

CHAPTER 105

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 96-1107

BY REPRESENTATIVES McElhany, Chlouber, Dean, Friednash, George, Hagedorn, Kaufman, Morrison, Prinster, Snyder, Sullivant, Taylor, and Tool;
also SENATORS Alexander and Feeley.

AN ACT

CONCERNING THE REQUIREMENTS FOR INITIAL LICENSURE OF PERSONS ENGAGING IN ACTIVITIES FOR WHICH A REAL ESTATE LICENSE IS REQUIRED, AND, IN CONNECTION THEREWITH, REPLACING REAL ESTATE SALESPERSON'S LICENSES WITH REAL ESTATE BROKER'S LICENSES.

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

SECTION 1. 12-61-101 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended, and the said 12-61-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-61-101. Definitions. As used in this part 1, unless the context otherwise requires:

(1) ~~"Limited liability company" shall have the same meaning as it is given in section 7-80-102 (7), C.R.S.~~ "EMPLOYING REAL ESTATE BROKER" OR "EMPLOYING BROKER" MEANS A BROKER WHO IS SHOWN IN REAL ESTATE COMMISSION RECORDS AS EMPLOYING OR ENGAGING ANOTHER BROKER.

(1.3) "LIMITED LIABILITY COMPANY" SHALL HAVE THE SAME MEANING AS IT IS GIVEN IN SECTION 7-80-102 (7), C.R.S.

SECTION 2. 12-61-103 (1), (2), (3), (4), (5), (6) (a), (6) (c), and (7) (c), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-61-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-61-103. Application for license. (1) All persons desiring to become real estate brokers ~~or real estate salespersons~~ shall apply to the real estate commission for

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

a license under the provisions of this part 1. Application for a license ~~whether~~ as a real estate broker ~~or a real estate salesman~~, shall be made to the commission upon forms prescribed by it.

(2) Every real estate broker licensed under this part 1 shall maintain a place of business within this state, except as provided in section 12-61-107. In case a real estate broker maintains more than one place of business within the state, ~~such broker shall apply for a branch office license, and a duplicate license shall be issued to such broker for each branch office so maintained upon payment of the statutory fee and compliance with the rules and regulations of the commission concerning such branch office~~ THE BROKER SHALL BE RESPONSIBLE FOR SUPERVISING ALL LICENSED ACTIVITIES ORIGINATING IN SUCH 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 ~~or real estate salesperson'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 has, either directly or indirectly, a substantial interest in such applicant prior to the issuance of such license.

(4) (a) An applicant for a broker's license shall be at least eighteen years of age. ~~and must either have served actively as a duly licensed real estate salesperson for at least two years prior to the filing of the application or have had experience which the commission finds to be equivalent to such service.~~ 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 article 59 of this title or that has been approved and licensed by an official state agency of any other state as follows:

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

(II) ~~Twenty-four~~ FORTY-EIGHT hours of classroom instruction or equivalent correspondent hours in ~~Colorado real estate law and~~ UNDERSTANDING AND PREPARATION OF Colorado real estate contracts; and

(III) A total of ~~forty-eight~~ SEVENTY-TWO hours of instruction or equivalent correspondence hours from the following areas of study:

(A) Trust accounts and record-keeping;

(B) Real estate closings;

(C) ~~Real estate finance~~ CURRENT LEGAL ISSUES; and

(D) ~~Advanced real estate law~~ PRACTICAL APPLICATIONS.

(b) An applicant for a broker's license who has been licensed as a real estate broker in another jurisdiction shall be required to complete only the course of study ~~required~~ COMPRISING THE SUBJECT MATTER AREAS DESCRIBED in ~~subparagraph~~ SUBPARAGRAPHS (II) AND (III) (B) of paragraph (a) of this subsection (4).

(c) An applicant for a broker's license who has been licensed as a real estate salesperson in another jurisdiction shall be required to complete only the course of study required in subparagraphs (II) and (III) of paragraph (a) of this subsection (4).

~~(d) An applicant for a broker's license may submit for qualification, in lieu of the experience requirement, proof that the applicant has satisfactorily completed a course of study, in addition to that required in subparagraphs (I) to (III) of paragraph (a) of this subsection (4), consisting of a minimum of ninety-six hours of classroom instruction or equivalent correspondent hours approved by the commission and including, but not limited to, the following areas of study:~~

~~(I) Appraisal;~~

~~(II) Commercial and income property;~~

~~(III) Tax factors;~~

~~(IV) Property exchanges;~~

~~(V) Leasing and property management;~~

~~(VI) Brokerage administration;~~

~~(VII) Real estate securities;~~

~~(VIII) Construction;~~

~~(IX) Condominium ownership;~~

~~(X) Buyer agency;~~

~~(XI) Water law;~~

~~(XII) Advanced real estate appraisal.~~

(5) (a) ~~An applicant for a salesperson's license shall be at least eighteen years of age. The application, except an application requesting inactive status, shall be accompanied by the recommendation of the licensed broker by whom the applicant will be employed or placed under contract, certifying that such broker will actively supervise and train the applicant during the period the requested license remains in effect. 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 a course 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 article 59 of this~~

title or that has been approved and licensed by an official state agency of any other state consisting of:

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

~~(II) Twenty-four hours of classroom instruction or equivalent correspondent hours in Colorado real estate law and Colorado real estate contracts.~~

~~(b) An applicant for a salesperson's license who has been licensed as a real estate salesperson in another jurisdiction shall be required to complete only the course of study required in subparagraph (II) of paragraph (a) of this subsection (5).~~

(6) (a) The applicant for ~~either a broker's license or a salesperson's license~~ shall submit to and pass an examination designated to determine the competency of the applicant and prepared by or under the supervision of the commission. The commission shall have the authority to set the minimum passing score that an applicant must receive on the examination, and said score shall reflect the minimum level of competency required to be a broker. ~~or salesperson.~~ Said examination shall be given at such times and places as the commission prescribes. The examination shall include, but not be limited to, ethics, reading, spelling, basic mathematics, principles of land economics, appraisal, financing, a knowledge of the statutes and law of this state relating to deeds, trust deeds, mortgages, listing contracts, contracts of sale, bills of sale, leases, agency, brokerage, trust accounts, closings, securities, the provisions of this part 1, and the rules of the commission. ~~but the examination for a broker's license shall be more exacting and call for a higher degree of proficiency than the examination for a salesperson's license.~~ The examination for a broker's license shall also include the preparation of a real estate closing statement.

~~(c) An applicant for a salesperson's license who has been licensed as a broker or salesperson in another jurisdiction during a portion of the immediate past two years prior to making such application, which jurisdiction administers a real estate broker's or salesperson's examination, shall be required to successfully complete only the Colorado part of the real estate salesperson's examination.~~ IN ADDITION TO ALL OTHER APPLICABLE REQUIREMENTS, THE FOLLOWING PROVISIONS APPLY TO BROKERS THAT DID NOT HOLD A CURRENT AND VALID BROKER'S LICENSE ON DECEMBER 31, 1996:

(I) NO SUCH BROKER SHALL ENGAGE IN AN INDEPENDENT BROKERAGE PRACTICE WITHOUT FIRST HAVING SERVED ACTIVELY AS A REAL ESTATE BROKER OR SALESPERSON FOR AT LEAST TWO YEARS. THE COMMISSION SHALL ADOPT RULES REQUIRING AN EMPLOYING BROKER TO ENSURE THAT A HIGH LEVEL OF SUPERVISION IS EXERCISED OVER SUCH A BROKER DURING SUCH TWO-YEAR PERIOD.

(II) NO SUCH BROKER SHALL EMPLOY ANOTHER BROKER OR SALESPERSON WITHOUT FIRST HAVING COMPLETED TWENTY-FOUR CLOCK HOURS OF INSTRUCTION, OR THE EQUIVALENT IN CORRESPONDENCE HOURS, AS APPROVED BY THE COMMISSION, IN BROKERAGE ADMINISTRATION.

(7) (c) If the person so designated is refused a license by the real estate commission or ceases to be the designated broker of such partnership, limited liability

company, or corporation, such entity may designate another person to make application for a license. If such person ceases to be the designated broker of such partnership, limited liability company, or corporation, the director may issue a temporary license to prevent hardship for a period not to exceed ninety days to the licensed person so designated. The director may extend a temporary license for one additional period not to exceed ninety days upon proper application and a showing of good cause; if the director refuses, no further extension of a temporary license shall be granted except by the commission. If any member, manager, director, or employee of any such partnership, limited liability company, or corporation, other than the one designated as provided in this section, desires to act as a real estate ~~salesperson or~~ broker, such member, manager, director, or employee shall first obtain a license as a real estate ~~salesperson or~~ broker as provided in this section and shall pay the regular fee therefor.

(12) A LICENSED ATTORNEY SHALL TAKE AND PASS THE EXAMINATION REFERRED TO IN THIS SECTION AFTER HAVING COMPLETED TWELVE HOURS OF CLASSROOM INSTRUCTION OR EQUIVALENT CORRESPONDENT HOURS IN TRUST ACCOUNTS, RECORD-KEEPING, AND REAL ESTATE CLOSINGS.

SECTION 3. Part 1 of article 61 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

12-61-103.5. Transitional provisions - holders of existing salesperson's licenses. (1) EFFECTIVE JANUARY 1, 1997, THE REAL ESTATE COMMISSION SHALL NO LONGER ISSUE A REAL ESTATE SALESPERSON'S LICENSE.

(2) A HOLDER OF A SALESPERSON'S LICENSE WHO WISHES TO RENEW ON ACTIVE STATUS FOR THE YEAR 2000 OR ANY SUBSEQUENT YEAR MUST RENEW, IF AT ALL, AS BROKERS AND SHALL BE ISSUED A REAL ESTATE BROKER'S LICENSE IN LIEU OF A RENEWED SALESPERSON'S LICENSE UPON MEETING EITHER OF THE FOLLOWING TWO ALTERNATIVE REQUIREMENTS:

(a) PASSAGE OF THE COLORADO PORTION OF THE REAL ESTATE BROKER'S LICENSE EXAMINATION DURING THE THREE-YEAR PERIOD IMMEDIATELY PRECEDING THE APPLICATION FOR RENEWAL; OR

(b) SUCCESSFUL COMPLETION OF A COURSE OF STUDY APPROVED BY THE COMMISSION AND CONSISTING OF TWENTY-FOUR CLOCK HOURS OF INSTRUCTION, INCLUDING INSTRUCTION IN CLOSINGS AND CONTRACT PREPARATION, WITHIN THE THREE-YEAR PERIOD IMMEDIATELY PRECEDING THE APPLICATION FOR RENEWAL. SUCH COURSE SHALL BE IN LIEU OF THE CONTINUING EDUCATION REQUIREMENTS OF SECTIONS 12-61-110 AND 12-61-110.5 FOR THE APPLICABLE RENEWAL PERIOD. A PERSON ISSUED A BROKER'S LICENSE PURSUANT TO THIS PARAGRAPH (b) SHALL PRACTICE, IF AT ALL, ONLY IN THE EMPLOY OF A LICENSED BROKER UNTIL PASSING THE COLORADO PORTION OF THE REAL ESTATE BROKER'S LICENSE EXAMINATION.

(3) A HOLDER OF A REAL ESTATE SALESPERSON'S LICENSE WHO WISHES TO RENEW ON INACTIVE STATUS FOR THE YEAR 2000 OR ANY SUBSEQUENT YEAR MAY DO SO, SUBJECT TO ANY OTHERWISE APPLICABLE REQUIREMENTS FOR SUCH RENEWAL. AN APPLICATION TO ACTIVATE SUCH AN INACTIVE LICENSE SHALL BE ACCOMPANIED BY

PROOF OR CERTIFICATION OF COMPLIANCE WITH EITHER PARAGRAPH (a) OR PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

SECTION 4. 12-61-107 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-61-107. Resident licensee - nonresident licensee - consent to service. (1) A nonresident of the state may become a real estate broker ~~or real estate salesperson~~ in this state by conforming to all the conditions of this part 1; except that the nonresident broker shall not be required to maintain a place of business within this state if that broker maintains a definite place of business in another state.

SECTION 5. 12-61-110 (1), (2), and (4) (b), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-61-110. License fees - partnership, limited liability company, and corporation licenses. (1) Fees established pursuant to section 12-61-111.5 shall be charged by and paid to the commission or the agent for the commission for the following:

- (a) ~~Each salesperson's examination;~~
 - (b) ~~Each salesperson's original application and license;~~
 - (c) Each broker's examination;
 - (d) Each broker's original application and license;
 - (e) ~~Each three-year renewal of a salesperson's license;~~
 - (f) Each three-year renewal of a broker's license;
 - (g) ~~Each branch office;~~
 - (h) Any change of name, address, or employing broker requiring a change in commission records;
 - (i) A new application which shall be submitted when a licensed real estate broker wishes to become the broker acting for a partnership, a limited liability company, or a corporation.
- (2) The proper fee shall accompany each application for licensure. The fee shall not be refundable. Failure by the person taking an examination to file the appropriate broker's ~~or salesperson's~~ application within one year of the date such person passed the examination will automatically cancel the examination, and all rights to a passing score will be terminated.
- (4) (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. ~~except that said applicant shall be required to provide only proof of~~

~~successful completion of the course in Colorado real estate law and Colorado real estate contracts required by section 12-61-103 (4) (a) (II) or 12-61-103 (5) (a) (II), which course must have been completed after the expiration of the license.~~

SECTION 6. Effective date. This act shall take effect January 1, 1997, unless a referendum petition is filed against this act within the period allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, in which case this act, if approved by the people, shall take effect on January 1, 1997,

Approved: April 22, 1996

Editor's note: This act was passed without a safety clause. See section 6 for the possible effective dates.