

CHAPTER 263

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 24-1094

BY REPRESENTATIVE(S) Lukens and Soper, Bird, Boesenecker, Froelich, Jodeh, Lindstedt, Marshall, Mauro, McCluskie;
also SENATOR(S) Roberts and Will, Priola.

AN ACT

CONCERNING EARNEST MONEY DEPOSITS RECEIVED AFTER THE REAL ESTATE COMMISSION HAS APPROVED A DEVELOPER'S SUBDIVISION REGISTRATION, AND, IN CONNECTION THEREWITH, ALLOWING THE USE OF DEVELOPER SUBDIVISION EARNEST MONEY DEPOSITS BY ACCREDITED INVESTORS.

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

SECTION 1. In Colorado Revised Statutes, 12-10-502, **add** (3) as follows:

12-10-502. Registration required. (3) (a) UPON THE COMMISSION'S APPROVAL OF A DEVELOPER'S SUBDIVISION REGISTRATION PURSUANT TO SECTION 12-10-503, THE DEVELOPER MAY ENTER INTO BINDING PURCHASE CONTRACTS WITH PROSPECTIVE BUYERS AND ACCEPT EARNEST MONEY DEPOSITS. EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION, AN EARNEST MONEY DEPOSIT MUST BE HELD IN TRUST BY AN INDEPENDENT THIRD PARTY.

(b) (I) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION OR ANY OTHER PROVISION IN THIS PART 5, UPON SUBDIVISION REGISTRATION APPROVAL, A DEVELOPER MAY RECEIVE EARNEST MONEY DEPOSITS FROM AN ACCREDITED INVESTOR AND USE SOME OR ALL OF THE FUNDS TOWARD DEVELOPMENT OF A SUBDIVISION, BUT ONLY IF THE PURCHASE CONTRACT OR OTHER WRITTEN DISCLOSURE CONTAINS A CLEAR STATEMENT SETTING FORTH:

- (A) TO WHOM THE FUNDS WILL BE DELIVERED;
- (B) WHEN THE DELIVERY OF THE FUNDS WILL OCCUR;
- (C) HOW THE FUNDS WILL BE USED; AND

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(D) ANY RESTRICTION ON THE USE OF THE FUNDS.

(II) A DEVELOPER MAY RECEIVE EARNEST MONEY DEPOSITS FROM AN ACCREDITED INVESTOR PURSUANT TO THE REQUIREMENTS IN SUBSECTION (3)(b)(I) OF THIS SECTION WITHOUT FIRST HAVING TO POST A BOND OR OTHER SECURITY.

(c) THIS SUBSECTION (3) APPLIES ONLY IF THE SUBDIVISION IS A TIME SHARE ESTATE, AS DEFINED IN SECTION 38-33-110 (5).

SECTION 2. In Colorado Revised Statutes, 12-10-501, **amend** (1); and **add** (1.5) as follows:

12-10-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) ~~"Commission" means the real estate commission established under section 12-10-206~~ "ACCREDITED INVESTOR" HAS THE SAME MEANING AS DEFINED IN THE SECURITIES AND EXCHANGE COMMISSION'S RULE 501 OF REGULATION D, 17 CFR 230.501 (a).

(1.5) "COMMISSION" MEANS THE REAL ESTATE COMMISSION ESTABLISHED UNDER SECTION 12-10-206.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 28, 2024