

CHAPTER 107

PROFESSIONS AND OCCUPATIONS

SENATE BILL 99-109

BY SENATOR Teck;
also REPRESENTATIVES McElhany and May.

AN ACT

CONCERNING PROHIBITED ACTIVITIES IN CONNECTION WITH REAL ESTATE BROKERAGE RELATIONSHIPS.

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

SECTION 1. Part 2 of article 61 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-61-203.5. Referral fees - interference with brokerage relationship.

(1) NO LICENSEE UNDER PARTS 1 TO 4 OF THIS ARTICLE SHALL PAY A REFERRAL FEE UNLESS REASONABLE CAUSE FOR PAYMENT OF THE REFERRAL FEE EXISTS. A REASONABLE CAUSE FOR PAYMENT MEANS:

- (a) AN ACTUAL INTRODUCTION OF BUSINESS HAS BEEN MADE;
- (b) A CONTRACTUAL REFERRAL FEE RELATIONSHIP EXISTS; OR
- (c) A CONTRACTUAL COOPERATIVE BROKERAGE RELATIONSHIP EXISTS.

(2) (a) NO PERSON SHALL INTERFERE WITH THE BROKERAGE RELATIONSHIP OF A LICENSEE.

- (b) AS USED IN THIS SUBSECTION (2):

(I) "BROKERAGE RELATIONSHIP" MEANS A RELATIONSHIP ENTERED INTO BETWEEN A BROKER OR SALESPERSON AND A BUYER, SELLER, LANDLORD, OR TENANT UNDER WHICH THE BROKER OR SALESPERSON ENGAGES IN ANY OF THE ACTS SET FORTH IN SECTION 12-61-101 (2). A BROKERAGE RELATIONSHIP IS NOT ESTABLISHED UNTIL A WRITTEN BROKERAGE AGREEMENT IS ENTERED INTO BETWEEN THE PARTIES OR IS

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

OTHERWISE ESTABLISHED BY LAW.

(II) "INTERFERENCE WITH THE BROKERAGE RELATIONSHIP" MEANS DEMANDING A REFERRAL FEE FROM A LICENSEE WITHOUT REASONABLE CAUSE.

(III) "REFERRAL FEE" MEANS ANY FEE PAID BY A LICENSEE TO ANY PERSON OR ENTITY, OTHER THAN A COOPERATIVE COMMISSION OFFERED BY A LISTING BROKER TO A SELLING BROKER OR VICE VERSA.

(3) ANY PERSON AGGRIEVED BY A VIOLATION OF ANY PROVISION OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION. THE PREVAILING PARTY IN ANY SUCH ACTION SHALL BE ENTITLED TO ACTUAL DAMAGES AND, IN ADDITION, THE COURT MAY AWARD AN AMOUNT UP TO THREE TIMES THE AMOUNT OF ACTUAL DAMAGES SUSTAINED AS A RESULT OF ANY SUCH VIOLATION PLUS REASONABLE ATTORNEY FEES.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 15, 1999