

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 18, 2017
Date

Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

SB17-215 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 4, strike lines 4 through 12 and substitute:

2 "(III) EFFECTIVE JANUARY 1, 2019, A BROKER SHALL NOT ACT AS
3 AN EMPLOYING BROKER WITHOUT FIRST DEMONSTRATING, IN
4 ACCORDANCE WITH RULES OF THE COMMISSION, EXPERIENCE AND
5 KNOWLEDGE SUFFICIENT TO ENABLE THE BROKER TO EMPLOY AND
6 ADEQUATELY SUPERVISE OTHER BROKERS, AS APPROPRIATE TO THE
7 BROKER'S AREA OF SUPERVISION. THE COMMISSION'S RULES MUST SET
8 FORTH THE METHOD OR METHODS BY WHICH THE BROKER MAY
9 DEMONSTRATE SUCH EXPERIENCE AND KNOWLEDGE, EITHER BY
10 DOCUMENTING A SPECIFIED NUMBER OF TRANSACTIONS THAT THE BROKER
11 HAS COMPLETED OR BY OTHER METHODS."

12 Page 11, after line 26 insert:

13 "SECTION 14. In Colorado Revised Statutes, 12-61-803, amend
14 (4) as follows:

15 **12-61-803. Relationships between brokers and the public -**
16 **definition.** (4) (a) A broker licensed pursuant to part 1 of this article,
17 whether acting as a single agent or transaction-broker, may complete
18 standard forms ~~including those promulgated by the Colorado real estate~~
19 ~~commission and may advise the parties as to effects thereof if the~~ FOR USE
20 IN A REAL ESTATE TRANSACTION, INCLUDING STANDARD FORMS INTENDED
21 TO CONVEY PERSONAL PROPERTY AS PART OF THE REAL ESTATE

1 TRANSACTION, WHEN A broker is performing the activities enumerated or
2 referred to in section 12-61-101 (2) in the transaction. ~~in which the forms
3 are to be used. In any such transaction, the broker shall advise the parties
4 that the forms have important legal consequences and that the parties
5 should consult legal counsel before signing such forms.~~

6 (b) AS USED IN THIS SUBSECTION (4), "STANDARD FORM" MEANS:

7 (I) A FORM PROMULGATED BY THE REAL ESTATE COMMISSION FOR
8 CURRENT USE BY BROKERS, ALSO REFERRED TO IN THIS SECTION AS A
9 "COMMISSION-APPROVED FORM";

10 (II) A FORM DRAFTED BY A LICENSED COLORADO ATTORNEY
11 REPRESENTING THE BROKER, EMPLOYING BROKER, OR BROKERAGE FIRM,
12 SO LONG AS THE NAME OF THE ATTORNEY OR LAW FIRM AND THE NAME OF
13 THE BROKER, EMPLOYING BROKER, OR BROKERAGE FIRM FOR WHOM THE
14 FORM IS PREPARED ARE INCLUDED ON THE FORM ITSELF;

15 (III) A FORM PROVIDED BY A PARTY TO THE TRANSACTION IF THE
16 BROKER IS ACTING IN THE TRANSACTION AS EITHER A
17 TRANSACTION-BROKER OR AS A SINGLE AGENT FOR THE PARTY PROVIDING
18 THE FORM TO THE BROKER, SO LONG AS THE BROKER RETAINS WRITTEN
19 CONFIRMATION THAT THE FORM WAS PROVIDED BY A PARTY TO THE
20 TRANSACTION;

21 (IV) A FORM PRESCRIBED BY A GOVERNMENTAL AGENCY, A
22 QUASI-GOVERNMENTAL AGENCY, OR A LENDER REGULATED BY STATE OR
23 FEDERAL LAW, IF USE OF THE FORM IS MANDATED BY SUCH AGENCY OR
24 LENDER;

25 (V) A FORM ISSUED WITH THE WRITTEN APPROVAL OF THE
26 COLORADO BAR ASSOCIATION OR ITS SUCCESSOR ORGANIZATION AND
27 SPECIFICALLY DESIGNATED FOR USE BY BROKERS IN COLORADO, SO LONG
28 AS THE FORM IS USED WITHIN ANY GUIDELINES OR CONDITIONS SPECIFIED
29 BY THE COLORADO BAR ASSOCIATION OR SUCCESSOR ORGANIZATION IN
30 CONNECTION WITH THE USE OF THE FORM;

31 (VI) A FORM USED FOR DISCLOSURE PURPOSES ONLY, IF THE
32 DISCLOSURE DOES NOT PURPORT TO WAIVE OR CREATE ANY LEGAL RIGHTS
33 OR OBLIGATIONS AFFECTING ANY PARTY TO THE TRANSACTION AND IF THE
34 FORM PROVIDES ONLY INFORMATION CONCERNING EITHER:

35 (A) THE REAL ESTATE INVOLVED IN THE TRANSACTION
36 SPECIFICALLY; OR

37 (B) THE GEOGRAPHIC AREA IN WHICH THE REAL ESTATE IS
38 LOCATED GENERALLY;

39 (VII) A FORM PRESCRIBED BY A TITLE COMPANY THAT IS
40 PROVIDING CLOSING SERVICES IN A TRANSACTION FOR WHICH THE BROKER
41 IS ACTING EITHER AS A TRANSACTION-BROKER OR AS A SINGLE AGENT FOR

1 A PARTY TO THE TRANSACTION; OR
2 (VIII) A LETTER OF INTENT CREATED OR PREPARED BY A BROKER,
3 EMPLOYING BROKER, OR BROKERAGE FIRM SO LONG AS THE LETTER OF
4 INTENT STATES ON ITS FACE THAT IT IS NON-BINDING AND CREATES NO
5 LEGAL RIGHTS OR OBLIGATIONS.

6 (c) A BROKER SHALL USE A COMMISSION-APPROVED FORM WHEN
7 SUCH A FORM EXISTS AND IS APPROPRIATE FOR THE TRANSACTION. A
8 BROKER'S USE OF ANY STANDARD FORM DESCRIBED IN SUBSECTION
9 (4)(b)(III) OR (4)(b)(IV) OF THIS SECTION MUST BE LIMITED TO INSERTING
10 TRANSACTION-SPECIFIC INFORMATION WITHIN THE FORM. IN USING
11 STANDARD FORMS DESCRIBED IN SUBSECTION (4)(b)(II), (4)(b)(V),
12 (4)(b)(VI), (4)(b)(VII), OR (4)(b)(VIII) OF THIS SECTION, THE BROKER
13 MAY ALSO ADVISE THE PARTIES AS TO EFFECTS THEREOF, AND THE
14 BROKER'S USE OF THOSE STANDARD FORMS MUST BE APPROPRIATE FOR THE
15 TRANSACTION AND THE CIRCUMSTANCES IN WHICH THEY ARE USED. IN
16 ANY TRANSACTION DESCRIBED IN THIS SUBSECTION (4), THE BROKER
17 SHALL ADVISE THE PARTIES THAT THE FORMS HAVE IMPORTANT LEGAL
18 CONSEQUENCES AND THAT THE PARTIES SHOULD CONSULT LEGAL COUNSEL
19 BEFORE SIGNING SUCH FORMS."

20 Renumber succeeding sections accordingly.

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