

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 26-1287

BY REPRESENTATIVE(S) Boesenecker and Brooks, Bacon, Jackson, Ricks;
also SENATOR(S) Kolker and Jodeh, Coleman.

CONCERNING THE CONTINUATION OF CERTAIN REGULATORY FUNCTIONS OF THE DIVISION OF REAL ESTATE, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2025 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

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

SECTION 1. In Colorado Revised Statutes, **amend** 12-10-227 as follows:

12-10-227. Repeal of part - subject to review.

This part 2 is repealed, effective ~~September 1, 2026~~ SEPTEMBER 1, 2037. Before the repeal, the division, including the commission, is scheduled for review in accordance with section 24-34-104.

SECTION 2. In Colorado Revised Statutes, **amend** 12-10-305 as follows:

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.

12-10-305. Repeal of part - subject to review.

This part 3 is repealed, effective ~~September 1, 2026~~ SEPTEMBER 1, 2037. Before the repeal, this part 3 is scheduled for review in accordance with section 24-34-104.

SECTION 3. In Colorado Revised Statutes, **amend** 12-10-508 as follows:

12-10-508. Repeal of part - subject to review.

This part 5 is repealed, effective ~~September 1, 2026~~ SEPTEMBER 1, 2037. Before the repeal, this part 5 is scheduled for review in accordance with section 24-34-104.

SECTION 4. In Colorado Revised Statutes, **repeal** 12-10-906 as follows:

12-10-906. Repeal of part - subject to review.

~~This part 9 is repealed, effective September 1, 2026. Before the repeal, this part 9 is scheduled for review in accordance with section 24-34-104.~~

SECTION 5. In Colorado Revised Statutes, 24-34-104, **repeal** (27)(a)(VI) and (27)(a)(XVII); and **add** (38)(a)(VII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.

(27) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2026:

~~(VI) The division of real estate, including the real estate commission, created in part 2 of article 10 of title 12, and its functions under parts 2, 3, and 5 of article 10 of title 12;~~

~~(XVII) The legal requirements pertaining to home warranty service~~

~~contracts under part 9 of article 10 of title 12.~~

(38) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2037:

(VII) THE DIVISION OF REAL ESTATE, INCLUDING THE REAL ESTATE COMMISSION, CREATED IN PART 2 OF ARTICLE 10 OF TITLE 12, AND ITS FUNCTIONS UNDER PARTS 2, 3, AND 5 OF ARTICLE 10 OF TITLE 12.

SECTION 6. In Colorado Revised Statutes, **amend** 12-10-202 as follows:

12-10-202. License required.

(1) It is unlawful for ~~any~~ A person, A firm, A partnership, A limited liability company, AN association, or A corporation to engage in the business or capacity of real estate broker in this state without first having obtained a license from the commission. ~~No~~ THE COMMISSION SHALL NOT GRANT A person ~~shall be granted~~ a license until the person establishes compliance with the provisions of this part 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 A manner as to safeguard the interest of the public and only after satisfactory proof of the qualifications, together with the application for the license, is filed in the office of the commission. In determining the person's character, the commission shall be governed by section 24-5-101.

(2) THE COMMISSION MAY DENY A LICENSE TO AN APPLICANT FOR LICENSURE IF THE APPLICANT IS GUILTY OF ANY OF THE OFFENSES LISTED IN SECTION 12-10-217 (1)(n)(I).

SECTION 7. In Colorado Revised Statutes, 12-10-217, **amend** (1) introductory portion, (1)(b), (1)(h), (1)(i), (7), and (9) as follows:

12-10-217. Investigation - revocation - actions against licensee or applicant - definition.

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

(b) Making any promise of a character that influences, persuades, or induces another person when ~~he or she~~ THE LICENSEE could not or did not intend to keep the promise;

(h) Failing to account for or to remit, within a reasonable time, any money coming into the licensee's possession that belongs to others ~~whether acting as real estate brokers or otherwise~~ WHEN PERFORMING FUNCTIONS FOR WHICH A LICENSE IS REQUIRED PURSUANT TO SECTION 12-10-201 (6), and failing to keep records relative to the money, which records ~~shall~~ MUST contain such information as ~~may be~~ IS prescribed by ~~the~~ rules of the commission ~~relative thereto~~ and ~~shall be~~ ARE subject to audit by the commission;

(i) WHEN PERFORMING FUNCTIONS FOR WHICH A LICENSE IS REQUIRED PURSUANT TO SECTION 12-10-201 (6), 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 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 keep records relative to the deposit that contain such information as may be prescribed by the rules of the commission, ~~relative thereto~~, which records ~~shall be~~ ARE subject to audit by the commission;

(7) When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the commission, does not warrant formal action by the commission but that should not be dismissed as being without merit, the commission may send a letter of admonition by ELECTRONIC MAIL OR BY certified mail, return receipt requested, to the licensee against whom a complaint was made and a copy thereof to the person making the complaint. ~~but~~ The letter ~~shall~~ MUST advise the licensee that the licensee has

the right to request, in writing, within twenty days after proven receipt, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based. If the request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal disciplinary proceedings.

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

SECTION 8. In Colorado Revised Statutes, 12-10-213, **amend** (5); and **add** (6) and (7) as follows:

12-10-213. Renewal of license - continuing education requirement - rules.

(5) ~~The commission shall promulgate rules to implement this section~~ MAY INACTIVATE THE LICENSE OF A LICENSEE WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

(6) THE DIVISION MAY CHARGE A FEE TO EACH PROVIDER THAT SUBMITS A CONTINUING EDUCATION COURSE.

(7) THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

SECTION 9. In Colorado Revised Statutes, 12-10-203, **amend** (5)(b) and (8) as follows:

12-10-203. Application for license - rules - definition.

(5) (b) An applicant for a broker's license who has held a real estate license in another jurisdiction that administers a real estate broker's examination and who has been licensed for two or more years prior to applying for a Colorado license may be issued a broker's license if the applicant establishes that ~~he or she possesses~~ THEY POSSESS credentials and qualifications that are substantively equivalent to the requirements in Colorado for licensure by examination.

(8) ~~No~~ A license for a broker registered as being in the employ of

another broker shall NOT be issued to a partnership, a limited liability company, or a corporation or under a fictitious name or trade name; except that ~~a married woman~~ AN INDIVIDUAL may elect to use ~~her birth~~ A PREVIOUSLY USED LEGAL name.

SECTION 10. In Colorado Revised Statutes, **amend** 12-10-224 as follows:

12-10-224. Subpoena compelling attendance of witnesses and production of records and documents.

The commission, the director, 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 the commission. The subpoenas ~~shall be served in the same manner as subpoenas issued by district courts~~ MAY BE ENFORCED BY A COURT OF COMPETENT JURISDICTION IF NOT OBEYED 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~~ A person ~~who~~ THAT refuses to obey a subpoena shall be punished as provided in section 12-10-225.

SECTION 11. In Colorado Revised Statutes, 12-10-506, **amend** (4) as follows:

12-10-506. Powers of commission - injunction - rules.

(4) The commission, the director, or the administrative law judge appointed for a hearing 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 the commission. Any such subpoena ~~shall be served in the same manner as for subpoenas issued by district courts~~ MAY BE ENFORCED BY A COURT OF COMPETENT JURISDICTION IF NOT OBEYED.

SECTION 12. In Colorado Revised Statutes, 12-10-207, **amend** (2)

as follows:

12-10-207. Division of real estate - creation - director, clerks, and assistants.

(2) It is the duty of the director, personally, or the director's designee to:

(a) Aid in the administration and enforcement of ~~parts 2~~ THIS PART 2 and PART 5 of this article 10 and in the prosecution of all persons charged with violating any of their provisions; ~~to~~

(b) Conduct audits of business accounts of licensees; ~~to~~

(c) ESTABLISH PROTOCOLS TO ADDRESS THE SECURITY OF ELECTRONIC CORRESPONDENCE, INCLUDING WHEN ELECTRONIC CORRESPONDENCE MAY BE USED FOR THE PURPOSES OF THIS ARTICLE 10;

(d) Perform such duties of the commission as the commission prescribes; and ~~to~~

(e) Act ~~in~~ ON behalf of the commission on such occasions and in such circumstances as the commission directs.

SECTION 13. In Colorado Revised Statutes, 12-10-208, **amend** (2) as follows:

12-10-208. Resident licensee - nonresident licensee - consent to service.

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

(a) The date the broker receives the process, notice, or demand;

(b) The date shown on the return receipt, if ANY, IF THE RETURN RECEIPT IS signed by or on behalf of the broker; or

(c) Five days after ~~mailing~~ THE SERVICE IS SENT.

SECTION 14. In Colorado Revised Statutes, 12-10-219, **amend** (2) as follows:

12-10-219. Hearing - administrative law judge - review - rules.

(2) The proceedings shall be held in the county where the commission has its office or in such other place as the commission may designate. If the licensee is an employed broker, the commission shall also notify the broker employing the licensee by mailing, by ELECTRONIC MAIL OR first-class mail, a copy of the written notice required under section 24-4-104 (3) to the employing broker's last-known business address.

SECTION 15. In Colorado Revised Statutes, 12-10-201, **amend** (6)(b)(II), (6)(b)(V), (6)(b)(XII), and (6)(b)(XIII) as follows:

12-10-201. Definitions.

As used in this part 2, unless the context otherwise requires:

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

(II) Any public official in the conduct of ~~his or her~~ THE PUBLIC OFFICIAL'S official duties;

(V) An attorney-at-law in connection with ~~his or her~~ THE ATTORNEY'S representation of clients in the practice of law;

(XII) A regularly salaried employee of an owner of an apartment building or complex who acts as an on-site manager of ~~such~~ an apartment building or complex. This exemption applies only ~~in~~ WITH respect to the customary duties of an on-site manager performed for ~~his or her~~ THE ON-SITE MANAGER'S employer.

(XIII) A regularly salaried employee of an owner of condominium

units who acts as an on-site manager of such THE units. ~~For purposes of AS USED IN this subsection (6)(b)(XIII) only, the term "owner" includes a homeowners' association~~ AN HOA formed and acting pursuant to its recorded condominium declaration and bylaws. This exemption applies only ~~in~~ WITH respect to the customary duties of an on-site manager performed for ~~his or her~~ THE ON-SITE MANAGER'S employer.

SECTION 16. In Colorado Revised Statutes, 12-10-212, **amend** (3) as follows:

12-10-212. License fees - partnership, limited liability company, and corporation licenses - rules.

(3) Each real estate broker's license ~~granted to an individual shall entitle~~ ENTITLES the individual to perform all the acts contemplated by this part 2 without any further application on ~~his or her~~ THE INDIVIDUAL'S part and without the payment of any fee other than the fees specified in this section.

SECTION 17. In Colorado Revised Statutes, 12-10-218, **amend** (2)(b), (2)(g) introductory portion, and (2)(g)(II) as follows:

12-10-218. Affiliated business arrangements - definitions - disclosures - enforcement and penalties - reporting - rules - investigation information shared with the division of insurance.

(2) (b) If a licensee or the employing broker of a licensee is part of an affiliated business arrangement, ~~when an offer to purchase real property is fully executed,~~ the licensee shall disclose ~~to all parties to the real estate transaction the existence of the arrangement~~ THE EXISTENCE OF THE AFFILIATED BUSINESS ARRANGEMENT TO THE PARTY THE LICENSEE REPRESENTS AT THE TIME OF MAKING THE REFERRAL. The disclosure ~~shall be written, shall be signed by all parties to the real estate transaction, and shall~~ MUST comply with the federal "Real Estate Settlement Procedures Act of 1974", as amended, 12 U.S.C. sec. 2601 et seq.

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

(II) If an attorney or law firm represents a client in a real estate

transaction and issues or arranges for the issuance of a policy of title insurance in the transaction directly as agent or through a separate corporate title insurance agency that may be established by that attorney or law firm and operated as an adjunct to ~~his or her~~ THE ATTORNEY'S OR LAW FIRM'S law practice.

SECTION 18. In Colorado Revised Statutes, **amend** 12-10-225 as follows:

12-10-225. Failure to obey subpoena - penalty.

~~Any~~ A person ~~who~~ THAT willfully fails or neglects to appear and testify or to produce books, papers, or records required by subpoena, duly served upon ~~him or her~~ THE PERSON in any matter conducted under ~~parts 2 and~~ THIS PART 2 AND PART 5 of this article 10, commits a petty offense. Each day a person so refuses or neglects constitutes a separate offense.

SECTION 19. In Colorado Revised Statutes, **amend** 12-10-302 as follows:

12-10-302. Objections on account of title.

~~No~~ A real estate agent or broker is NOT entitled to a commission when a proposed purchaser fails or refuses to complete ~~his or her~~ THE PROPOSED PURCHASER'S contract of purchase because of defects in the title of the owner, unless the owner, within a reasonable time, has the defects corrected by legal proceedings or otherwise.

SECTION 20. In Colorado Revised Statutes, **amend** 12-10-303 as follows:

12-10-303. When owner must perfect title.

~~The~~ AN owner ~~shall~~ IS not ~~be~~ required to begin legal or other proceedings for the correction of a title until the agent or broker secures from the proposed purchaser an enforceable contract in writing, binding ~~him or her~~ THE PROPOSED PURCHASER to complete the purchase whenever the defects in the title are corrected.

SECTION 21. In Colorado Revised Statutes, 12-10-403, **add** (9) as

follows:

12-10-403. Relationships between brokers and the public - definition - rules.

(9) NOTWITHSTANDING SUBSECTION (6)(b) OF THIS SECTION, A BROKER WORKING WITH A BUYER, SELLER, LANDLORD, OR TENANT MAY DISCLOSE THE BUYER'S, SELLER'S, LANDLORD'S, OR TENANT'S CONFIDENTIAL INFORMATION TO THE BROKER'S EMPLOYING BROKER OR TO THE EMPLOYING BROKER'S DESIGNEE FOR THE PURPOSE OF PROPER SUPERVISION SO LONG AS THE EMPLOYING BROKER OR DESIGNEE DOES NOT USE THE CONFIDENTIAL INFORMATION TO THE DETRIMENT OF THE BUYER, SELLER, LANDLORD, OR TENANT.

SECTION 22. In Colorado Revised Statutes, 12-10-404, **amend** (2) introductory portion as follows:

12-10-404. Single agent engaged by seller or landlord.

(2) EXCEPT AS DESCRIBED IN SECTION 12-10-403 (9), A BROKER ACTING AS A SELLER'S OR LANDLORD'S AGENT SHALL NOT DISCLOSE the following information ~~shall not be disclosed by a broker acting as a seller's or landlord's agent~~ without the ~~informed~~ EXPRESS WRITTEN consent of the seller or landlord:

SECTION 23. In Colorado Revised Statutes, 12-10-405, **amend** (2) introductory portion as follows:

12-10-405. Single agent engaged by buyer or tenant.

(2) EXCEPT AS DESCRIBED IN SECTION 12-10-403 (9), A BROKER ACTING AS A BUYER'S OR TENANT'S AGENT SHALL NOT DISCLOSE the following information ~~shall not be disclosed by a broker acting as a buyer's or tenant's agent~~ without the ~~informed~~ EXPRESS WRITTEN consent of the buyer or tenant:

SECTION 24. In Colorado Revised Statutes, 12-10-407, **amend** (3) introductory portion as follows:

12-10-407. Transaction-broker.

(3) EXCEPT AS DESCRIBED IN SECTION 12-10-403 (9), A TRANSACTION-BROKER SHALL NOT DISCLOSE the following information ~~shall not be disclosed by a transaction-broker~~ without the informed EXPRESS WRITTEN consent of all parties:

SECTION 25. In Colorado Revised Statutes, 12-10-505, **amend** (1) introductory portion, (1)(a), and (4) as follows:

12-10-505. Refusal, revocation, or suspension of registration - letter of admonition - probation.

(1) The commission may impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense; may issue a letter of admonition; may place a registrant on probation under its close supervision on such terms and for such time as ~~it~~ THE COMMISSION deems appropriate; and may refuse, revoke, or suspend the registration of any developer or registrant if, after an investigation and after notice and a hearing pursuant to ~~the provisions of~~ section 24-4-104, the commission determines that the developer or any director, officer, or stockholder with controlling interest in the corporation:

(a) Has used false or misleading advertising or has made a false or misleading statement or a concealment in ~~his or her~~ THE DEVELOPER'S OR OTHER PERSON'S application for registration;

(4) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the commission, does not initially warrant formal action by the commission but ~~that~~ should not be dismissed as being without merit, the commission may send a letter of admonition by ELECTRONIC MAIL OR BY certified mail, return receipt requested, to the registrant who is the subject of the complaint or investigation and a copy thereof to any person making the complaint. The letter ~~shall~~ MUST advise the registrant that ~~he or she~~ THE REGISTRANT has the right to request in writing, within twenty days after proven receipt, that formal disciplinary proceedings be initiated against ~~him or her~~ THE REGISTRANT to adjudicate the propriety of the conduct upon which the letter of admonition is based. If the request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal disciplinary proceedings.

SECTION 26. 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 (August 12, 2026, if adjournment sine die is on May 13, 2026); 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 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO