instruments;

(II) The location and acreage of each easement, delineated by county;

(III) The name of the original grantor of the easement and the name of the original grantee of the easement.

(IV) Whether the holder of the easement is a certified organization pursuant to section ~~12-61-1104~~ **12-15-104**;

(V) The conservation purposes of the easement; and

(VI) If a tax credit was issued.

(14) (a) In addition to the tax credit certificate application process set forth in this section, a landowner may submit a proposed conservation easement donation to the division to obtain an optional preliminary advisory opinion regarding the transaction. The opinion may address the proposed deed of conservation easement, appraisal, conservation purpose, or other relevant aspect of the transaction.

(b) The division, the director, and the commission shall review the information and documentation provided in a manner consistent with the scope of their authority and responsibilities for reviewing tax credit certificate applications as outlined in subsection (3) of this section and issue either a favorable opinion or a nonfavorable opinion.

(c) The director or the commission may request that the landowner submit additional information or documentation that the director or the commission deems necessary to complete the review and issue an opinion.

(d) A nonfavorable opinion shall set forth any potential deficiencies identified by the director or the commission and that fall within the scope of the director's and the commission's review of the conservation easement transaction. The preliminary opinion is advisory only and is not binding for any purpose upon the division, the director, the commission, or the department of revenue.

(15) The division may promulgate rules to effectuate the purpose, implementation, and administration of this section pursuant to article 4 of title 24. The authority to promulgate rules includes the authority to define further in rule the administrative processes and requirements, including application processing and review time frames, for obtaining and issuing an optional preliminary advisory opinion pursuant to subsection (14) of this section.

(16) Notwithstanding the provisions of the "Colorado Open Records Act", part 2 of article 72 of title 24, the division, the director, and the commission shall deny the right of public inspection of any documentation or other record related to information obtained as part of an individual landowner's application for a tax credit certificate or an optional preliminary advisory opinion pursuant to the requirements of this

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section, including documentation or other records related to administrative hearings and settlement discussions held pursuant to subsection (12) of this section. The division, the director, and the commission may share documentation or other records related to information obtained pursuant to this section with the department of revenue.

(17) Nothing in this section affects any tax credit that is claimed or used pursuant to section 39-22-522 for conservation easement donations occurring prior to January 1, 2014.

**12-15-107. [Formerly 12-61-1107] Conservation cash fund - repeal.** (1) There is hereby created in the state treasury the conservation cash fund, which consists of any ~~moneys~~ MONEY transferred pursuant to ~~section 12-61-1104~~ SECTIONS **12-15-104** and ~~12-61-1106~~ **12-15-106** and any gifts, grants, and donations provided to carry out the purposes of this ~~part 11~~ ARTICLE 15. All money in the fund shall be used as provided in this ~~part 11~~ ARTICLE 15. Interest earned on the fund shall remain in the fund and shall not be deposited in or transferred to the general fund or any other fund.

(2) (a) As soon as practicable after May 29, 2018, the state treasurer shall transfer to the conservation cash fund any ~~moneys~~ MONEY in the division of real estate cash fund created in the section ~~12-61-111.5~~ **12-10-215** that ~~are~~ IS attributable to any fees, gifts, grants, or donations credited to the division of real estate cash fund in accordance with section 12-61-724 (3) or section 12-61-727 that are in the fund immediately prior to the repeal of sections 12-61-724 and 12-61-727.

(b) This subsection (2) is repealed effective July 1, 2019.

**Title 12**

**Comparative Charts**

**Current Article 61 - New Proposed Article 10**

**Real Estate**

<b>Current Statute Number</b>	<b>Proposed New Statute Number</b>
<i>No current provision</i>	<i>Part 1 – Common Definitions</i>
No provision	12-10-101 (new)
<i>Part 1 - Brokers and salespersons</i>	<i>Part 2 - Brokers and salespersons</i>
12-61-101	12-10-201
12-61-102	12-10-202
12-61-103	12-10-203
12-61-103.5 (repealed)	N/A
12-61-103.6	12-10-204
12-61-104	12-10-205
12-61-105	12-10-206
12-61-106	12-10-207
12-61-107	12-10-208
12-61-108	12-10-209
12-61-108.5	12-10-210
12-61-109	12-10-211
12-61-110	12-10-212
12-61-110.5	12-10-213
12-61-110.6 (repealed)	N/A
12-61-110.8 (repealed)	N/A
12-61-111	12-10-214

<b>Current Statute Number</b>	<b>Proposed New Statute Number</b>
12-61-111.5	12-10-215
12-61-112	12-10-216
12-61-113	12-10-217
12-61-113.2	12-10-218
12-61-113.5 (repealed)	N/A
12-61-114	12-10-219
12-61-114.5	12-10-220
12-61-115 (repealed)	N/A
12-61-116 (repealed)	N/A
12-61-117	12-10-221
12-61-118	12-10-222
12-61-119	12-10-223
12-61-120	12-10-224
12-61-121	12-10-225
12-61-122	12-10-226
12-61-123	12-10-227
<b><i>Part 2 - Brokers' Commissions</i></b>	<b><i>Part 3 - Brokers' Commissions</i></b>
12-61-201	12-10-301
12-61-202	12-10-302
12-61-203	12-10-303
12-61-203.5	12-10-304
12-61-204	12-10-305
<b><i>Part 8 – Brokerage Relationships</i></b>	<b><i>Part 4 – Brokerage Relationships</i></b>
12-61-801	12-10-401

<b>Current Statute Number</b>	<b>Proposed New Statute Number</b>
12-61-802	12-10-402
12-61-803	12-10-403
12-61-804	12-10-404
12-61-805	12-10-405
12-61-806	12-10-406
12-61-807	12-10-407
12-61-808	12-10-408
12-61-809	12-10-409
12-61-810	12-10-410
12-61-811	12-10-411
<b><i>Part 4 – Subdivisions</i></b>	<b><i>Part 5 - Subdivisions</i></b>
12-61-401	12-10-501
12-61-402	12-10-502
12-61-403	12-10-503
12-61-404	12-10-504
12-61-405	12-10-505
12-61-406	12-10-506
12-61-407	12-10-507
12-61-408	12-10-508
<b><i>Part 7 – Real Estate Appraisers</i></b>	<b><i>Part 6 – Real Estate Appraisers</i></b>
12-61-701	12-10-601
12-61-702	12-10-602
12-61-703	12-10-603
12-61-704	12-10-604

<b>Current Statute Number</b>	<b>Proposed New Statute Number</b>
12-61-705	12-10-605
12-61-706	12-10-606
12-61-707	12-10-607
12-61-708	12-10-608
12-61-709	12-10-609
12-61-710	12-10-610
12-61-711	12-10-611
12-61-712	12-10-612
12-61-713	12-10-613
12-61-714	12-10-614
12-61-715	12-100-615
12-61-716	12-10-616
12-61-717	12-10-617
12-61-718	12-10-618
12-61-719	12-10-619
12-61-720	12-10-620
12-61-721	12-10-621
12-61-722	12-10-622
12-61-723	12-10-623
<b><i>Part 9 – Mortgage loan originators</i></b>	<b><i>Part 7 – Mortgage loan originators</i></b>
12-61-901	12-10-701
12-61-902	12-10-702
12-61-902.5	12-10-703
12-61-903	12-10-704



Current Statute Number	Proposed New Statute Number
12-61-903.1	12-10-705
12-61-903.3	12-10-706
12-61-903.5	12-10-707
12-61-903.7	12-10-708
12-61-904	12-10-709
12-61-904.5	12-10-710
12-61-905	12-10-711
12-61-905.1	12-10-712
12-61-905.5	12-10-713
12-61-905.6	12-10-714
12-61-905.7	12-10-715
12-61-906	12-10-716
12-61-907	12-10-717
12-61-908	12-10-718
12-61-909	12-10-719
12-61-910	12-10-720
12-61-910.2	12-10-721
12-61-910.3	12-10-722
12-61-911.5	12-10-723
12-61-912	12-10-724
12-61-914	12-10-725
12-61-915	12-10-726
12-61-916	12-10-727
12-61-917	12-10-728

<b>Current Statute Number</b>	<b>Proposed New Statute Number</b>
12-61-918	12-10-729
12-61-919	12-10-730
	<i>Part 8 - HOA Information and Resource Center</i>
12-61-406.5	12-10-801
<i>Part 6 – Preowned housing home warranty service contracts</i>	<i>Part 9 – Preowned housing home warranty service contracts</i>
12-61-602	12-10-901
12-61-611	12-10-902
12-61-611.5	12-10-903
12-61-612	12-10-904
12-61-614	12-10-905
12-61-615	12-10-906

**Current Part 11 of Article 61 - New Proposed Article 15**

**Division of Conservation**

<b>Current Statute Number</b>	<b>Proposed New Statute Number</b>
12-61-1101	12-15-101
12-61-1102	12-15-102
12-61-1103	12-15-103
12-61-1104	12-15-104
12-61-1105	12-15-105
12-61-1106	12-15-106
12-61-1107	12-15-107

