

## CHAPTER 151

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**PROFESSIONS AND OCCUPATIONS**


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**HOUSE BILL 08-1212**

BY REPRESENTATIVE(S) Carroll M., Buescher, Carroll T., Frangas, Madden, Massey, McFadyen, Merrifield, Rice, and Stafford;  
also SENATOR(S) Tapia.

**AN ACT**

**CONCERNING THE CONTINUATION OF THE REAL ESTATE COMMISSION, AND, IN CONNECTION THEREWITH, REPEALING THE REQUIREMENT FOR GROUP ERRORS AND OMISSIONS INSURANCE, AUTHORIZING SERVICE OF PROCESS BY MAIL, REPEALING THE LICENSURE OF REAL ESTATE SALESPERSONS, MODIFYING CONTINUING EDUCATION REQUIREMENTS, ALTERING THE MEMBERSHIP OF THE COMMISSION, REPEALING THE LICENSING RECIPROCITY REQUIREMENT, EXPANDING THE GROUNDS FOR DISCIPLINE, AUTHORIZING NAME-BASED CRIMINAL HISTORY BACKGROUND CHECKS, REQUIRING FINES TO BE DEPOSITED IN THE GENERAL FUND, AND ALTERING THE HIRING AUTHORITY FOR EMPLOYEES OF THE DIVISION OF REAL ESTATE.**

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

**SECTION 1.** 12-61-123, Colorado Revised Statutes, is amended to read:

**12-61-123. Repeal of part.** This part 1 is repealed, effective ~~July 1, 2008,~~ including the service of process requirements pursuant to section 12-61-303 (6) JULY 1, 2017. Prior to such repeal, the real estate division, including the real estate commission, shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 2. Repeal.** 24-34-104 (39) (b) (VI) and (39) (b) (VII), Colorado Revised Statutes, are repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(VI) ~~The function of the real estate commission to make available errors and omissions insurance to licensees pursuant to section 12-61-103.6, C.R.S.;~~

(VII) ~~The real estate division, including the real estate commission, created in~~

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

~~part 1 of article 61 of title 12, C.R.S., including the service of process requirements pursuant to section 12-61-303 (6), C.R.S.;~~

**SECTION 3.** 24-34-104 (48), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (48) The following agencies, functions, or both, shall terminate on July 1, 2017:

(e) THE REAL ESTATE DIVISION, INCLUDING THE REAL ESTATE COMMISSION, CREATED IN PART 1 OF ARTICLE 61 OF TITLE 12, C.R.S.

**SECTION 4.** 12-61-103.6 (1) and (5), Colorado Revised Statutes, are amended to read:

**12-61-103.6. Errors and omissions insurance required - rules.** (1) Every licensee under this part 1, except an inactive broker ~~or salesperson~~ or an attorney licensee who maintains a policy of professional malpractice insurance ~~which~~ THAT provides coverage for errors and omissions for their activities as a licensee under this part 1, shall maintain errors and omissions insurance to cover all activities contemplated under parts 1 to 8 of this article. The commission shall make the errors and omissions insurance available to all licensees by contracting with an insurer for a group policy after a competitive bid process in accordance with article 103 of title 24, C.R.S. Any group policy obtained by the commission shall be available to all licensees with no right on the part of the insurer to cancel any licensee. Any licensee may obtain errors and omissions insurance independently if the coverage complies with the minimum requirements established by the commission.

(5) ~~This section is repealed, effective July 1, 2008. Prior to such repeal, this function of the real estate commission shall be reviewed as provided for in section 24-34-104, C.R.S.~~

**SECTION 5.** 12-61-107 (2) and (3), Colorado Revised Statutes, are amended to read:

**12-61-107. Resident licensee - nonresident licensee - consent to service.** (2) ~~Every applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper courts of any county of this state in which a cause of action may arise and in which the plaintiffs may reside by the service of any process or pleading authorized by the laws of this state on the secretary of state, said consent stipulating and agreeing that such service or such process or pleading on said secretary shall be held in all courts to be as valid and binding as if due service had been made upon said applicant in the state of Colorado. Said instrument containing such consent shall be authenticated by the signature of the designated broker.~~ If A BROKER HAS NO REGISTERED AGENT REGISTERED IN THIS STATE, SUCH 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 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 SIGNED BY OR ON BEHALF OF THE BROKER; OR
- (c) FIVE DAYS AFTER MAILING.

(3) All such applications shall contain a certification that the broker is authorized to act for the corporation. ~~In case any process or pleading mentioned in this part is served upon the secretary of state, it shall be by duplicate copies, one of which shall be filed in the office of said secretary and the other immediately forwarded by certified mail to the main office of the applicant against which said process or pleading is directed.~~

**SECTION 6.** 12-61-303 (6), Colorado Revised Statutes, is amended to read:

**12-61-303. Simplified procedure - application for administrative order for payment from the fund - rules.** (6) (a) SERVICE UPON any real estate broker ~~or real estate salesperson~~ who is licensed or who renews a license under part 1 of this article on or after January 1, ~~1972~~ 2008, and upon whom personal service cannot be made with reasonable diligence shall be ~~deemed to have appointed the secretary of state as agent for service of process for purposes of actions and applications filed against said broker or salesperson pursuant to this part 3.~~ Service of process upon such persons shall be made as nearly as practicable in the manner prescribed by section 7-105-104, C.R.S. ~~The burden shall be upon the applicant to show that personal service cannot be made with reasonable diligence~~ UPON THE REGISTERED AGENT OF SUCH REAL ESTATE BROKER. IF THE REAL ESTATE BROKER HAS NO REGISTERED AGENT, 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 REAL ESTATE BROKER MAY BE SERVED BY REGISTERED MAIL OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE ENTITY AT ITS PRINCIPAL ADDRESS. SERVICE IS PERFECTED UNDER THIS SUBSECTION (6) AT THE EARLIEST OF:

- (I) THE DATE THE REAL ESTATE BROKER RECEIVES THE PROCESS, NOTICE, OR DEMAND;
- (II) THE DATE SHOWN ON THE RETURN RECEIPT, IF SIGNED BY OR ON BEHALF OF THE REAL ESTATE BROKER; OR
- (III) FIVE DAYS AFTER MAILING.

(b) ~~(f) This subsection (6) is repealed, effective July 1, 2008.~~

~~(H) Prior to such repeal, the provisions of this subsection (6) shall be reviewed as provided for in section 24-34-104, C.R.S.~~

**SECTION 7.** 12-61-101, Colorado Revised Statutes, is amended to read:

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

(1) "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.

(1.5) "Option dealer" means any person, firm, partnership, limited liability company, association, or corporation who, directly or indirectly, takes, obtains, or uses an option to purchase, exchange, rent, or lease real property or any interest therein with the intent or for the purpose of buying, selling, exchanging, renting, or leasing said real property or interest therein to another or others whether or not said option is in that person's or its name and whether or not title to said property passes through the name of said person, firm, partnership, limited liability company, association, or corporation in connection with the purchase, sale, exchange, rental, or lease of said real property or interest therein.

(1.7) "Partnership" includes, but is not limited to, a registered limited liability partnership.

(2) (a) "Real estate broker" or "broker" means any person, firm, partnership, limited liability company, association, or corporation who, in consideration of compensation by fee, commission, salary, or anything of value or with the intention of receiving or collecting such compensation, engages in or offers or attempts to engage in, either directly or indirectly, by a continuing course of conduct or by any single act or transaction, any of the following acts:

~~(a)~~ (I) Selling, exchanging, buying, renting, or leasing real estate, or interest therein, or improvements affixed thereon;

~~(b)~~ (II) Offering to sell, exchange, buy, rent, or lease real estate, or interest therein, or improvements affixed thereon;

~~(c)~~ (III) Selling or offering to sell or exchange an existing lease of real estate, or interest therein, or improvements affixed thereon;

~~(d)~~ (IV) Negotiating the purchase, sale, or exchange of real estate, or interest therein, or improvements affixed thereon;

~~(e)~~ (V) Listing, offering, attempting, or agreeing to list real estate, or interest therein, or improvements affixed thereon for sale, exchange, rent, or lease;

~~(f)~~ (VI) Auctioning or offering, attempting, or agreeing to auction real estate, or interest therein, or improvements affixed thereon;

~~(g)~~ (VII) Buying, selling, offering to buy or sell, or otherwise dealing in options on real estate, or interest therein, or improvements affixed thereon or acting as an "option dealer";

~~(h)~~ (VIII) Performing any of the foregoing acts as an employee of, or in behalf of, the owner of real estate, or interest therein, or improvements affixed thereon at a salary or for a fee, commission, or other consideration;

~~(i)~~ (IX) Negotiating or attempting or offering to negotiate the listing, sale, purchase, exchange, or lease of a business or business opportunity or the goodwill thereof or any interest therein when such act or transaction involves, directly or indirectly, any change in the ownership or interest in real estate, or in a leasehold interest or estate, or in a business or business opportunity which owns an interest in real estate or in a leasehold unless such act is performed by any broker-dealer licensed under the provisions of article 51 of title 11, C.R.S., who is actually engaged generally in the business of offering, selling, purchasing, or trading in securities or any officer, partner, salesperson, employee, or other authorized representative or agent thereof;

~~(j)~~ (X) Soliciting a fee or valuable consideration from a prospective tenant for furnishing information concerning the availability of real property, including apartment housing which may be leased or rented as a private dwelling, abode, or place of residence. Any person, firm, partnership, limited liability company, association, or corporation or any employee or authorized agent thereof engaged in the act of soliciting a fee or valuable consideration from any person other than a prospective tenant for furnishing information concerning the availability of real property, including apartment housing which may be leased or rented as a private dwelling, abode, or place of residence, is exempt from this definition of "real estate broker" or "broker". This exemption applies only in respect to the furnishing of information concerning the availability of real property.

~~(3) "Real estate salesperson" or "salesperson" means any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity of a real estate broker, as defined in subsection (1.5) or (2) of this section, for compensation or otherwise.~~

~~(4) (b) "Real estate salesperson" or "Real estate broker" does not apply to any of the following:~~

~~(a) (I) Any attorney-in-fact acting without compensation under a power of attorney, duly executed by an owner of real estate, authorizing the consummation of a real estate transaction;~~

~~(b) (II) Any public official in the conduct of his OR HER official duties;~~

~~(c) (III) Any receiver, trustee, administrator, conservator, executor, or guardian acting under proper authorization;~~

~~(d) (IV) Any person, firm, partnership, limited liability company, or association acting personally or a corporation acting through its officers or regular salaried employees, on behalf of that person or on its own behalf as principal in acquiring or in negotiating to acquire any interest in real estate;~~

~~(e) (V) An attorney-at-law in connection with his OR HER representation of clients in the practice of law;~~

~~(f)~~ (VI) Any person, firm, partnership, limited liability company, association, or corporation, or any employee or authorized agent thereof, engaged in the act of negotiating, acquiring, purchasing, assigning, exchanging, selling, leasing, or dealing in oil and gas or other mineral leases or interests therein or other severed mineral or royalty interests in real property, including easements, rights-of-way, permits, licenses, and any other interests in real property for or on behalf of a third party, for the purpose of, or facilities related to, intrastate and interstate pipelines for oil, gas, and other petroleum products, flow lines, gas gathering systems, and natural gas storage and distribution;

~~(g)~~ (VII) A natural person acting personally with respect to property owned or leased by that person or a natural person who is a general partner of a partnership, a manager of a limited liability company, or an owner of twenty percent or more of such partnership or limited liability company, and authorized to sell or lease property owned by such partnership or limited liability company, except as provided in subsection (1.5) of this section;

~~(h)~~ (VIII) A corporation with respect to property owned or leased by it, acting through its officers or regular salaried employees, when such acts are incidental and necessary in the ordinary course of the corporation's business activities of a non-real estate nature (but only if the corporation is not engaged in the business of land transactions), except as provided in subsection (1.5) of this section. For the purposes of this paragraph ~~(h)~~ SUBPARAGRAPH (VIII), the term "officers or regular salaried employees" means persons regularly employed who derive not less than seventy-five percent of their compensation from the corporation in the form of salaries.

~~(i)~~ (IX) A principal officer of any corporation with respect to property owned by it when such property is located within the state of Colorado and when such principal officer is the owner of twenty percent or more of the outstanding stock of such corporation, except as provided in subsection (1.5) of this section, but this exemption does not include any corporation selling previously occupied one-family and two-family dwellings;

~~(j)~~ (X) A sole proprietor, corporation, partnership, or limited liability company, acting through its officers or partners, or through regular salaried employees, with respect to property owned or leased by such sole proprietor, corporation, partnership, or limited liability company on which has been or will be erected a commercial, industrial, or residential building which has not been previously occupied and where the consideration paid for such property includes the cost of such building, payable, less deposit or down payment, at the time of conveyance of such property and building;

~~(k)~~ (XI) (A) A corporation, partnership, or limited liability company acting through its officers, partners, managers, or regularly salaried employees receiving no additional compensation therefor, or its wholly owned subsidiary or officers, partners, managers, or regular salaried employees thereof receiving no additional compensation, with respect to property located in Colorado which is owned or leased by such corporation, partnership, or limited liability company and on which has been or will be erected a shopping center, office building, or industrial park when such shopping center, office building, or industrial park is sold, leased, or

otherwise offered for sale or lease in the ordinary course of the business of such corporation, partnership, limited liability company, or wholly owned subsidiary.

(B) For the purposes of this ~~paragraph (k)~~ SUBPARAGRAPH (XI), "shopping center" means land on which buildings are or will be constructed which are used for commercial and office purposes around or adjacent to which off-street parking is provided; "office building" means a building used primarily for office purposes; and "industrial park" means land on which buildings are or will be constructed for warehouse, research, manufacturing, processing, or fabrication purposes.

~~(h)~~ (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 respect to the customary duties of an on-site manager performed for his OR HER employer.

~~(m)~~ (XIII) A regularly salaried employee of an owner of condominium units who acts as an on-site manager of such units. For purposes of this ~~paragraph (m)~~ SUBPARAGRAPH (XIII) only, the term "owner" includes a homeowners' association formed and acting pursuant to its recorded condominium declaration and bylaws. This exemption applies only in respect to the customary duties of an on-site manager performed for his OR HER employer.

~~(n)~~ (XIV) A real estate broker licensed in another state who receives a share of a commission or finder's fee on a cooperative transaction from a licensed Colorado real estate broker;

~~(o)~~ Repealed.

~~(p)~~ (XV) A sole proprietor, corporation, partnership, or limited liability company, acting through its officers, partners, or regularly salaried employees, with respect to property located in Colorado, where the purchaser of such property is in the business of developing land for residential, commercial, or industrial purposes;

~~(q)~~ (XVI) Any person, firm, partnership, limited liability company, association, or corporation, or any employee or authorized agent thereof, engaged in the act of negotiating, purchasing, assigning, exchanging, selling, leasing, or acquiring rights-of-way, permits, licenses, and any other interests in real property for or on behalf of a third party for the purpose of, or facilities related to:

~~(r)~~ (A) Telecommunication lines;

~~(s)~~ (B) Wireless communication facilities;

~~(t)~~ (C) CATV;

~~(u)~~ (D) Electric generation, ~~transmissions~~ TRANSMISSION, and distribution lines;

~~(v)~~ (E) Water diversion, collection, distribution, treatment, and storage or use; and

~~(w)~~ (F) Transportation, so long as such person, firm, partnership, limited liability

company, association, or corporation, including any employee or authorized agent thereof, does not represent any displaced person or entity as an agent thereof in the purchase, sale, or exchange of real estate, or an interest therein, resulting from residential or commercial relocations required under any transportation project, regardless of the source of public funding.

**SECTION 8.** 12-61-102, Colorado Revised Statutes, is amended to read:

**12-61-102. License required.** It is unlawful for any person, firm, partnership, limited liability company, association, or corporation to engage in the business or capacity of real estate broker ~~or real estate salesperson~~ in this state without first having obtained a license from the real estate commission. No person shall be granted a license until such person establishes compliance with the provisions of this part 1 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 ~~or real estate salesperson~~ in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications, together with the application for such license, is filed in the office of the commission. In determining such person's character, the real estate commission shall be governed by ~~the provisions of~~ section 24-5-101, C.R.S.

**SECTION 9.** 12-61-103 (6) (c) (I), (6) (c) (II), (9), and (10), Colorado Revised Statutes, are amended to read:

**12-61-103. Application for license - rules.** (6) (c) 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.

(9) No license for a broker registered as being in the employ of another broker ~~and no real estate salesperson's license~~ shall 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 may elect to use her birth name.

(10) No person shall be licensed as a real estate broker ~~or salesperson~~ under more than one name, and no person shall conduct or promote a real estate brokerage business except under the name under which such person is licensed.

**SECTION 10. Repeal.** 12-61-103.5, Colorado Revised Statutes, is repealed as follows:

**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 11.** 12-61-105 (3), Colorado Revised Statutes, is amended to read:

**12-61-105. Commission - compensation - immunity - subject to termination.**

(3) No real estate broker's license ~~and no real estate salesperson's license~~ shall be denied, suspended, or revoked except as determined by a majority vote of the members of the commission.

**SECTION 12.** 12-61-109 (2) and (4), Colorado Revised Statutes, are amended to read:

**12-61-109. Change of license status - inactive - cancellation.** (2) A broker who transfers to the address of another broker or a broker applicant who desires to be employed by another broker shall inform the commission if said broker is to be in the employ of the other broker. The employing broker shall have the control and custody of the employed broker's license. ~~and such employed broker shall have no salespersons licensed under the employed broker during the term of such employment, nor shall~~ The employed broker MAY NOT act on behalf of said broker or as broker for a partnership, limited liability company, or corporation during the term of such employment; but this shall not affect the employed broker's right to transfer to another employing broker or to a location where the employed broker may conduct business as an independent broker or as a broker acting for a partnership, limited liability company, or corporation.

(4) It is unlawful for any such licensee to perform any of the acts authorized

under the license in pursuance of this part 1, either directly or indirectly, on ~~and~~ OR after the date that employment has been terminated. When any real estate ~~salesperson or~~ broker whose employment has been terminated is employed by another real estate broker, the commission shall, upon proper notification, enter such change of employment in the records of the commission. Not more than one employer or place of employment shall be shown for any real estate ~~salesperson or~~ broker for the same period of time.

**SECTION 13.** 12-61-110 (5), Colorado Revised Statutes, is amended to read:

**12-61-110. License fees - partnership, limited liability company, and corporation licenses - rules.** (5) The suspension, expiration, or revocation of a real estate broker's license shall automatically inactivate every real estate broker's ~~or real estate salesperson's~~ license where the holder of such license is shown in the commission records to be in the employ of the broker whose license has expired or has been suspended or revoked pending notification to the commission by the employed licensee of a change of employment.

**SECTION 14.** 12-61-110.8 (1), Colorado Revised Statutes, is amended to read:

**12-61-110.8. Renewal of license - fingerprint-based criminal history record check - repeal.** (1) Prior to submitting a renewal application, a ~~salesperson or~~ broker applying for renewal of a license pursuant to section 12-61-110 (4) shall submit a set of fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Nothing in this section shall preclude the commission from making further inquiries into the background of the applicant. The applicant shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the commission.

**SECTION 15.** 12-61-113 (1) (c), (1) (f), (1) (g), (1) (j), (1) (n), (1) (p), (1) (v), (1.5), and (3), Colorado Revised Statutes, are amended to read:

**12-61-113. Investigation - revocation - actions against licensee - repeal.** (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 assumes to act in such capacity within the state, and the commission, after the holding of a hearing pursuant to section 12-61-114, has the power to impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense and to censure a licensee, to place the licensee on probation and to set the terms of probation, or to temporarily suspend or permanently revoke a license when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:

(c) Knowingly misrepresenting or making false promises through agents, ~~salespersons~~, advertising, or otherwise;

(f) In the case of a ~~salesperson or~~ of a broker registered as in the employ of another broker, failing to place, as soon after receipt as is practicably possible, in

the custody of that licensed broker-employer any deposit money or other money or fund entrusted to the employee by any person dealing with the employee as the representative of that licensed broker-employer;

(g) Failing to account for or to remit, within a reasonable time, any moneys coming into ~~his~~ THE LICENSEE'S possession ~~which~~ THAT belong to others, whether acting as real estate brokers ~~salespersons~~, or otherwise, and failing to keep records relative to said moneys, which records shall contain such information as may be prescribed by the rules ~~and regulations~~ of the commission relative thereto and shall be subject to audit by the commission;

(j) Paying a commission or valuable consideration for performing any of the functions of a real estate broker, ~~or real estate salesperson~~, as described in this part 1, to any person not licensed under ~~the provisions of~~ this part 1; except that a licensed broker may pay a finder's fee or a share of any commission on a cooperative sale when such payment is made to a real estate broker licensed in another state or country. If a country does not license real estate brokers, then the payee must be a citizen or resident of said country and represent that the payee is in the business of selling real estate in said country.

(n) Having demonstrated unworthiness or incompetency to act as a real estate broker ~~or salesperson~~ by conducting business in such a manner as to endanger the interest of the public;

(p) Procuring, or attempting to procure, a real estate broker's license ~~or a real estate salesperson's license~~ or renewing, reinstating, or reactivating, or attempting to renew, reinstate, or reactivate, a real estate broker's license ~~or a real estate salesperson's license~~ by fraud, misrepresentation, or deceit or by making a material misstatement of fact in an application for such license;

(v) Having had a real estate broker's ~~or salesperson's license~~ or a subdivision developer's license suspended or revoked in any jurisdiction, or having had any disciplinary action taken against the broker ~~salesperson~~, or subdivision developer in any other jurisdiction if the broker's ~~salesperson's~~, or subdivision developer's action would constitute a violation of this subsection (1). A certified copy of the order of disciplinary action shall be prima facie evidence of such disciplinary action.

(1.5) Every person licensed pursuant to section 12-61-101 ~~(2)(j)~~ (2) (a) (X) shall give a prospective tenant a contract or receipt; and such contract or receipt shall include the address and telephone number of the real estate commission in prominent letters and shall state that the regulation of rental location agents is under the purview of the real estate commission.

(3) Upon request of the commission, when any real estate broker ~~or salesperson~~ is a party to any suit or proceeding, either civil or criminal, arising out of any transaction involving the sale or exchange of any interest in real property or out of any transaction involving a leasehold interest in the real property and when such broker ~~or salesperson~~ is involved in such transaction in such capacity as a licensed broker, ~~or salesperson~~, it shall be the duty of said broker ~~or salesperson~~ to supply to the commission a copy of the complaint, indictment, information, or other initiating pleading and the answer filed, if any, and to advise the commission of the

disposition of the case and of the nature and amount of any judgment, verdict, finding, or sentence ~~which~~ THAT may be made, entered, or imposed therein.

**SECTION 16.** 12-61-114 (2) and (5), Colorado Revised Statutes, are amended to read:

**12-61-114. Hearing - administrative law judge - review - rule-making authority.** (2) Such 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 ~~a salesperson~~ or an employed broker, the commission shall also notify the broker employing the licensee by mailing, by first-class mail, a copy of the written notice required under section 24-4-104 (3), C.R.S., to the employing broker's last-known business address.

(5) Pursuant to said proceeding, the court has the right, in its discretion, to stay the execution or effect of any final order of the commission; but a hearing shall be held affording the parties an opportunity to be heard for the purpose of determining whether the public health, safety, and welfare would be endangered by staying the commission's order. ~~In the event that~~ If the court determines that the order should be stayed, it shall also determine at said hearing the amount of the bond and adequacy of the surety, which bond shall be conditioned upon the faithful performance by such petitioner of all obligations as a real estate broker ~~or salesperson~~ and upon the prompt payment of all damages arising from or caused by the delay in the taking effect of or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with such proceedings.

**SECTION 17.** 12-61-117, Colorado Revised Statutes, is amended to read:

**12-61-117. Broker remuneration.** It is unlawful for ~~any real estate salesperson or for any~~ A real estate broker registered in the commission office as in the employ of another broker to accept a commission or valuable consideration for the performance of any of the acts specified in this part 1 from any person except the broker's ~~or the salesperson's~~ employer, who ~~must~~ SHALL be a licensed real estate broker.

**SECTION 18.** 12-61-118, Colorado Revised Statutes, is amended to read:

**12-61-118. Acts of third parties - broker's liability.** Any unlawful act or violation of any of the provisions of this part 1 upon the part of ~~any real estate salesperson~~ ~~or~~ AN employee, ~~or any~~ officer, or member of a licensed real estate broker shall not be cause for disciplinary action against a real estate broker, unless it appears to the satisfaction of the commission that the real estate broker had actual knowledge of the unlawful act or violation or had been negligent in the supervision of ~~salespersons~~ ~~or~~ employees.

**SECTION 19.** 12-61-119, Colorado Revised Statutes, is amended to read:

**12-61-119. Violations.** Any natural person, firm, partnership, limited liability company, ~~or~~ association, or ~~any~~ corporation violating the provisions of this part 1 by acting as real estate broker ~~or real estate salesperson~~ in this state without having

obtained a license or by acting as real estate broker ~~or real estate salesperson~~ after ~~that person's~~ THE BROKER'S license has been revoked or during any period for which said license may have been suspended is guilty of a misdemeanor and, upon conviction thereof, if a natural person, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment and, if ~~a corporation~~ AN ENTITY, shall be punished by a fine of not more than five thousand dollars. A second violation, if by a natural person, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**SECTION 20.** 12-61-203.5 (2) (b) (I), Colorado Revised Statutes, is amended to read:

**12-61-203.5. Referral fees - interference with brokerage relationship.** (2) (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 otherwise established by law.

**SECTION 21.** 12-61-702 (5) (b) (II), Colorado Revised Statutes, is amended to read:

**12-61-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(5) (b) "Real estate appraiser" does not include:

(II) Any person licensed as a broker ~~or salesperson~~ pursuant to part 1 of this article who provides an opinion of value that is not represented as an appraisal and is not used for purposes of obtaining financing;

**SECTION 22.** The introductory portion to 12-61-718 (1) (a) and 12-61-718 (1) (a) (II), Colorado Revised Statutes, are amended to read:

**12-61-718. Scope of article - regulated financial institutions - de minimis exemption.** (1) (a) ~~The provisions of~~ This article shall not apply to an appraisal relating to any real estate-related transaction or loan made or to be made by a financial institution or its affiliate if such real estate-related transaction or loan is excepted from appraisal regulations established by the primary federal regulator of said financial institution and the appraisal is performed by:

(II) A real estate broker ~~or salesperson~~ licensed under this article with whom said institution or affiliate has contracted for performance of the appraisal.

**SECTION 23.** 12-61-802 (1), Colorado Revised Statutes, is amended to read:

**12-61-802. Definitions.** As used in this part 8, unless the context otherwise

requires:

(1) "Broker" shall have the same meaning as set forth in ~~subsection (2) or (3) of section 12-61-101~~ SECTION 12-61-101 (2), except as otherwise specified in this part 8. For purposes of this part 8, "broker" may include a "salesperson" as defined in ~~section 12-61-101 (3)~~.

**SECTION 24.** 12-61-803 (1) and (4), Colorado Revised Statutes, are amended to read:

**12-61-803. Relationships between brokers and the public.** (1) When engaged in any of the activities enumerated in section 12-61-101 (2), ~~or (3)~~, a broker may act in any transaction as a single agent or transaction-broker. The broker's general duties and obligations arising from that relationship shall be disclosed to the seller and the buyer or to the landlord and the tenant pursuant to section 12-61-808.

(4) A broker licensed pursuant to part 1 of this article, whether acting as a single agent or transaction-broker, may complete standard forms including those promulgated by the Colorado real estate commission and may advise the parties as to effects thereof if the broker is performing the activities enumerated or referred to in section 12-61-101 (2) ~~or (3)~~ in the transaction in which the forms are to be used. In any such transaction, the broker shall advise the parties that the forms have important legal consequences and that the parties should consult legal counsel before signing such forms.

**SECTION 25.** 12-61-808 (2) (a) (I) and (2) (b), the introductory portion to 12-61-808 (2) (d) (I), and 12-61-808 (2) (g) (I), Colorado Revised Statutes, are amended to read:

**12-61-808. Broker disclosures.** (2) (a) (I) Prior to engaging in any of the activities enumerated in ~~subsection (2) or (3) of section 12-61-101~~ SECTION 12-61-101 (2), a transaction-broker shall disclose in writing to the party to be assisted that such broker is not acting as agent for such party and that such broker is acting as a transaction-broker.

(b) Prior to engaging in any of the activities enumerated in section 12-61-101 (2), ~~or (3)~~, a broker intending to establish a single agency relationship with a seller, landlord, buyer, or tenant shall enter into a written agency agreement with the party to be represented. Such agreement shall disclose the duties and responsibilities specified in section 12-61-804 or 12-61-805, as applicable. Notice of the single agency relationship shall be furnished to any prospective party to the proposed transaction in a timely manner.

(d) (I) Prior to engaging in any of the activities enumerated in section 12-61-101 (2), ~~or (3)~~, a broker intending to work with a buyer or tenant as an agent of the seller or landlord shall provide a written disclosure to such buyer or tenant that shall contain the following:

(g) (I) Prior to engaging in any of the activities enumerated in section 12-61-101 (2), ~~or (3)~~, the seller, buyer, landlord, or tenant shall be advised in any written agreement with a broker that the brokerage relationship exists only with the

designated broker, does not extend to the employing broker or to any other brokers employed or engaged by the employing broker who are not so designated, and does not extend to the brokerage company.

**SECTION 26.** 12-61-811, Colorado Revised Statutes, is amended to read:

**12-61-811. Violations.** The violation of any provision of this part 8 by a broker ~~or salesperson shall constitute~~ CONSTITUTES an act pursuant to section 12-61-113 (1) (k) for which the real estate commission may investigate and take administrative action against any such broker ~~or salesperson~~ pursuant to sections 12-61-113 and 12-61-114. ~~if it has reason to believe that this part 8 has been violated.~~

**SECTION 27.** 12-61-905 (1) (c) (III), Colorado Revised Statutes, is amended to read:

**12-61-905. Powers and duties of the director.** (1) The director shall deny, refuse to renew, or revoke the license of an applicant who has:

(c) Within the last five years, had a license, registration, or certification issued by Colorado or another state revoked or suspended for fraud, deceit, material misrepresentation, theft, or the breach of a fiduciary duty, and such discipline denied the person authorization to practice as:

(III) A real estate salesperson; ~~as defined by section 12-61-101 (3);~~

**SECTION 28.** 12-61-912 (1), the introductory portion to 12-61-912 (3) (a), and 12-61-912 (3) (b), Colorado Revised Statutes, are amended to read:

**12-61-912. Dual status as real estate broker - requirements.** (1) Unless a mortgage broker complies with both subsections (2) and (3) of this section, he or she shall not act as a loan originator in any transaction in which:

(a) The mortgage broker acts or has acted as a real estate broker; ~~or salesperson;~~  
or

(b) Another person doing business under the same licensed real estate broker acts or has acted as a real estate broker. ~~or salesperson.~~

(3) (a) A real estate broker ~~or salesperson~~ licensed under part 1 of this article who also acts as a mortgage broker shall carry on such mortgage broker business activities and shall maintain such person's mortgage broker business records separate and apart from the real estate broker activities conducted pursuant to part 1 of this article. Such activities shall be deemed separate and apart even if they are conducted at an office location with a common entrance and mailing address if:

(b) This subsection (3) shall not require a real estate broker ~~or salesperson~~ licensed under part 1 of this article who also acts as a mortgage broker to maintain a physical separation within the office facility for the conduct of its real estate and mortgage broker activities if the director determines that maintaining such physical separation would constitute an undue financial hardship upon the mortgage broker and is unnecessary for the protection of the public.

**SECTION 29.** 6-1-1103 (4) (b) (VII), Colorado Revised Statutes, is amended to read:

**6-1-1103. Definitions.** As used in this part 11, unless the context otherwise requires:

(4) (b) The term "foreclosure consultant" does not include:

(VII) A person licensed as a real estate broker ~~or real estate salesperson~~ under article 61 of title 12, C.R.S., while the person engages in any activity for which the person is licensed; or

**SECTION 30.** The introductory portion to 8-70-136 (1), Colorado Revised Statutes, is amended to read:

**8-70-136. Employment does not include - brokers.** (1) "Employment" does not include services performed by an individual as a licensed real estate ~~salesperson~~ BROKER or as a direct seller engaged in the trade or business of selling, or soliciting the sale of, a consumer product in a home or in an establishment other than a permanent retail establishment or as an individual engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business if:

**SECTION 31.** 29-26-101 (1) (d) (III), Colorado Revised Statutes, is amended to read:

**29-26-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(d) In selecting members of the advisory boards, the governing bodies of local government shall give preference to residents of the jurisdiction who have demonstrated experience in housing matters, preferably within the territorial boundaries of the jurisdiction, as a result of their current or former experience, without limitation, as a:

(III) Real estate ~~salesperson~~ or broker licensed in accordance with part 1 of article 61 of title 12, C.R.S.;

**SECTION 32.** The introductory portion to 12-61-110.5 (1), 12-61-110.5 (1) (c) and (2), and the introductory portion to 12-61-110.5 (3), Colorado Revised Statutes, are amended to read:

**12-61-110.5. Renewal of license - continuing education requirement.** (1) Commencing January 1, 1992, except as otherwise provided in subsection (4) of this section, a ~~salesperson~~ or broker applying for renewal of a license pursuant to section 12-61-110 (4) shall include with such application a certified statement verifying successful completion of real estate courses in accordance with the following schedule:

(c) For licensees applying for renewal in 1994 and thereafter, passage within the previous three years of the Colorado portion of the real estate exam or completion

of a minimum of twenty-four hours of credit, ~~eight~~ TWELVE of which shall be the credits developed by the real estate commission pursuant to subsection (2) of this section.

(2) The real estate commission shall develop ~~eight~~ TWELVE hours of credit designed to assure reasonable currency of real estate knowledge by licensees, which credits shall include an update of the current statutes and the rules promulgated by the commission that affect the practice of real estate. If a licensee takes a course pursuant to rule 260 of the Colorado rules of civil procedure and such course concerns real property law, such licensee shall receive credit for such course toward the fulfillment of such licensee's continuing education requirements pursuant to this section. Such credits shall be taken from an accredited Colorado college or university; a Colorado community college; a Colorado private occupational school holding a certificate of approval from the state board for community colleges and occupational education; or an educational institution or an educational service described in section 12-59-104. Successful completion of such credits shall require satisfactory passage of a written examination or written examinations of the materials covered. Such examinations shall be audited by the commission to verify their accuracy and the validity of the grades given. The commission shall set the standards required for satisfactory passage of the examinations.

(3) All credits, other than the credits specified in subsection (2) of this section, shall be acquired from educational ~~programs contributing~~ COURSES APPROVED BY THE COMMISSION THAT CONTRIBUTE directly to the professional competence of a licensee. Such credits may be acquired through successful completion of instruction in one or more of the following subjects:

**SECTION 33.** 12-61-105 (1), Colorado Revised Statutes, is amended to read:

**12-61-105. Commission - compensation - immunity - subject to termination.**

(1) There shall be a commission of five members, appointed by the governor, which shall administer parts 1, 3, and 4 of this article. This commission shall be known as the real estate commission, ALSO referred to in this part 1 as the "commission", and shall consist of three real estate brokers who have had not less than five years' experience in the real estate business in Colorado ~~one person with expertise in subdivision development; and one person representative~~ TWO REPRESENTATIVES of the public at large. Members of the commission shall hold office for a period of three years. Upon the death, resignation, removal, or otherwise of any member of the commission, the governor shall appoint a member to fill out the unexpired term. The governor ~~shall have the authority to~~ MAY remove any member for misconduct, neglect of duty, or incompetence.

**SECTION 34.** 12-61-103 (6) (b), Colorado Revised Statutes, is amended to read:

**12-61-103. Application for license.** (6) (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 ~~the applicant~~ 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 credentials and qualifications that are substantively equivalent to the requirements in Colorado for licensure by examination. ~~A broker's license may be issued under this paragraph (b) only if the~~

~~jurisdiction from which the applicant holds a real estate license allows the issuance of a real estate broker's license to applicants from the state of Colorado in substantially the same manner as set forth in this paragraph (b).~~

**SECTION 35.** 12-61-113 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**12-61-113. Investigation - revocation - actions against licensee - repeal.**

(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 assumes to act in such capacity within the state, and the commission, after the holding of a hearing pursuant to section 12-61-114, has the power to impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense and to censure a licensee, to place the licensee on probation and to set the terms of probation, or to temporarily suspend or permanently revoke a license when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:

(y) WITHIN THE LAST FIVE YEARS, HAVING A LICENSE, REGISTRATION, OR CERTIFICATION ISSUED BY COLORADO OR ANOTHER STATE REVOKED OR SUSPENDED FOR FRAUD, DECEIT, MATERIAL MISREPRESENTATION, THEFT, OR THE BREACH OF A FIDUCIARY DUTY, AND SUCH DISCIPLINE DENIED THE PERSON AUTHORIZATION TO PRACTICE AS:

(I) A MORTGAGE BROKER;

(II) A REAL ESTATE BROKER OR SALESPERSON;

(III) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION 12-61-702 (5);

(IV) AN INSURANCE PRODUCER, AS DEFINED BY SECTION 10-2-103 (6), C.R.S.;

(V) AN ATTORNEY;

(VI) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION 11-51-201 (2), C.R.S.;

(VII) A SECURITIES SALES REPRESENTATIVE, AS DEFINED BY SECTION 11-51-201 (14), C.R.S.;

(VIII) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION 11-51-201 (9.5), C.R.S.; OR

(IX) AN INVESTMENT ADVISOR REPRESENTATIVE, AS DEFINED BY SECTION 11-51-201 (9.6), C.R.S.

**SECTION 36.** 12-61-113 (1) (m), Colorado Revised Statutes, is amended to read:

**12-61-113. Investigation - revocation - actions against licensee - repeal.**

(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 assumes to act in such capacity within the state, and the commission, after the holding of a hearing pursuant to section 12-61-114, has the power to impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense and to censure a licensee, to place the licensee on probation and to set the terms of probation, or to temporarily suspend or permanently revoke a license when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:

(m) Conviction of, entering a plea of guilty to, or entering a plea of nolo contendere to any crime in article 3 of title 18, C.R.S.; in parts 1, 2, 3, and 4 of article 4 of title 18, C.R.S.; in part 1, 2, 3, 4, 5, 7, or 8, or 9 of article 5 of title 18, C.R.S.; in ARTICLE 5.5 OF TITLE 18, C.R.S.; PARTS 1, 3, 4, 6, 7, AND 8 OF ARTICLE 6 OF TITLE 18, C.R.S.; PARTS 1, 3, 4, 5, 6, 7, AND 8 OF ARTICLE 7 OF TITLE 18, C.R.S.; part 3 of article 8 of title 18, C.R.S.; in article 15 of title 18, C.R.S.; in article 17 of title 18, C.R.S.; SECTION 18-18-404, 18-18-405, 18-18-406, 18-18-411, 18-18-412.5, 18-18-412.7, 18-18-412.8, 18-18-415, 18-18-416, 18-18-422, OR 18-18-423, C.R.S., or any other like crime under Colorado law, federal law, or the laws of other states. A certified copy of the judgment of a court of competent jurisdiction of such conviction or other official record indicating that such plea was entered shall be conclusive evidence of such conviction or plea in any hearing under this part 1.

**SECTION 37.** 12-61-103 (1) (b) (I), Colorado Revised Statutes, is amended to read:

**12-61-103. Application for license.** (1) (b) (I) Prior to submitting an application for a license pursuant to paragraph (a) of this subsection (1), each applicant shall submit a set of fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The applicant shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check to the bureau. Upon completion of the criminal history record check, the bureau shall forward the results to the real estate commission. THE REAL ESTATE COMMISSION MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.

**SECTION 38.** The introductory portion to 12-61-110 (4) (a), Colorado Revised Statutes, is amended to read:

**12-61-110. License fees - partnership, limited liability company, and corporation licenses - rules.** (4) (a) The commission shall require that any person licensed under this part 1, whether on an active or inactive basis, renew said license on an anniversary date every three years. Renewal shall be conditioned upon fulfillment of the continuing education requirements set forth in section 12-61-110.5 and submission of fingerprints as required in section 12-61-110.8; except that any person licensed under this part 1 who maintains an inactive license and wants to renew to an active status shall only submit fingerprints as required in section 12-61-110.8 upon application to an active status AND, EXCEPT THAT, THE REAL ESTATE COMMISSION MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD

CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. For persons renewing or reinstating an active license, written certification verifying completion for the previous three-year licensing period of the continuing education requirements set forth in said section shall accompany and be submitted to the commission with the application for renewal or reinstatement. For persons who did not submit certification verifying compliance with section 12-61-110.5 at the time a license was renewed or reinstated on an inactive status, written certification verifying completion for the previous three-year licensing period of the continuing education requirements set forth in said section shall accompany and be submitted with any future application to reactivate the license. The commission may by rule establish procedures to facilitate such a renewal. Until such procedures are established, every license issued under the provisions of this part 1 shall expire at 12 midnight on December 31 of the year in which issued; except that each renewal of such license shall be for three years and shall expire at 12 midnight on December 31 of the third year. In the absence of any reason or condition that might warrant the refusal of the granting of a license or the revocation thereof, the commission shall issue a new license upon receipt by the commission of the written request of the applicant and the fees therefor, as required by this section. Applications for renewal will be accepted thirty days prior to January 1. A person who fails to renew a license before January 1 of the year succeeding the year of the expiration of such license may reinstate the license as follows:

**SECTION 39.** 12-61-111, Colorado Revised Statutes, is amended to read:

**12-61-111. Disposition of moneys.** All ~~moneys~~ FEES collected by the real estate commission under parts 1 and 4 of this article, not including ADMINISTRATIVE FEES THAT ARE IN THE NATURE OF AN ADMINISTRATIVE FINE AND fees retained by contractors pursuant to contracts entered into in accordance with section 12-61-103 or 24-34-101, C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund. Pursuant to section 12-61-111.5, the general assembly shall make annual appropriations from said fund for expenditures of the commission incurred in the performance of its duties under parts 1 and 4 of this article. The commission may request an appropriation specifically designated for educational and enforcement purposes. The expenditures incurred by the commission under parts 1 and 4 of this article shall be made out of such appropriations upon vouchers and warrants drawn pursuant to law.

**SECTION 40.** 12-61-204, Colorado Revised Statutes, is amended to read:

**12-61-204. Repeal of part.** This part 2 is repealed, effective July 1, ~~2008~~ 2017. Prior to such repeal, the provisions in this part 2 shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 41.** 12-61-408, Colorado Revised Statutes, is amended to read:

**12-61-408. Repeal of part.** This part 4 is repealed, effective July 1, ~~2008~~ 2017. Prior to such repeal, the provisions in this part 4 shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 42.** 12-61-615, Colorado Revised Statutes, is amended to read:

**12-61-615. Repeal of part.** This part 6 is repealed, effective July 1, ~~2008~~ 2017. Prior to such repeal, the provisions in this part 6 shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 43.** 12-61-106 (1), Colorado Revised Statutes, is amended to read:

**12-61-106. Director, clerks, and assistants.** (1) The executive director of the department of regulatory agencies is authorized by this section to employ, subject to the provisions of the state personnel system laws of the state, a director for the commission, ~~and~~ WHO IN TURN SHALL EMPLOY such attorneys, deputies, investigators, clerks, and assistants as are necessary to discharge the duties imposed by ~~the provisions of~~ parts 1, 3, and 4 of this article.

**SECTION 44. Applicability.** This act shall apply to acts occurring on or after the effective date of this act.

**SECTION 45. 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 17, 2008