

CHAPTER 352

PROPERTY

HOUSE BILL 13-1277

BY REPRESENTATIVE(S) Williams, Fields, Hullinghorst, Labuda, Peniston, Primavera, Ryden, Salazar, Buckner;
also SENATOR(S) Carroll and Todd, Aguilar, Giron, Guzman, Hodge, Kefalas, Newell, Nicholson, Schwartz, Tochtrop.

AN ACT

CONCERNING THE REGULATION OF PERSONS WHO MANAGE THE AFFAIRS OF COMMON INTEREST COMMUNITIES UNDER THE "COLORADO COMMON INTEREST OWNERSHIP ACT".

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

SECTION 1. In Colorado Revised Statutes, 38-33.3-209.4, **amend** (1) (b) as follows:

38-33.3-209.4. Public disclosures required - identity of association - agent - manager - contact information. (1) Within ninety days after assuming control from the declarant pursuant to section 38-33.3-303 (5), the association shall make the following information available to unit owners upon reasonable notice in accordance with subsection (3) of this section. In addition, if the association's address, designated agent, or management company changes, the association shall make updated information available within ninety days after the change:

(b) The name of the association's designated agent or management company, if any, TOGETHER WITH THE AGENT'S OR MANAGEMENT COMPANY'S LICENSE NUMBER IF THE AGENT OR MANAGEMENT COMPANY IS SUBJECT TO LICENSURE UNDER PART 10 OF ARTICLE 61 OF TITLE 12, C.R.S.;

SECTION 2. In Colorado Revised Statutes, **add** 38-33.3-402 as follows:

38-33.3-402. Manager licensing - condition precedent for enforcement of contract terms. A PERSON THAT IS SUBJECT TO LICENSURE AS A COMMUNITY ASSOCIATION MANAGER UNDER PART 10 OF ARTICLE 61 OF TITLE 12, C.R.S., SHALL AT ALL TIMES HAVE AND MAINTAIN A VALID LICENSE WHEN ACTING OR PURPORTING TO ACT ON BEHALF OF THE ASSOCIATION. THE ASSOCIATION'S AGREEMENT TO PAY A FEE FOR THE SERVICES OF A COMMUNITY MANAGER OR TO HOLD HARMLESS OR

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

INDEMNIFY THE COMMUNITY MANAGER FOR ANY ACT OR OMISSION IN THE COURSE OF PROVIDING THOSE SERVICES, IS VOID AND UNENFORCEABLE FOR ANY PERIOD IN WHICH THE LICENSE IS EXPIRED, SUSPENDED, OR REVOKED.

SECTION 3. In Colorado Revised Statutes, **add** part 10 of article 61 of title 12 as follows:

PART 10
COMMUNITY ASSOCIATION MANAGERS

12-61-1001. Definitions. AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CCIOA" MEANS THE "COLORADO COMMON INTEREST OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38, C.R.S.

(2) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103 (8), C.R.S.

(3) "COMMUNITY ASSOCIATION MANAGEMENT" MEANS ANY OF THE FOLLOWING PRACTICES RELATING TO THE MANAGEMENT OF A COMMON INTEREST COMMUNITY, AT THE DIRECTION OF ITS EXECUTIVE BOARD:

(a) RECEIVING, DEPOSITING, CONTROLLING, OR DISBURSING FUNDS OF THE COMMON INTEREST COMMUNITY, PREPARING BUDGETS, OR PREPARING OTHER FINANCIAL DOCUMENTS;

(b) ASSISTING IN THE CREATION AND IMPLEMENTATION OF A RESERVE PROGRAM FOR THE REPLACEMENT OF CAPITAL ASSETS;

(c) ASSISTING IN THE PROVISION OF NOTICE OR CONDUCT OF MEETINGS OF BOARD MEMBERS OR UNIT OWNERS;

(d) CONTRACTING FOR OR COORDINATING MAINTENANCE OF PROPERTY AND FACILITIES OF THE COMMON INTEREST COMMUNITY;

(e) CONDUCTING PROPERTY INSPECTIONS, ADMINISTERING APPLICATIONS FOR ARCHITECTURAL REVIEW, AND KEEPING RECORDS OF VIOLATIONS OF THE GOVERNING DOCUMENTS OF THE COMMON INTEREST COMMUNITY; AND

(f) PERFORMING OTHER SERVICES RELATING TO THE DAY-TO-DAY OPERATION OF THE COMMON INTEREST COMMUNITY.

(4) (a) "COMMUNITY ASSOCIATION MANAGER" OR "MANAGER" MEANS ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR CORPORATION THAT, IN CONSIDERATION OF COMPENSATION BY FEE, COMMISSION, SALARY, OR ANYTHING ELSE OF VALUE OR WITH THE INTENTION OF RECEIVING OR COLLECTING SUCH COMPENSATION, ENGAGES IN OR OFFERS OR ATTEMPTS TO ENGAGE IN COMMUNITY MANAGEMENT IN COLORADO. THE TERM INCLUDES:

(1) THE CHIEF EXECUTIVE OFFICER OF A BUSINESS ENTITY THAT EMPLOYS

INDIVIDUALS OR CONTRACTS WITH OTHER BUSINESS ENTITIES TO PERFORM COMMUNITY ASSOCIATION MANAGEMENT SERVICES; AND

(II) ANY EXECUTIVE OF A BUSINESS ENTITY WHO HAS DIRECT SUPERVISION OR OVERSIGHT OF AN INDIVIDUAL WHO PERFORMS COMMUNITY ASSOCIATION MANAGEMENT SERVICES.

(b) "COMMUNITY ASSOCIATION MANAGER" OR "MANAGER" DOES NOT INCLUDE:

(I) A PERSON WHO PERFORMS NOT MORE THAN ONE OF THE PRACTICES LISTED IN PARAGRAPHS (a) TO (g) OF SUBSECTION (3) OF THIS SECTION, OR ANY CLERICAL, MINISTERIAL, ACCOUNTING, OR MAINTENANCE FUNCTION NOT REQUIRING SUBSTANTIALLY SPECIALIZED KNOWLEDGE, JUDGMENT, OR MANAGERIAL SKILL, UNDER THE DIRECT SUPERVISION AND CONTROL OF A LICENSED COMMUNITY ASSOCIATION MANAGER OR OF A CONTRACTOR EMPLOYED BY A LICENSED COMMUNITY ASSOCIATION MANAGER OR BY THE COMMON INTEREST COMMUNITY'S EXECUTIVE BOARD;

(II) ANY PUBLIC OFFICIAL IN THE CONDUCT OF HIS OR HER OFFICIAL DUTIES;

(III) A RECEIVER, TRUSTEE, ADMINISTRATOR, CONSERVATOR, EXECUTOR, OR GUARDIAN ACTING UNDER PROPER AUTHORIZATION;

(IV) A 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;

(V) AN ATTORNEY-AT-LAW IN CONNECTION WITH HIS OR HER REPRESENTATION OF CLIENTS IN THE PRACTICE OF LAW;

(VI) 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-PROPERTY MANAGEMENT NATURE. FOR THE PURPOSES OF THIS PARAGRAPH (b), 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.

(5) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(6) "DIVISION" MEANS THE DIVISION OF REAL ESTATE IN THE DEPARTMENT OF REGULATORY AGENCIES.

(7) "EXECUTIVE BOARD" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103 (16), C.R.S.

(8) "HOA" OR "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION OR UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103 (3), C.R.S., WHETHER

ORGANIZED BEFORE, ON, OR AFTER JULY 1, 1992.

(9) "LIMITED LIABILITY COMPANY" HAS THE MEANING SET FORTH IN SECTION 7-80-102 (7), C.R.S.

12-61-1002. License required - rule-making authority - violations - administrative and legal remedies. (1) EFFECTIVE JULY 1, 2015, IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN, OR TO HOLD OUT HIMSELF, HERSELF, OR ITSELF AS QUALIFIED TO ENGAGE IN, THE BUSINESS OF COMMUNITY ASSOCIATION MANAGEMENT WITHOUT FIRST HAVING OBTAINED A LICENSE FROM THE DIRECTOR IN ACCORDANCE WITH SECTION 12-61-1003 OR DURING ANY PERIOD IN WHICH THE MANAGER'S LICENSE IS REVOKED OR SUSPENDED.

(2) THE DIRECTOR MAY PROMULGATE RULES AS NECESSARY TO ENABLE THE DIRECTOR TO CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS PART 10.

(3) IN ADDITION TO CONDUCTING HEARINGS AS PROVIDED IN SECTION 12-61-1011, THE DIRECTOR MAY ENFORCE THIS PART 10 AND RULES ADOPTED UNDER THIS PART 10 BY TAKING ONE OR MORE OF THE FOLLOWING ACTIONS:

(a) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON IS VIOLATING PART 10 OF THIS ARTICLE OR OF A RULE ADOPTED UNDER THIS PART 10, THE DIRECTOR MAY ENTER AN ORDER REQUIRING THE PERSON TO CEASE AND DESIST THE VIOLATIONS.

(b) THE DIRECTOR MAY APPLY TO A COURT OF COMPETENT JURISDICTION FOR AN ORDER ENJOINING ANY ACT OR PRACTICE THAT CONSTITUTES A VIOLATION OF THIS PART 10 OR OF A RULE ADOPTED UNDER THIS PART 10, AND, UPON A SHOWING THAT A PERSON IS ENGAGING OR INTENDS TO ENGAGE IN ANY SUCH ACT OR PRACTICE, THE COURT SHALL GRANT AN INJUNCTION, RESTRAINING ORDER, OR OTHER APPROPRIATE ORDER REGARDLESS OF THE EXISTENCE OF ANOTHER REMEDY THEREFOR. ANY NOTICE, HEARING, OR DURATION OF ANY INJUNCTION OR RESTRAINING ORDER SHALL BE MADE IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE.

(c) THE DIRECTOR MAY CONDUCT AUDITS OF BUSINESS RECORDS AND ACCOUNTS OF LICENSEES.

12-61-1003. Application for license - criminal history record check - examination - rules. (1) (a) A PERSON DESIRING TO BECOME A COMMUNITY ASSOCIATION MANAGER MUST APPLY TO THE DIRECTOR FOR A LICENSE IN THE FORM AND MANNER PRESCRIBED BY THE DIRECTOR.

(b) (I) BEFORE SUBMITTING AN APPLICATION FOR A LICENSE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), EACH APPLICANT MUST 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 DIRECTOR. THE DIRECTOR 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.

(II) IF A PERSON HAS COMPLIED WITH THIS PARAGRAPH (b) AND HAS SUBMITTED AN OTHERWISE COMPLETE APPLICATION FOR A LICENSE BEFORE JULY 1, 2014, BUT, AS OF JULY 1, 2015, THE RESULTS OF THE PERSON'S FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK HAVE NOT BEEN FORWARDED TO THE DIRECTOR, THE DIRECTOR MAY ISSUE A TEMPORARY LICENSE PENDING THE RECEIPT OF THE RESULTS. THE DIRECTOR MAY ADOPT RULES TO IMPLEMENT THIS SUBPARAGRAPH (II), BUT MAY NOT IMPOSE A FIXED EXPIRATION DATE FOR THE TEMPORARY LICENSE.

(2) EVERY COMMUNITY ASSOCIATION MANAGER LICENSED UNDER THIS PART 10 SHALL MAINTAIN A PLACE OF BUSINESS WITHIN THIS STATE, EXCEPT AS PROVIDED IN SECTION 12-61-1006. IF A COMMUNITY ASSOCIATION MANAGER MAINTAINS MORE THAN ONE PLACE OF BUSINESS WITHIN THE STATE, THE MANAGER IS RESPONSIBLE FOR SUPERVISING ALL LICENSED ACTIVITIES ORIGINATING IN THOSE OFFICES.

(3) (a) THE DIRECTOR MAY REQUIRE AND PROCURE ANY PROOF NECESSARY IN REFERENCE TO THE TRUTHFULNESS, HONESTY, AND GOOD MORAL CHARACTER OF ANY APPLICANT FOR A COMMUNITY ASSOCIATION MANAGER'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 THE APPLICANT PRIOR TO THE ISSUANCE OF THE LICENSE.

(b) AN APPLICANT IS INELIGIBLE FOR A LICENSE IF THE PERSON HAS, WITHIN THE IMMEDIATELY PRECEDING TEN YEARS, HAD A LICENSE OR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER REVOKED OR SUSPENDED IN COLORADO OR ANY OTHER JURISDICTION THAT REGULATES COMMUNITY ASSOCIATION MANAGERS; EXCEPT THAT THE DIRECTOR HAS THE DISCRETION TO ACCEPT THE PERSON'S APPLICATION IF AT LEAST TWO YEARS HAVE ELAPSED SINCE THE DATE OF THE REVOCATION OR SUSPENSION AND THE APPLICANT HAS PROVED TO THE DIRECTOR THAT HE OR SHE IS FIT TO BE LICENSED AS A COMMUNITY MANAGER IN COLORADO.

(c) IF THE DIRECTOR DETERMINES THAT THE APPLICANT HAS BEEN CONVICTED OF A CRIME, THE DIRECTOR SHALL CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING WHETHER THE CONVICTION DISQUALIFIES THE APPLICANT FOR A LICENSE:

(I) THE NATURE OF THE CONVICTION;

(II) WHETHER THERE IS A DIRECT RELATIONSHIP BETWEEN THE CONVICTION AND THE DUTIES AND RESPONSIBILITIES OF LICENSURE AND THE BEARING, IF ANY, THE CONVICTION MAY HAVE ON THE APPLICANT'S FITNESS OR ABILITY TO PERFORM ONE OR MORE SUCH DUTIES AND RESPONSIBILITIES, INCLUDING WHETHER THE CONVICTION WAS FOR UNLAWFUL SEXUAL BEHAVIOR AS LISTED IN SECTION 16-22-102(9), C.R.S., AND WHETHER THE APPLICANT WOULD PLACE A RESIDENT OR THE PUBLIC IN A VULNERABLE POSITION;

(III) ANY INFORMATION PRODUCED BY THE APPLICANT OR PRODUCED ON THE APPLICANT'S BEHALF REGARDING HIS OR HER REHABILITATION AND GOOD CONDUCT; AND

(IV) THE TIME THAT HAS ELAPSED SINCE THE CONVICTION.

(d) NOTWITHSTANDING PARAGRAPH (c) OF THIS SUBSECTION (3), AN APPLICANT IS INELIGIBLE FOR LICENSURE IF THE APPLICANT HAS, WITHIN THE IMMEDIATELY PRECEDING TEN YEARS, BEEN CONVICTED OF AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS LISTED IN SECTION 16-22-102 (9), C.R.S., A BURGLARY OFFENSE, AS DEFINED IN SECTION 18-4-202 OR 18-4-203, C.R.S., OR ANY FELONY INVOLVING FRAUD, THEFT, LARCENY, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY.

(4) AN APPLICANT FOR A MANAGER'S LICENSE MUST BE AT LEAST EIGHTEEN YEARS OF AGE AND MUST FURNISH PROOF SATISFACTORY TO THE DIRECTOR THAT THE APPLICANT HAS RECEIVED EITHER A HIGH SCHOOL DIPLOMA OR THE EQUIVALENT GENERAL EDUCATION DEVELOPMENT CERTIFICATION.

(5) (a) AN APPLICANT FOR A MANAGER'S LICENSE MUST:

(I) HOLD ONE OR MORE OF THE FOLLOWING CREDENTIALS:

(A) THE "CERTIFIED MANAGER OF COMMUNITY ASSOCIATIONS" OR "CMCA" DESIGNATION AWARDED BY THE NATIONAL BOARD OF CERTIFICATION FOR COMMUNITY ASSOCIATION MANAGERS;

(B) THE "ASSOCIATION MANAGEMENT SPECIALIST" OR "AMS" DESIGNATION AWARDED BY THE COMMUNITY ASSOCIATIONS INSTITUTE;

(C) THE "PROFESSIONAL COMMUNITY ASSOCIATION MANAGER" OR "PCAM" DESIGNATION AWARDED BY THE COMMUNITY ASSOCIATIONS INSTITUTE; OR

(D) ANOTHER CREDENTIAL IDENTIFIED BY THE DIRECTOR IN RULES; AND

(II) CERTIFY COMPLETION OF ANY EDUCATIONAL OR CONTINUING EDUCATIONAL REQUIREMENTS AS DETERMINED BY THE DIRECTOR IN RULES AND PUBLISHED ON THE DIVISION'S WEB SITE; AND

(III) SUBMIT TO AND PASS AN EXAMINATION DESIGNED TO DETERMINE THE COMPETENCY OF THE APPLICANT AND PREPARED BY OR UNDER THE SUPERVISION OF THE DIRECTOR OR THE DIRECTOR'S DESIGNATED CONTRACTOR. THE DIRECTOR MAY CONTRACT WITH AN INDEPENDENT TESTING SERVICE TO DEVELOP, ADMINISTER, OR GRADE EXAMINATIONS OR TO ADMINISTER LICENSEE RECORDS. THE CONTRACT MAY ALLOW THE TESTING SERVICE TO RECOVER FROM THE APPLICANT THE COSTS OF THE EXAMINATION AND THE COSTS OF ADMINISTERING THE EXAMINATION AND LICENSE RECORDS. THE DIRECTOR MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND ALLOW RECOVERED COSTS TO BE COLLECTED AND RETAINED BY A SINGLE CONTRACTOR FOR DISTRIBUTION TO OTHER CONTRACTORS. THE DIRECTOR SHALL HAVE THE AUTHORITY TO SET THE MINIMUM PASSING SCORE THAT AN APPLICANT MUST RECEIVE ON THE EXAMINATION, WHICH SCORE MUST REFLECT THE MINIMUM

LEVEL OF COMPETENCY REQUIRED TO BE A COMMUNITY ASSOCIATION MANAGER. THE DIRECTOR SHALL PRESCRIBE THE TIMES AND PLACES AT WHICH THE EXAMINATION IS GIVEN.

(b) THE EXAMINATION DEVELOPED UNDER SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (5) MUST ASSESS AN APPLICANT'S COMPETENCY IN THE FOLLOWING SUBJECT MATTER AREAS:

(I) THE LEGAL DOCUMENTS AND STATUTES THAT ENABLE A COMMUNITY ASSOCIATION TO OPERATE, INCLUDING THE "COLORADO COMMON INTEREST OWNERSHIP ACT" AND OTHER APPLICABLE PROVISIONS OF COLORADO LAW; AND

(II) OTHER CORE COMPETENCIES AS SPECIFIED BY THE DIRECTOR.

(c) EXAMINATION RESULTS MEASURING AN APPLICANT'S KNOWLEDGE OF THE MATTERS DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (5) ARE VALID FOR ONE YEAR. A PERSON WHO TAKES THE EXAMINATION AND DOES NOT APPLY FOR A LICENSE WITHIN ONE YEAR THEREAFTER MUST RETAKE THAT PORTION OF THE EXAMINATION BEFORE APPLYING.

(d) THE DIVISION MAY ISSUE A LICENSE TO AN APPLICANT WHO HAS HELD A COMMUNITY ASSOCIATION MANAGER LICENSE IN ANOTHER JURISDICTION THAT REGULATES COMMUNITY ASSOCIATION MANAGERS AND WHO HAS BEEN LICENSED FOR TWO OR MORE YEARS PRIOR TO APPLYING FOR A COLORADO 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, AS DETERMINED BY THE DIRECTOR BY RULE. THE DIRECTOR MAY REQUIRE A PERSON SO LICENSED TO TAKE THE PORTION OF THE EXAMINATION PERTAINING TO THE MATTERS DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (5) WITHIN A SPECIFIED TIME AFTER FIRST RECEIVING A COLORADO LICENSE.

(6) (a) COMMUNITY ASSOCIATION MANAGERS' LICENSES MAY BE GRANTED TO INDIVIDUALS, PARTNERSHIPS, LIMITED LIABILITY COMPANIES, OR CORPORATIONS.

(b) A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION, IN ITS APPLICATION FOR A LICENSE, SHALL DESIGNATE A QUALIFIED, ACTIVE MANAGER TO BE RESPONSIBLE FOR MANAGEMENT AND SUPERVISION OF THE LICENSED ACTIONS OF THE ENTITY AND ALL PERSONS EMPLOYED BY, OR ACTING AT ANY TIME ON BEHALF OF, THE ENTITY. A LICENSE MAY NOT BE ISSUED TO THE ENTITY UNLESS THE MANAGER SO DESIGNATED, AND ALL PERSONS THAT THE ENTITY EMPLOYS TO PERFORM COMMUNITY ASSOCIATION MANAGEMENT DUTIES ON BEHALF OF THE ENTITY, TAKE AND PASS THE EXAMINATION REQUIRED BY THIS PART 10. UPON THESE PERSONS' SUCCESSFULLY PASSING THE EXAMINATION AND UPON COMPLIANCE WITH ALL OTHER REQUIREMENTS OF LAW BY THE ENTITY AS WELL AS BY THE DESIGNATED MANAGER, THE DIRECTOR SHALL ISSUE A DESIGNATED MANAGER'S LICENSE TO THE DESIGNATED MANAGER.

(c) IF THE DESIGNATED MANAGER IS REFUSED A LICENSE BY THE DIRECTOR OR CEASES TO BE THE DESIGNATED MANAGER OF THE ENTITY, THE ENTITY MAY DESIGNATE ANOTHER PERSON TO APPLY FOR A LICENSE AND THE DIRECTOR MAY

ISSUE A TEMPORARY LICENSE TO PREVENT HARDSHIP FOR A PERIOD NOT TO EXCEED NINETY DAYS TO THE PERSON SO DESIGNATED.

(7) THE DESIGNATED MANAGER FOR ANY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION IS PERSONALLY RESPONSIBLE FOR THE HANDLING OF ANY AND ALL COMMON INTEREST COMMUNITY FUNDS RECEIVED OR DISBURSED BY THE ENTITY. IN THE EVENT OF ANY BREACH OF DUTY BY THE ENTITY, ANY PERSON AGGRIEVED OR DAMAGED BY THE BREACH MAY MAKE A CLAIM FOR RELIEF AGAINST THE ENTITY.

(8) A PERSON SHALL NOT:

(a) BE LICENSED AS A COMMUNITY ASSOCIATION MANAGER UNDER MORE THAN ONE NAME; OR

(b) CONDUCT OR PROMOTE BUSINESS AS A COMMUNITY ASSOCIATION MANAGER EXCEPT UNDER THE NAME UNDER WHICH THE PERSON IS LICENSED.

12-61-1004. Insurance required - rules. EVERY LICENSEE UNDER THIS PART 10, EXCEPT AN INACTIVE MANAGER OR AN ATTORNEY LICENSEE WHO MAINTAINS A POLICY OF PROFESSIONAL MALPRACTICE INSURANCE THAT PROVIDES COVERAGE FOR HIS OR HER ACTIVITIES UNDER THIS PART 10, SHALL MAINTAIN INSURANCE NECESSARY TO COVER ALL ACTIVITIES CONTEMPLATED UNDER THIS PART 10 IN AN AMOUNT AND UNDER TERMS AND CONDITIONS SPECIFIED BY THE DIRECTOR BY RULE. IN PROMULGATING RULES UNDER THIS SECTION, THE DIRECTOR SHALL SOLICIT AND CONSIDER INFORMATION AND COMMENTS FROM INTERESTED PERSONS.

12-61-1005. Licenses - issuance - contents - display. THE DIRECTOR SHALL MAKE AVAILABLE FOR EACH LICENSEE A LICENSE IN SUCH FORM AND SIZE AS THE DIRECTOR MAY PRESCRIBE. THE LICENSE MUST SHOW THE NAME OF THE LICENSEE AND MAY CONTAIN SUCH OTHER MATTER AS THE DIRECTOR PRESCRIBES.

12-61-1006. Resident licensee - nonresident licensee - consent to service.

(1) A NONRESIDENT OF THE STATE MAY BECOME A COMMUNITY ASSOCIATION MANAGER IN THIS STATE BY CONFORMING TO ALL THE CONDITIONS OF THIS PART 10; EXCEPT THAT THE NONRESIDENT MANAGER SHALL NOT BE REQUIRED TO MAINTAIN A PLACE OF BUSINESS WITHIN THIS STATE IF THAT MANAGER MAINTAINS A DEFINITE PLACE OF BUSINESS IN ANOTHER STATE.

(2) IF A MANAGER HAS NO REGISTERED AGENT REGISTERED IN THIS STATE AS CONTEMPLATED BY SECTION 7-90-701, C.R.S., 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, NOTWITHSTANDING SECTION 7-90-704, C.R.S., THE MANAGER MAY BE SERVED BY REGISTERED MAIL OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE MANAGER AT THE MANAGER'S LAST-KNOWN ADDRESS. SERVICE IS PERFECTED UNDER THIS SUBSECTION (2) AT THE EARLIEST OF:

(a) THE DATE THE MANAGER RECEIVES THE PROCESS, NOTICE, OR DEMAND;

(b) THE DATE SHOWN ON THE RETURN RECEIPT, IF SIGNED BY OR ON BEHALF OF

THE MANAGER; OR

(c) FIVE DAYS AFTER MAILING.

(3) ALL APPLICATIONS MADE BY A DESIGNATED MANAGER ON BEHALF OF A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION MUST CONTAIN A CERTIFICATION THAT THE MANAGER IS AUTHORIZED TO ACT FOR THE ENTITY.

12-61-1007. Record of licensees - publications. THE DIRECTOR SHALL MAINTAIN A RECORD OF THE NAMES AND ADDRESSES OF ALL COMMUNITY ASSOCIATION MANAGERS LICENSED UNDER THIS PART 10, TOGETHER WITH SUCH OTHER INFORMATION RELATIVE TO THE ENFORCEMENT OF THIS PART 10 AS THE DIRECTOR DEEMS NECESSARY. THE DIRECTOR SHALL PUBLISH THE NAME AND ADDRESS RECORD AND OTHER NONPROPRIETARY INFORMATION THE DIRECTOR DEEMS USEFUL TO THE PUBLIC ON THE DIVISION'S WEB SITE. PUBLICATION OF THE RECORD AND OF ANY OTHER INFORMATION CIRCULATED IN QUANTITY OUTSIDE THE EXECUTIVE BRANCH MUST BE IN ACCORDANCE WITH SECTION 24-1-136, C.R.S.

12-61-1008. Change of location or employment status - notice required.

(1) A COMMUNITY ASSOCIATION MANAGER LICENSED UNDER THIS PART 10 SHALL NOTIFY THE DIRECTOR WITHIN THIRTY DAYS AFTER ANY CHANGE OF BUSINESS LOCATION OR EMPLOYMENT. A CHANGE OF BUSINESS ADDRESS OR EMPLOYMENT STATUS WITHOUT NOTIFICATION TO THE DIRECTOR AUTOMATICALLY INACTIVATES THE LICENSEE'S LICENSE.

(2) FOR PURPOSES OF THIS SECTION, A CHANGE IN EMPLOYMENT STATUS INCLUDES THE DESIGNATION OF A LICENSED COMMUNITY ASSOCIATION MANAGER AS A NEW OR SUCCESSOR MANAGER ACTING FOR A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION.

12-61-1009. License fees - partnership, limited liability company, and corporation licenses - rules. (1) THE DIRECTOR SHALL ESTABLISH, COLLECT, AND PERIODICALLY ADJUST IN ACCORDANCE WITH SECTION 12-61-111.5, FEES FOR:

(a) EACH MANAGER'S EXAMINATION;

(b) EACH MANAGER'S ORIGINAL APPLICATION AND LICENSE;

(c) EACH RENEWAL OR REINSTATEMENT OF A MANAGER'S LICENSE; AND

(d) ANY CHANGE OF NAME, ADDRESS, OR EMPLOYMENT STATUS REQUIRING A CHANGE IN DIRECTOR RECORDS.

(2) THE DIRECTOR SHALL TRANSMIT ALL FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE COMMUNITY ASSOCIATION MANAGER LICENSING CASH FUND, CREATED IN SECTION 12-61-1012. FEES COLLECTED UNDER PARAGRAPHS (b), (c), AND (d) OF SUBSECTION (1) OF THIS SECTION ARE NONREFUNDABLE.

(3) LICENSES ARE VALID FOR UP TO THREE YEARS, SUBJECT TO EXPIRATION AND RENEWAL ON A SCHEDULE DETERMINED BY THE DIRECTOR. THE DIRECTOR SHALL ESTABLISH, BY RULE, THE REQUIREMENTS FOR CONTINUING EDUCATION,

REEXAMINATION, AND SUBSEQUENT CRIMINAL HISTORY RECORD CHECKS; EXCEPT THAT THESE REQUIREMENTS MUST NOT BE MORE STRINGENT THAN THE EQUIVALENT REQUIREMENTS FOR REAL ESTATE BROKERS UNDER PART 1 OF THIS ARTICLE.

12-61-1010. Investigation - revocation - actions against licensee. (1) THE DIRECTOR, UPON THE DIRECTOR'S OWN MOTION, MAY, AND, UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE THE ACTIVITIES OF ANY COMMUNITY ASSOCIATION MANAGER OR ANY PERSON WHO ASSUMES TO ACT IN SUCH CAPACITY WITHIN THE STATE. THE DIRECTOR, AFTER HOLDING A HEARING IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., MAY IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE, CENSURE A LICENSEE, PLACE THE LICENSEE ON PROBATION AND SET THE TERMS OF PROBATION, OR 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:

(a) KNOWINGLY MAKING ANY MISREPRESENTATION OR KNOWINGLY MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;

(b) MAKING ANY PROMISE OF A CHARACTER THAT INFLUENCES, PERSUADES, OR INDUCES ANOTHER PERSON WHEN HE OR SHE COULD NOT OR DID NOT INTEND TO KEEP SUCH PROMISE;

(c) KNOWINGLY MISREPRESENTING OR MAKING FALSE PROMISES THROUGH AGENTS, ADVERTISING, OR OTHERWISE;

(d) VIOLATING, DIRECTLY OR INDIRECTLY, ANY APPLICABLE PROVISION OF COLORADO OR FEDERAL FAIR HOUSING LAWS;

(e) KNOWINGLY VIOLATING OR KNOWINGLY DIRECTING OTHERS TO VIOLATE CCIOA;

(f) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE TIME, ANY MONEYS COMING INTO THE LICENSEE'S POSSESSION THAT BELONG TO OTHERS, WHETHER ACTING AS A COMMUNITY ASSOCIATION MANAGER OR OTHERWISE, AND FAILING TO KEEP RECORDS RELATIVE TO SAID MONEYS, WHICH RECORDS MUST CONTAIN ANY INFORMATION REQUIRED BY RULES OF THE DIRECTOR AND ARE SUBJECT TO AUDIT BY THE DIRECTOR;

(g) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH THE MANAGER'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS IN A SEGREGATED 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 SO KEEP RECORDS RELATIVE TO THE DEPOSIT THAT CONTAIN ANY INFORMATION REQUIRED BY RULES OF THE DIRECTOR AND ARE SUBJECT TO AUDIT BY THE DIRECTOR;

(h) DISREGARDING OR VIOLATING, OR AIDING OR ABETTING ANY VIOLATION OF,

THIS PART 10 OR ANY APPLICABLE RULE OR ORDER OF THE DIRECTOR;

(i) PERFORMING ANY ACT THAT LEADS TO A CONVICTION OF, ENTRY OF A PLEA OF GUILTY TO, OR ENTRY OF A PLEA OF NOLO CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18, C.R.S.; PARTS 1 TO 4 OF ARTICLE 4 OF TITLE 18, C.R.S.; PARTS 1 TO 5 AND 7 TO 9 OF ARTICLE 5 OF TITLE 18, C.R.S.; ARTICLE 5.5 OF TITLE 18, C.R.S.; PARTS 1, 3, 4, AND 6 TO 8 OF ARTICLE 6 OF TITLE 18, C.R.S.; PARTS 1 AND 3 TO 8 OF ARTICLE 7 OF TITLE 18, C.R.S.; PART 3 OF ARTICLE 8 OF TITLE 18, C.R.S.; ARTICLE 15 OF TITLE 18, C.R.S.; ARTICLE 17 OF TITLE 18, C.R.S.; SECTION 18-18-405, 18-18-411, 18-18-412.5, 18-18-412.7, 18-18-415, 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 IS CONCLUSIVE EVIDENCE OF SUCH CONVICTION OR PLEA IN ANY HEARING UNDER THIS PART 10.

(j) FAILING TO IMMEDIATELY NOTIFY THE DIRECTOR IN WRITING OF A CONVICTION, PLEA, OR VIOLATION PURSUANT TO PARAGRAPH (i) OF THIS SUBSECTION (1);

(k) HAVING DEMONSTRATED UNWORTHINESS OR INCOMPETENCY TO ACT AS A COMMUNITY ASSOCIATION MANAGER BY CONDUCTING BUSINESS IN SUCH A MANNER AS TO ENDANGER THE INTEREST OF THE PUBLIC;

(l) IN THE CASE OF A MANAGER WHO EMPLOYS OTHERS OR IS DESIGNATED TO ACT ON BEHALF OF A LICENSED ENTITY, FAILING TO EXERCISE REASONABLE SUPERVISION OVER THE ACTIVITIES OF EMPLOYEES;

(m) PROCURING, OR ATTEMPTING TO PROCURE, A COMMUNITY ASSOCIATION MANAGER'S LICENSE OR RENEWING, REINSTATING, OR REACTIVATING, OR ATTEMPTING TO RENEW, REINSTATE, OR REACTIVATE, A COMMUNITY ASSOCIATION MANAGER'S LICENSE BY FRAUD, MISREPRESENTATION, OR DECEIT OR BY MAKING A MATERIAL MISSTATEMENT OF FACT IN AN APPLICATION FOR SUCH LICENSE;

(n) CLAIMING, ARRANGING FOR, OR TAKING ANY SECRET OR UNDISCLOSED AMOUNT OF COMPENSATION, COMMISSION, OR PROFIT OR FAILING TO REVEAL TO THE LICENSEE'S PRINCIPAL OR EMPLOYER THE FULL AMOUNT OF THE LICENSEE'S COMPENSATION, COMMISSION, OR PROFIT IN CONNECTION WITH ANY ACTS FOR WHICH A LICENSE IS REQUIRED UNDER THIS PART 10;

(o) HAVING HAD A COMMUNITY ASSOCIATION MANAGER'S OR A SUBDIVISION DEVELOPER'S LICENSE SUSPENDED OR REVOKED IN ANY JURISDICTION, OR HAVING HAD ANY DISCIPLINARY ACTION TAKEN AGAINST THE MANAGER OR SUBDIVISION DEVELOPER IN ANY OTHER JURISDICTION IF THE MANAGER'S OR SUBDIVISION DEVELOPER'S ACTION WOULD CONSTITUTE A VIOLATION OF THIS SUBSECTION (1). A CERTIFIED COPY OF THE ORDER OF DISCIPLINARY ACTION IS PRIMA FACIE EVIDENCE OF SUCH DISCIPLINARY ACTION.

(p) 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 OR MORTGAGE LOAN ORIGINATOR;
 - (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.; OR
- (q) ANY OTHER CONDUCT, WHETHER OF THE SAME OR A DIFFERENT CHARACTER THAN SPECIFIED IN THIS SUBSECTION (1), THAT CONSTITUTES DISHONEST DEALING.
- (2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A MANAGER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF THE ENTITY COMMITS ANY ACT OR PRACTICE LISTED IN SUBSECTION (1) OF THIS SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF THE ENTITY TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF THE MANAGER, WHETHER OR NOT THE DESIGNATED MANAGER HAD PERSONAL KNOWLEDGE OF THE ACT OR PRACTICE AND WHETHER OR NOT THE DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF ANY OTHER PERSON.
- (3) THIS PART 10 DOES NOT RELIEVE ANY PERSON FROM CIVIL LIABILITY OR CRIMINAL PROSECUTION UNDER THE LAWS OF THIS STATE.
- (4) COMPLAINTS OF RECORD IN THE OFFICE OF THE DIRECTOR AND DIVISION INVESTIGATIONS, INCLUDING INVESTIGATIVE FILES, ARE CLOSED TO PUBLIC INSPECTION. STIPULATIONS AND FINAL AGENCY ORDERS ARE PUBLIC RECORDS SUBJECT TO SECTIONS 24-72-203 AND 24-72-204, C.R.S.
- (5) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER OF ADMONITION TO THE LICENSEE AGAINST WHOM THE COMPLAINT WAS MADE AND A COPY OF THE LETTER TO THE PERSON MAKING THE COMPLAINT, BUT THE LETTER MUST ADVISE THE LICENSEE THAT THE LICENSEE HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER

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 IS VACATED, AND THE MATTER SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(6) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE COMMUNITY ASSOCIATION MANAGER LICENSING CASH FUND, CREATED IN SECTION 12-61-1012.

(7) WHEN THE DIVISION BECOMES AWARE OF FACTS OR CIRCUMSTANCES THAT FALL WITHIN THE JURISDICTION OF A CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITY UPON INVESTIGATION OF THE ACTIVITIES OF A LICENSEE, THE DIVISION SHALL, IN ADDITION TO THE EXERCISE OF ITS AUTHORITY UNDER THIS PART 10, REFER AND TRANSMIT SUCH INFORMATION, WHICH MAY INCLUDE ORIGINALS OR COPIES OF DOCUMENTS AND MATERIALS, TO ONE OR MORE CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITIES FOR INVESTIGATION AND PROSECUTION AS AUTHORIZED BY LAW.

12-61-1011. Hearings - use of administrative law judges - subpoenas - judicial review - immunity. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL PROCEEDINGS BEFORE THE DIRECTOR WITH RESPECT TO DISCIPLINARY ACTIONS AND DENIAL OF LICENSURE UNDER THIS PART 10, AT THE DISCRETION OF THE DIRECTOR, MAY BE CONDUCTED BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

(2) VENUE FOR PROCEEDINGS IS IN THE COUNTY WHERE THE DIRECTOR HAS HIS OR HER OFFICE OR IN SUCH OTHER PLACE AS THE DIRECTOR MAY DESIGNATE. IF THE LICENSEE IS EMPLOYED BY ANOTHER LICENSED COMMUNITY ASSOCIATION MANAGER, THE DIRECTOR SHALL ALSO NOTIFY THE LICENSEE'S EMPLOYER BY MAILING, BY FIRST-CLASS MAIL, A COPY OF THE WRITTEN NOTICE REQUIRED UNDER SECTION 24-4-104(3), C.R.S., TO THE EMPLOYER'S LAST-KNOWN BUSINESS ADDRESS.

(3) THE DIRECTOR, AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR, OR AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT ALL HEARINGS FOR DENYING, SUSPENDING, OR REVOKING A LICENSE OR CERTIFICATE ON BEHALF OF THE DIRECTOR, SUBJECT TO APPROPRIATIONS MADE TO THE DEPARTMENT OF PERSONNEL. EACH ADMINISTRATIVE LAW JUDGE SHALL BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S. THE ADMINISTRATIVE LAW JUDGE SHALL CONDUCT THE HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S. NO LICENSE MAY BE DENIED, SUSPENDED, OR REVOKED UNTIL THE DIRECTOR HAS MADE HIS OR HER DECISION.

(4) 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, RECORDS OR OTHER EVIDENCE PURSUANT TO AN INVESTIGATION OR HEARING. THESE SUBPOENAS MUST BE SERVED IN THE SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT COURTS AND ISSUED WITHOUT DISCRIMINATION BETWEEN PUBLIC AND PRIVATE PARTIES

REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AT HEARINGS. IF A PERSON FAILS TO OBEY A SUBPOENA ISSUED BY THE DIRECTOR OR THE APPOINTED ADMINISTRATIVE LAW JUDGE, THE DIRECTOR MAY PETITION THE DISTRICT COURT OF THE CITY AND COUNTY OF DENVER FOR ISSUANCE OF AN ORDER COMPELLING A WITNESS TO ATTEND AND TESTIFY OR PRODUCE BOOKS, PAPERS, RECORDS OR OTHER EVIDENCE UNDER PENALTY OF PUNISHMENT FOR CONTEMPT.

(5) THE DECISION OF THE DIRECTOR IN ANY DISCIPLINARY ACTION OR DENIAL OF LICENSURE UNDER THIS SECTION IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS. IN ORDER TO EFFECTUATE THE PURPOSES OF THIS PART 10, THE DIRECTOR HAS THE POWER TO PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(6) IN A JUDICIAL REVIEW PROCEEDING, THE COURT MAY STAY THE EXECUTION OR EFFECT OF ANY FINAL ORDER OF THE DIRECTOR; 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 DIRECTOR'S ORDER. IF THE COURT DETERMINES THAT THE ORDER SHOULD BE STAYED, THE COURT SHALL ALSO DETERMINE AT THE HEARING WHETHER THE PETITIONER SHOULD BE REQUIRED TO POST A BOND, THE AMOUNT OF THE BOND AND ADEQUACY OF THE SURETY, WHICH BOND MUST BE CONDITIONED UPON THE FAITHFUL PERFORMANCE BY THE PETITIONER OF ALL OBLIGATIONS AS A COMMUNITY ASSOCIATION MANAGER 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 THE PROCEEDINGS.

(7) IN ANY HEARING CONDUCTED BY THE DIRECTOR OR AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR IN WHICH THERE IS A POSSIBILITY OF THE DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE BECAUSE OF THE CONVICTION OF A FELONY OR OF A CRIME INVOLVING MORAL TURPITUDE, THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED REPRESENTATIVE IS GOVERNED BY SECTION 24-5-101, C.R.S.

(8) A PERSON PARTICIPATING IN GOOD FAITH IN THE FILING OF A COMPLAINT OR REPORT OR PARTICIPATING IN AN INVESTIGATION OR HEARING BEFORE THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS PART 10 IS IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT BY REASON OF SUCH ACTION.

12-61-1012. Community association manager licensing cash fund - creation.

THE DIRECT AND INDIRECT COSTS INCURRED BY THE DIRECTOR IN ADMINISTERING THIS PART 10 ARE PAYABLE FROM THE COMMUNITY ASSOCIATION MANAGER LICENSING CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF FEES PAID BY COMMUNITY ASSOCIATION MANAGERS AND APPLICANTS FOR LICENSURE UNDER SECTION 12-61-1009. INTEREST EARNED ON MONEYS IN THE FUND REMAIN IN THE FUND, AND ANY UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR DO NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. PAYMENTS FROM THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

12-61-1013. Review and report by director - report - repeal. (1) THE DIRECTOR SHALL REVIEW THE OPERATION OF THIS PART 10 DURING THE FIRST YEAR OF ITS IMPLEMENTATION AND SHALL REPORT TO THE SENATE COMMITTEE ON BUSINESS, LABOR, AND TECHNOLOGY AND THE HOUSE COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AND WORKFORCE DEVELOPMENT, OR THEIR SUCCESSOR COMMITTEES, ON OR BEFORE JANUARY 1, 2016, CONCERNING THE DIRECTOR'S FINDINGS AND RECOMMENDATIONS FOR LEGISLATIVE CHANGES, IF ANY. THE MATTERS INCLUDED IN THE DIRECTOR'S REPORT MAY INCLUDE:

(a) REFINEMENT OF THE SCOPE, COVERAGE, AND DEFINITION OF KEY TERMS IN THIS PART 10;

(b) WHETHER IT WOULD BE ADVISABLE TO CODIFY, IN STATUTES OR RULES, A CODE OF ETHICS FOR COMMUNITY ASSOCIATION MANAGERS;

(c) WHETHER IT WOULD BE ADVISABLE TO MODIFY THE CONTINUING EDUCATION REQUIREMENTS;

(d) ANY SIGNIFICANT CHANGE IN THE NUMBER OR TYPES OF COMPLAINTS REPORTED TO THE HOA INFORMATION AND RESOURCE CENTER CREATED IN SECTION 12-61-406.5 SINCE THE ADOPTION OF THIS PART 10;

(e) THE ADEQUACY OF EXISTING REMEDIES AND OF THE DIRECTOR'S AUTHORITY UNDER THIS PART 10; AND

(f) THE ESTIMATED COST SAVINGS TO THE PUBLIC RESULTING FROM EXERCISE OF THE DIRECTOR'S AUTHORITY UNDER THIS PART 10 AS COMPARED TO PRIVATE ENFORCEMENT OF RIGHTS AND REMEDIES UNDER CCIOA BY INDIVIDUAL UNIT OWNERS.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

12-61-1014. Repeal of part. THIS PART 10 IS REPEALED, EFFECTIVE JULY 1, 2018. PRIOR TO THE REPEAL, THE FUNCTIONS OF THE DIRECTOR UNDER THIS PART 10 ARE SUBJECT TO REVIEW AS PROVIDED IN SECTION 24-34-104 (8), C.R.S.

SECTION 4. In Colorado Revised Statutes, 13-4-102, **add** (2) (m.5) as follows:

13-4-102. Jurisdiction - repeal. (2) The court of appeals has initial jurisdiction to:

(m.5) REVIEW FINAL DECISIONS OR ORDERS OF THE DIRECTOR OF THE DIVISION OF REAL ESTATE, AS PROVIDED IN PART 10 OF ARTICLE 61 OF TITLE 12, C.R.S.;

SECTION 5. In Colorado Revised Statutes, 12-61-111.5, **amend** (1) and (2) (a) (I) as follows:

12-61-111.5. Fee adjustments. (1) This section shall apply to all activities of the division under parts 1, 3, 4, ~~and~~ 7, AND 10 of this article.

(2) (a) (I) The division shall propose, as part of its annual budget request, an

adjustment in the amount of each fee that it is authorized by law to collect under parts 1, 3, 4, ~~and~~ 7, AND 10 of this article. The budget request and the adjusted fees for the division shall reflect direct and indirect costs.

SECTION 6. In Colorado Revised Statutes, 24-34-104, **amend** (49.5) introductory portion; and **add** (49.5) (g) as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (49.5) The following agencies, functions, or both, ~~shall~~ terminate on September 1, 2018:

(g) THE LICENSING OF COMMUNITY ASSOCIATION MANAGERS BY THE DIRECTOR OF THE DIVISION OF REAL ESTATE IN ACCORDANCE WITH PART 10 OF ARTICLE 61 OF TITLE 12, C.R.S.;

SECTION 7. Act subject to petition - effective date. This act takes effect January 1, 2015; 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 the ninety-day period after final adjournment of the general assembly, 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 28, 2013