

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0378.01 Thomas Morris

HOUSE BILL 08-1212

HOUSE SPONSORSHIP

Carroll M.,

SENATE SPONSORSHIP

Tapia,

House Committees

Business Affairs and Labor
Finance

Senate Committees

A BILL FOR AN ACT

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

*Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Sunset Process - House Business Affairs and Labor Committee. Continues the real estate commission until July 1, 2017, pursuant to the provisions of the sunset law. Repeals the requirement that the commission provide a group errors and omissions insurance policy. Authorizes service of process on real estate brokers by mail rather than upon the secretary of state. Repeals the licensure of real estate salespersons. Adds 4 hours of content to the required annual commission update course and requires the commission to approve all other continuing education courses. Replaces the member of the commission who was required to be a subdivision developer with a member of the general public. Eliminates the reciprocity requirement from the statute authorizing a license by endorsement of another state. Expands the grounds for discipline. Authorizes name-based criminal history background checks when a candidate's fingerprints are unclassifiable. Requires fines to be deposited in the general fund. Specifies that the director of the division of real estate, not the executive director of the department of regulatory agencies, hires the division's employees.

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

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

4 **12-61-123. Repeal of part.** This part 1 is repealed, effective July
5 ~~1, 2008, including the service of process requirements pursuant to section~~
6 ~~12-61-303(6)~~ JULY 1, 2017. Prior to such repeal, the real estate division,
7 including the real estate commission, shall be reviewed as provided for
8 in section 24-34-104, C.R.S.

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

11 **24-34-104. General assembly review of regulatory agencies**

1 **and functions for termination, continuation, or reestablishment.**

2 (39) (b) The following agencies, functions, or both, shall terminate on
3 July 1, 2008:

4 (VI) ~~The function of the real estate commission to make available~~
5 ~~errors and omissions insurance to licensees pursuant to section~~
6 ~~12-61-103.6, C.R.S.;~~

7 (VII) ~~The real estate division, including the real estate~~
8 ~~commission, created in part 1 of article 61 of title 12, C.R.S., including~~
9 ~~the service of process requirements pursuant to section 12-61-303 (6),~~
10 ~~C.R.S.;~~

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

13 **24-34-104. General assembly review of regulatory agencies**
14 **and functions for termination, continuation, or reestablishment.**

15 (48) The following agencies, functions, or both, shall terminate on July
16 1, 2017:

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

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

21 **12-61-103.6. Errors and omissions insurance required - rules.**

22 (1) Every licensee under this part 1, except an inactive broker ~~or~~
23 ~~salesperson~~ or an attorney licensee who maintains a policy of professional
24 malpractice insurance ~~which~~ THAT provides coverage for errors and
25 omissions for their activities as a licensee under this part 1, shall maintain
26 errors and omissions insurance to cover all activities contemplated under
27 parts 1 to 8 of this article. ~~The commission shall make the errors and~~

1 omissions insurance available to all licensees by contracting with an
2 insurer for a group policy after a competitive bid process in accordance
3 with article 103 of title 24, C.R.S. Any group policy obtained by the
4 commission shall be available to all licensees with no right on the part of
5 the insurer to cancel any licensee. Any licensee may obtain errors and
6 omissions insurance independently if the coverage complies with the
7 minimum requirements established by the commission.

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

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

13 **12-61-107. Resident licensee - nonresident licensee - consent**
14 **to service.** (2) ~~Every applicant shall file an irrevocable consent that suits~~
15 ~~and actions may be commenced against such applicant in the proper~~
16 ~~courts of any county of this state in which a cause of action may arise and~~
17 ~~in which the plaintiffs may reside by the service of any process or~~
18 ~~pleading authorized by the laws of this state on the secretary of state, said~~
19 ~~consent stipulating and agreeing that such service or such process or~~
20 ~~pleading on said secretary shall be held in all courts to be as valid and~~
21 ~~binding as if due service had been made upon said applicant in the state~~
22 ~~of Colorado. Said instrument containing such consent shall be~~
23 ~~authenticated by the signature of the designated broker.~~ IF A BROKER HAS
24 NO REGISTERED AGENT REGISTERED IN THIS STATE, SUCH REGISTERED
25 AGENT IS NOT LOCATED UNDER ITS REGISTERED AGENT NAME AT ITS
26 REGISTERED AGENT ADDRESS, OR THE REGISTERED AGENT CANNOT WITH
27 REASONABLE DILIGENCE BE SERVED, THE BROKER MAY BE SERVED BY

1 REGISTERED MAIL OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
2 ADDRESSED TO THE ENTITY AT ITS PRINCIPAL ADDRESS. SERVICE IS
3 PERFECTED UNDER THIS SUBSECTION (2) AT THE EARLIEST OF:

4 (a) THE DATE THE BROKER RECEIVES THE PROCESS, NOTICE, OR
5 DEMAND;

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

8 (c) FIVE DAYS AFTER MAILING.

9 (3) All such applications shall contain a certification that the
10 broker is authorized to act for the corporation. ~~In case any process or~~
11 ~~pleading mentioned in this part 1 is served upon the secretary of state, it~~
12 ~~shall be by duplicate copies, one of which shall be filed in the office of~~
13 ~~said secretary and the other immediately forwarded by certified mail to~~
14 ~~the main office of the applicant against which said process or pleading is~~
15 ~~directed.~~

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

18 **12-61-303. Simplified procedure - application for**
19 **administrative order for payment from the fund - rules.**

20 (6) (a) SERVICE UPON any real estate broker ~~or real estate salesperson~~
21 who is licensed or who renews a license under part 1 of this article on or
22 after January 1, ~~1972~~ 2008, and upon whom personal service cannot be
23 made with reasonable diligence shall be ~~deemed to have appointed the~~
24 ~~secretary of state as agent for service of process for purposes of actions~~
25 ~~and applications filed against said broker or salesperson pursuant to this~~
26 ~~part 3. Service of process upon such persons shall be made as nearly as~~
27 ~~practicable in the manner prescribed by section 7-105-104, C.R.S. The~~

1 ~~burden shall be upon the applicant to show that personal service cannot~~
2 ~~be made with reasonable diligence~~ UPON THE REGISTERED AGENT OF SUCH
3 REAL ESTATE BROKER. IF THE REAL ESTATE BROKER HAS NO REGISTERED
4 AGENT, THE REGISTERED AGENT IS NOT LOCATED UNDER ITS REGISTERED
5 AGENT NAME AT ITS REGISTERED AGENT ADDRESS, OR THE REGISTERED
6 AGENT CANNOT WITH REASONABLE DILIGENCE BE SERVED, THE REAL
7 ESTATE BROKER MAY BE SERVED BY REGISTERED MAIL OR BY CERTIFIED
8 MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE ENTITY AT ITS
9 PRINCIPAL ADDRESS. SERVICE IS PERFECTED UNDER THIS SUBSECTION (6)
10 AT THE EARLIEST OF:

11 (I) THE DATE THE REAL ESTATE BROKER RECEIVES THE PROCESS,
12 NOTICE, OR DEMAND;

13 (II) THE DATE SHOWN ON THE RETURN RECEIPT, IF SIGNED BY OR
14 ON BEHALF OF THE REAL ESTATE BROKER; OR

15 (III) FIVE DAYS AFTER MAILING.

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

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

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

21 **12-61-101. Definitions.** As used in this part 1, unless the context
22 otherwise requires:

23 (1) "Employing real estate broker" or "employing broker" means
24 a broker who is shown in real estate commission records as employing or
25 engaging another broker.

26 (1.3) "Limited liability company" shall have the same meaning as
27 it is given in section 7-80-102 (7), C.R.S.

1 (1.5) "Option dealer" means any person, firm, partnership, limited
2 liability company, association, or corporation who, directly or indirectly,
3 takes, obtains, or uses an option to purchase, exchange, rent, or lease real
4 property or any interest therein with the intent or for the purpose of
5 buying, selling, exchanging, renting, or leasing said real property or
6 interest therein to another or others whether or not said option is in that
7 person's or its name and whether or not title to said property passes
8 through the name of said person, firm, partnership, limited liability
9 company, association, or corporation in connection with the purchase,
10 sale, exchange, rental, or lease of said real property or interest therein.

11 (1.7) "Partnership" includes, but is not limited to, a registered
12 limited liability partnership.

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

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

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

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

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

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

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

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

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

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

24 (j) (X) Soliciting a fee or valuable consideration from a
25 prospective tenant for furnishing information concerning the availability
26 of real property, including apartment housing which may be leased or
27 rented as a private dwelling, abode, or place of residence. Any person,

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

10 ~~(3) "Real estate salesperson" or "salesperson" means any person~~
11 ~~employed or engaged by or on behalf of a licensed real estate broker to~~
12 ~~do or deal in any activity of a real estate broker, as defined in subsection~~
13 ~~(1.5) or (2) of this section, for compensation or otherwise.~~

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

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

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

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

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

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

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

13 ~~(g)~~ (VII) A natural person acting personally with respect to
14 property owned or leased by that person or a natural person who is a
15 general partner of a partnership, a manager of a limited liability company,
16 or an owner of twenty percent or more of such partnership or limited
17 liability company, and authorized to sell or lease property owned by such
18 partnership or limited liability company, except as provided in subsection
19 (1.5) of this section;

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

1 seventy-five percent of their compensation from the corporation in the
2 form of salaries.

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

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

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

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

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

11 ~~(h)~~ (XII) A regularly salaried employee of an owner of an
12 apartment building or complex who acts as an on-site manager of such an
13 apartment building or complex. This exemption applies only in respect
14 to the customary duties of an on-site manager performed for his OR HER
15 employer.

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

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

26 ~~(o) Repealed.~~

27 ~~(p)~~ (XV) A sole proprietor, corporation, partnership, or limited

1 liability company, acting through its officers, partners, or regularly
2 salaried employees, with respect to property located in Colorado, where
3 the purchaser of such property is in the business of developing land for
4 residential, commercial, or industrial purposes;

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

11 ~~(H)~~ (A) Telecommunication lines;

12 ~~(H)~~ (B) Wireless communication facilities;

13 ~~(H)~~ (C) CATV;

14 ~~(V)~~ (D) Electric generation, ~~transmissions~~ TRANSMISSION, and
15 distribution lines;

16 ~~(V)~~ (E) Water diversion, collection, distribution, treatment, and
17 storage or use; and

18 ~~(V)~~ (F) Transportation, so long as such person, firm, partnership,
19 limited liability company, association, or corporation, including any
20 employee or authorized agent thereof, does not represent any displaced
21 person or entity as an agent thereof in the purchase, sale, or exchange of
22 real estate, or an interest therein, resulting from residential or commercial
23 relocations required under any transportation project, regardless of the
24 source of public funding.

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

27 **12-61-102. License required.** It is unlawful for any person, firm,

1 partnership, limited liability company, association, or corporation to
2 engage in the business or capacity of real estate broker ~~or real estate~~
3 ~~salesperson~~ in this state without first having obtained a license from the
4 real estate commission. No person shall be granted a license until such
5 person establishes compliance with the provisions of this part 1
6 concerning education, experience, and testing; truthfulness and honesty
7 and otherwise good moral character; and, in addition to any other
8 requirements of this section, competency to transact the business of a real
9 estate broker ~~or real estate salesperson~~ in such manner as to safeguard the
10 interest of the public and only after satisfactory proof of such
11 qualifications, together with the application for such license, is filed in the
12 office of the commission. In determining such person's character, the real
13 estate commission shall be governed by ~~the provisions of~~ section
14 24-5-101, C.R.S.

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

17 **12-61-103. Application for license - rules.** (6) (c) In addition
18 to all other applicable requirements, the following provisions apply to
19 brokers that did not hold a current and valid broker's license on December
20 31, 1996:

21 (I) No such broker shall engage in an independent brokerage
22 practice without first having served actively as a real estate broker ~~or~~
23 ~~salesperson~~ for at least two years. The commission shall adopt rules
24 requiring an employing broker to ensure that a high level of supervision
25 is exercised over such a broker during such two-year period.

26 (II) No such broker shall employ another broker ~~or salesperson~~
27 without first having completed twenty-four clock hours of instruction, or

1 the equivalent in correspondence hours, as approved by the commission,
2 in brokerage administration.

3 (9) No license for a broker registered as being in the employ of
4 another broker ~~and no real estate salesperson's license~~ shall be issued to
5 a partnership, a limited liability company, or a corporation or under a
6 fictitious name or trade name; except that a MARRIED woman may elect
7 to use her birth name.

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

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

14 **12-61-103.5. Transitional provisions - holders of existing**
15 **salesperson's licenses.** ~~(1) Effective January 1, 1997, the real estate~~
16 ~~commission shall no longer issue a real estate salesperson's license.~~

17 ~~(2) A holder of a salesperson's license who wishes to renew on~~
18 ~~active status for the year 2000 or any subsequent year must renew, if at~~
19 ~~all, as brokers and shall be issued a real estate broker's license in lieu of~~
20 ~~a renewed salesperson's license upon meeting either of the following two~~
21 ~~alternative requirements:~~

22 ~~(a) Passage of the Colorado portion of the real estate broker's~~
23 ~~license examination during the three-year period immediately preceding~~
24 ~~the application for renewal; or~~

25 ~~(b) Successful completion of a course of study approved by the~~
26 ~~commission and consisting of twenty-four clock hours of instruction,~~
27 ~~including instruction in closings and contract preparation, within the~~

1 ~~three-year period immediately preceding the application for renewal.~~
2 ~~Such course shall be in lieu of the continuing education requirements of~~
3 ~~sections 12-61-110 and 12-61-110.5 for the applicable renewal period.~~
4 ~~A person issued a broker's license pursuant to this paragraph (b) shall~~
5 ~~practice, if at all, only in the employ of a licensed broker until passing the~~
6 ~~Colorado portion of the real estate broker's license examination.~~

7 ~~(3) A holder of a real estate salesperson's license who wishes to~~
8 ~~renew on inactive status for the year 2000 or any subsequent year may do~~
9 ~~so, subject to any otherwise applicable requirements for such renewal.~~
10 ~~An application to activate such an inactive license shall be accompanied~~
11 ~~by proof or certification of compliance with either paragraph (a) or~~
12 ~~paragraph (b) of subsection (2) of this section.~~

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

15 **12-61-105. Commission - compensation - immunity - subject**
16 **to termination.** (3) No real estate broker's license ~~and no real estate~~
17 ~~salesperson's license~~ shall be denied, suspended, or revoked except as
18 determined by a majority vote of the members of the commission.

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

21 **12-61-109. Change of license status - inactive - cancellation.**
22 (2) A broker who transfers to the address of another broker or a broker
23 applicant who desires to be employed by another broker shall inform the
24 commission if said broker is to be in the employ of the other broker. The
25 employing broker shall have the control and custody of the employed
26 broker's license. ~~and such employed broker shall have no salespersons~~
27 ~~licensed under the employed broker during the term of such employment,~~

1 ~~nor shall~~ The employed broker MAY NOT act on behalf of said broker or
2 as broker for a partnership, limited liability company, or corporation
3 during the term of such employment; but this shall not affect the
4 employed broker's right to transfer to another employing broker or to a
5 location where the employed broker may conduct business as an
6 independent broker or as a broker acting for a partnership, limited liability
7 company, or corporation.

8 (4) It is unlawful for any such licensee to perform any of the acts
9 authorized under the license in pursuance of this part 1, either directly or
10 indirectly, on ~~and~~ OR after the date that employment has been terminated.
11 When any real estate ~~salesperson~~ or broker whose employment has been
12 terminated is employed by another real estate broker, the commission
13 shall, upon proper notification, enter such change of employment in the
14 records of the commission. Not more than one employer or place of
15 employment shall be shown for any real estate ~~salesperson~~ or broker for
16 the same period of time.

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

19 **12-61-110. License fees - partnership, limited liability**
20 **company, and corporation licenses - rules.** (5) The suspension,
21 expiration, or revocation of a real estate broker's license shall
22 automatically inactivate every real estate broker's ~~or real estate~~
23 ~~salesperson's~~ license where the holder of such license is shown in the
24 commission records to be in the employ of the broker whose license has
25 expired or has been suspended or revoked pending notification to the
26 commission by the employed licensee of a change of employment.

27 **SECTION 14.** 12-61-110.8 (1), Colorado Revised Statutes, is

1 amended to read:

2 **12-61-110.8. Renewal of license - fingerprint-based criminal**
3 **history record check - repeal.** (1) Prior to submitting a renewal
4 application, a ~~salesperson or~~ broker applying for renewal of a license
5 pursuant to section 12-61-110 (4) shall submit a set of fingerprints to the
6 Colorado bureau of investigation for the purpose of conducting a state
7 and national fingerprint-based criminal history record check utilizing
8 records of the Colorado bureau of investigation and the federal bureau of
9 investigation. Nothing in this section shall preclude the commission from
10 making further inquiries into the background of the applicant. The
11 applicant shall pay the fee established by the Colorado bureau of
12 investigation for conducting the fingerprint-based criminal history record
13 check. Upon completion of the criminal history record check, the bureau
14 shall forward the results to the commission.

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

18 **12-61-113. Investigation - revocation - actions against licensee**
19 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
20 complaint in writing of any person, shall, investigate the activities of any
21 licensee or any person who assumes to act in such capacity within the
22 state, and the commission, after the holding of a hearing pursuant to
23 section 12-61-114, has the power to impose an administrative fine not to
24 exceed two thousand five hundred dollars for each separate offense and
25 to censure a licensee, to place the licensee on probation and to set the
26 terms of probation, or to temporarily suspend or permanently revoke a
27 license when the licensee has performed, is performing, or is attempting

1 to perform any of the following acts and is guilty of:

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

4 (f) In the case of a ~~salesperson~~ or of a broker registered as in the
5 employ of another broker, failing to place, as soon after receipt as is
6 practicably possible, in the custody of that licensed broker-employer any
7 deposit money or other money or fund entrusted to the employee by any
8 person dealing with the employee as the representative of that licensed
9 broker-employer;

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

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

26 (n) Having demonstrated unworthiness or incompetency to act as
27 a real estate broker ~~or salesperson~~ by conducting business in such a

1 manner as to endanger the interest of the public;

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

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

16 (1.5) Every person licensed pursuant to section 12-61-101 ~~(2)(j)~~
17 (2) (a) (X) shall give a prospective tenant a contract or receipt; and such
18 contract or receipt shall include the address and telephone number of the
19 real estate commission in prominent letters and shall state that the
20 regulation of rental location agents is under the purview of the real estate
21 commission.

22 (3) Upon request of the commission, when any real estate broker
23 ~~or salesperson~~ is a party to any suit or proceeding, either civil or criminal,
24 arising out of any transaction involving the sale or exchange of any
25 interest in real property or out of any transaction involving a leasehold
26 interest in the real property and when such broker ~~or salesperson~~ is
27 involved in such transaction in such capacity as a licensed broker, ~~or~~

1 ~~salesperson~~, it shall be the duty of said broker ~~or salesperson~~ to supply to
2 the commission a copy of the complaint, indictment, information, or other
3 initiating pleading and the answer filed, if any, and to advise the
4 commission of the disposition of the case and of the nature and amount
5 of any judgment, verdict, finding, or sentence ~~which~~ THAT may be made,
6 entered, or imposed therein.

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

9 **12-61-114. Hearing - administrative law judge - review -**
10 **rule-making authority.** (2) Such proceedings shall be held in the
11 county where the commission has its office or in such other place as the
12 commission may designate. If the licensee is ~~a salesperson~~ or an
13 employed broker, the commission shall also notify the broker employing
14 the licensee by mailing, by first-class mail, a copy of the written notice
15 required under section 24-4-104 (3), C.R.S., to the employing broker's
16 last-known business address.

17 (5) Pursuant to said proceeding, the court has the right, in its
18 discretion, to stay the execution or effect of any final order of the
19 commission; but a hearing shall be held affording the parties an
20 opportunity to be heard for the purpose of determining whether the public
21 health, safety, and welfare would be endangered by staying the
22 commission's order. ~~In the event that~~ IF the court determines that the
23 order should be stayed, it shall also determine at said hearing the amount
24 of the bond and adequacy of the surety, which bond shall be conditioned
25 upon the faithful performance by such petitioner of all obligations as a
26 real estate broker ~~or salesperson~~ and upon the prompt payment of all
27 damages arising from or caused by the delay in the taking effect of or

1 enforcement of the order complained of and for all costs that may be
2 assessed or required to be paid in connection with such proceedings.

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

5 **12-61-117. Broker remuneration.** It is unlawful for ~~any real~~
6 ~~estate salesperson or for any~~ A real estate broker registered in the
7 commission office as in the employ of another broker to accept a
8 commission or valuable consideration for the performance of any of the
9 acts specified in this part 1 from any person except the broker's ~~or the~~
10 ~~salesperson's~~ employer, who ~~must~~ SHALL be a licensed real estate broker.

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

13 **12-61-118. Acts of third parties - broker's liability.** Any
14 unlawful act or violation of any of the provisions of this part 1 upon the
15 part of ~~any real estate salesperson or~~ AN employee, ~~or any~~ officer, or
16 member of a licensed real estate broker shall not be cause for disciplinary
17 action against a real estate broker, unless it appears to the satisfaction of
18 the commission that the real estate broker had actual knowledge of the
19 unlawful act or violation or had been negligent in the supervision of
20 ~~salespersons or~~ employees.

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

23 **12-61-119. Violations.** Any natural person, firm, partnership,
24 limited liability company, ~~or~~ association, or ~~any~~ corporation violating the
25 provisions of this part 1 by acting as real estate broker ~~or real estate~~
26 ~~salesperson~~ in this state without having obtained a license or by acting as
27 real estate broker ~~or real estate salesperson~~ after ~~that person's~~ THE

1 BROKER'S license has been revoked or during any period for which said
2 license may have been suspended is guilty of a misdemeanor and, upon
3 conviction thereof, if a natural person, shall be punished by a fine of not
4 more than five hundred dollars, or by imprisonment in the county jail for
5 not more than six months, or by both such fine and imprisonment and, if
6 ~~a corporation~~ AN ENTITY, shall be punished by a fine of not more than five
7 thousand dollars. A second violation, if by a natural person, shall be
8 punishable by a fine of not more than one thousand dollars, or by
9 imprisonment in the county jail for not more than six months, or by both
10 such fine and imprisonment.

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

13 **12-61-203.5. Referral fees - interference with brokerage**
14 **relationship.** (2) (b) As used in this subsection (2):

15 (I) "Brokerage relationship" means a relationship entered into
16 between a broker ~~or salesperson~~ and a buyer, seller, landlord, or tenant
17 under which the broker ~~or salesperson~~ engages in any of the acts set forth
18 in section 12-61-101 (2). A brokerage relationship is not established until
19 a written brokerage agreement is entered into between the parties or is
20 otherwise established by law.

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

23 **12-61-702. Definitions.** As used in this part 7, unless the context
24 otherwise requires:

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

26 (II) Any person licensed as a broker ~~or salesperson~~ pursuant to
27 part 1 of this article who provides an opinion of value that is not

1 represented as an appraisal and is not used for purposes of obtaining
2 financing;

3 **SECTION 22.** 12-61-718 (1) (a) (II), Colorado Revised Statutes,
4 is amended to read:

5 **12-61-718. Scope of article - regulated financial institutions -**
6 **de minimis exemption.** (1) (a) ~~The provisions of~~ This article shall not
7 apply to an appraisal relating to any real estate-related transaction or loan
8 made or to be made by a financial institution or its affiliate if such real
9 estate-related transaction or loan is excepted from appraisal regulations
10 established by the primary federal regulator of said financial institution
11 and the appraisal is performed by:

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

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

17 **12-61-802. Definitions.** As used in this part 8, unless the context
18 otherwise requires:

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

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

25 **12-61-803. Relationships between brokers and the public.**
26 (1) When engaged in any of the activities enumerated in section
27 12-61-101 (2), ~~or (3)~~, a broker may act in any transaction as a single agent

1 or transaction-broker. The broker's general duties and obligations arising
2 from that relationship shall be disclosed to the seller and the buyer or to
3 the landlord and the tenant pursuant to section 12-61-808.

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

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

16 **12-61-808. Broker disclosures.** (2) (a) (I) Prior to engaging in
17 any of the activities enumerated in ~~subsection (2) or (3) of section~~
18 ~~12-61-101~~ SECTION 12-61-101 (2), a transaction-broker shall disclose in
19 writing to the party to be assisted that such broker is not acting as agent
20 for such party and that such broker is acting as a transaction-broker.

21 (b) Prior to engaging in any of the activities enumerated in section
22 12-61-101 (2), ~~or (3)~~, a broker intending to establish a single agency
23 relationship with a seller, landlord, buyer, or tenant shall enter into a
24 written agency agreement with the party to be represented. Such
25 agreement shall disclose the duties and responsibilities specified in
26 section 12-61-804 or 12-61-805, as applicable. Notice of the single
27 agency relationship shall be furnished to any prospective party to the

1 proposed transaction in a timely manner.

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

6 (g) (I) Prior to engaging in any of the activities enumerated in
7 section 12-61-101 (2), ~~or (3)~~, the seller, buyer, landlord, or tenant shall be
8 advised in any written agreement with a broker that the brokerage
9 relationship exists only with the designated broker, does not extend to the
10 employing broker or to any other brokers employed or engaged by the
11 employing broker who are not so designated, and does not extend to the
12 brokerage company.

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

15 **12-61-811. Violations.** The violation of any provision of this part
16 8 by a broker ~~or salesperson shall constitute~~ CONSTITUTES an act pursuant
17 to section 12-61-113 (1) (k) for which the real estate commission may
18 investigate and take administrative action against any such broker ~~or~~
19 ~~salesperson~~ pursuant to sections 12-61-113 and 12-61-114. ~~if it has reason~~
20 ~~to believe that this part 8 has been violated.~~

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

23 **12-61-905. Powers and duties of the director.** (1) The director
24 shall deny, refuse to renew, or revoke the license of an applicant who has:

25 (c) Within the last five years, had a license, registration, or
26 certification issued by Colorado or another state revoked or suspended for
27 fraud, deceit, material misrepresentation, theft, or the breach of a

1 fiduciary duty, and such discipline denied the person authorization to
2 practice as:

3 (III) A real estate salesperson; ~~as defined by section 12-61-101~~
4 ~~(3)~~;

5 **SECTION 28.** 12-61-912 (1), the introductory portion to
6 12-61-912 (3) (a), and 12-61-912 (3) (b), Colorado Revised Statutes, are
7 amended to read:

8 **12-61-912. Dual status as real estate broker - requirements.**

9 (1) Unless a mortgage broker complies with both subsections (2) and (3)
10 of this section, he or she shall not act as a loan originator in any
11 transaction in which:

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

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

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

23 (b) This subsection (3) shall not require a real estate broker ~~or~~
24 ~~salesperson~~ licensed under part 1 of this article who also acts as a
25 mortgage broker to maintain a physical separation within the office
26 facility for the conduct of its real estate and mortgage broker activities if
27 the director determines that maintaining such physical separation would

1 constitute an undue financial hardship upon the mortgage broker and is
2 unnecessary for the protection of the public.

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

5 **6-1-1103. Definitions.** As used in this part 11, unless the context
6 otherwise requires:

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

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

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

13 **8-70-136. Employment does not include - brokers.**

14 (1) "Employment" does not include services performed by an individual
15 as a licensed real estate ~~salesperson~~ BROKER or as a direct seller engaged
16 in the trade or business of selling, or soliciting the sale of, a consumer
17 product in a home or in an establishment other than a permanent retail
18 establishment or as an individual engaged in the trade or business of the
19 delivering or distribution of newspapers or shopping news, including any
20 services directly related to such trade or business if:

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

23 **29-26-101. Legislative declaration.** (1) The general assembly
24 hereby finds and declares that:

25 (d) In selecting members of the advisory boards, the governing
26 bodies of local government shall give preference to residents of the
27 jurisdiction who have demonstrated experience in housing matters,

1 preferably within the territorial boundaries of the jurisdiction, as a result
2 of their current or former experience, without limitation, as a:

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

5 **SECTION 32.** The introductory portion to 12-61-110.5 (1),
6 12-61-110.5 (1) (c) and (2), and the introductory portion to 12-61-110.5
7 (3), Colorado Revised Statutes, are amended to read:

8 **12-61-110.5. Renewal of license - continuing education**
9 **requirement.** (1) Commencing January 1, 1992, except as otherwise
10 provided in subsection (4) of this section, a ~~salesperson or broker~~
11 applying for renewal of a license pursuant to section 12-61-110 (4) shall
12 include with such application a certified statement verifying successful
13 completion of real estate courses in accordance with the following
14 schedule:

15 (c) For licensees applying for renewal in 1994 and thereafter,
16 passage within the previous three years of the Colorado portion of the real
17 estate exam or completion of a minimum of twenty-four hours of credit,
18 ~~eight~~ TWELVE of which shall be the credits developed by the real estate
19 commission pursuant to subsection (2) of this section.

20 (2) The real estate commission shall develop ~~eight~~ TWELVE hours
21 of credit designed to assure reasonable currency of real estate knowledge
22 by licensees, which credits shall include an update of the current statutes
23 and the rules promulgated by the commission that affect the practice of
24 real estate. If a licensee takes a course pursuant to rule 260 of the
25 Colorado rules of civil procedure and such course concerns real property
26 law, such licensee shall receive credit for such course toward the
27 fulfillment of such licensee's continuing education requirements pursuant

1 to this section. Such credits shall be taken from an accredited Colorado
2 college or university; a Colorado community college; a Colorado private
3 occupational school holding a certificate of approval from the state board
4 for community colleges and occupational education; or an educational
5 institution or an educational service described in section 12-59-104.
6 Successful completion of such credits shall require satisfactory passage
7 of a written examination or written examinations of the materials covered.
8 Such examinations shall be audited by the commission to verify their
9 accuracy and the validity of the grades given. The commission shall set
10 the standards required for satisfactory passage of the examinations.

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

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

19 **12-61-105. Commission - compensation - immunity - subject**
20 **to termination.** (1) There shall be a commission of five members,
21 appointed by the governor, which shall administer parts 1, 3, and 4 of this
22 article. This commission shall be known as the real estate commission,
23 ALSO referred to in this part 1 as the "commission", and shall consist of
24 three real estate brokers who have had not less than five years' experience
25 in the real estate business in Colorado ~~one person with expertise in~~
26 ~~subdivision development,~~ and ~~one person representative~~ TWO
27 REPRESENTATIVES of the public at large. Members of the commission

1 shall hold office for a period of three years. Upon the death, resignation,
2 removal, or otherwise of any member of the commission, the governor
3 shall appoint a member to fill out the unexpired term. The governor shall
4 ~~have the authority to~~ MAY remove any member for misconduct, neglect
5 of duty, or incompetence.

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

8 **12-61-103. Application for license.** (6) (b) An applicant for a
9 broker's license who has held a real estate license in another jurisdiction
10 that administers a real estate broker's examination and ~~the applicant~~ WHO
11 has been licensed for two OR MORE years prior to applying for a Colorado
12 license may be issued a broker's license if the applicant establishes that
13 he or she possesses credentials and qualifications that are substantively
14 equivalent to the requirements in Colorado for licensure by examination.
15 ~~A broker's license may be issued under this paragraph (b) only if the~~
16 ~~jurisdiction from which the applicant holds a real estate license allows the~~
17 ~~issuance of a real estate broker's license to applicants from the state of~~
18 ~~Colorado in substantially the same manner as set forth in this paragraph~~
19 ~~(b).~~

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

22 **12-61-113. Investigation - revocation - actions against licensee**
23 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
24 complaint in writing of any person, shall, investigate the activities of any
25 licensee or any person who assumes to act in such capacity within the
26 state, and the commission, after the holding of a hearing pursuant to
27 section 12-61-114, has the power to impose an administrative fine not to

1 exceed two thousand five hundred dollars for each separate offense and
2 to censure a licensee, to place the licensee on probation and to set the
3 terms of probation, or to temporarily suspend or permanently revoke a
4 license when the licensee has performed, is performing, or is attempting
5 to perform any of the following acts and is guilty of:

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

11 (I) A MORTGAGE BROKER;

12 (II) A REAL ESTATE BROKER OR SALESPERSON;

13 (III) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION
14 12-61-702 (5);

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

17 (V) AN ATTORNEY;

18 (VI) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION
19 11-51-201 (2), C.R.S.;

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

22 (VIII) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION
23 11-51-201 (9.5), C.R.S.; OR

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

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

1 **12-61-113. Investigation - revocation - actions against licensee**

2 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
3 complaint in writing of any person, shall, investigate the activities of any
4 licensee or any person who assumes to act in such capacity within the
5 state, and the commission, after the holding of a hearing pursuant to
6 section 12-61-114, has the power to impose an administrative fine not to
7 exceed two thousand five hundred dollars for each separate offense and
8 to censure a licensee, to place the licensee on probation and to set the
9 terms of probation, or to temporarily suspend or permanently revoke a
10 license when the licensee has performed, is performing, or is attempting
11 to perform any of the following acts and is guilty of:

12 (m) Conviction of, entering a plea of guilty to, or entering a plea
13 of nolo contendere to any crime in article 3 of title 18, C.R.S.; ~~in~~ parts 1,
14 2, 3, and 4 of article 4 of title 18, C.R.S.; ~~in~~ part 1, 2, 3, 4, 5, 7, ~~or~~ 8, OR
15 9 of article 5 of title 18, C.R.S.; ~~in~~ ARTICLE 5.5 OF TITLE 18, C.R.S.; PARTS
16 1, 3, 4, 6, 7, AND 8 OF ARTICLE 6 OF TITLE 18, C.R.S.; PARTS 1, 3, 4, 5, 6, 7,
17 AND 8 OF ARTICLE 7 OF TITLE 18, C.R.S.; part 3 of article 8 of title 18,
18 C.R.S.; ~~in~~ article 15 of title 18, C.R.S.; ~~in~~ article 17 of title 18, C.R.S.;
19 SECTION 18-18-404, 18-18-405, 18-18-406, 18-18-411, 18-18-412.5,
20 18-18-412.7, 18-18-412.8, 18-18-415, 18-18-416, 18-18-422, OR
21 18-18-423, C.R.S., or any other like crime under Colorado law, federal
22 law, or the laws of other states. A certified copy of the judgment of a
23 court of competent jurisdiction of such conviction or other official record
24 indicating that such plea was entered shall be conclusive evidence of such
25 conviction or plea in any hearing under this part 1.

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

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

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

17 **12-61-110. License fees - partnership, limited liability**
18 **company, and corporation licenses - rules.** (4) (a) The commission
19 shall require that any person licensed under this part 1, whether on an
20 active or inactive basis, renew said license on an anniversary date every
21 three years. Renewal shall be conditioned upon fulfillment of the
22 continuing education requirements set forth in section 12-61-110.5 and
23 submission of fingerprints as required in section 12-61-110.8; except that
24 any person licensed under this part 1 who maintains an inactive license
25 and wants to renew to an active status shall only submit fingerprints as
26 required in section 12-61-110.8 upon application to an active status AND,
27 EXCEPT THAT, THE REAL ESTATE COMMISSION MAY ACQUIRE A

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

27 **SECTION 39.** 12-61-111, Colorado Revised Statutes, is amended

1 to read:

2 **12-61-111. Disposition of moneys.** (1) All moneys FEES
3 collected by the real estate commission under parts 1 and 4 of this article,
4 not including ADMINISTRATIVE FEES THAT ARE IN THE NATURE OF AN
5 ADMINISTRATIVE FINE AND fees retained by contractors pursuant to
6 contracts entered into in accordance with section 12-61-103 or 24-34-101,
7 C.R.S., shall be transmitted to the state treasurer, who shall credit the
8 same to the division of real estate cash fund. Pursuant to section
9 12-61-111.5, the general assembly shall make annual appropriations from
10 said fund for expenditures of the commission incurred in the performance
11 of its duties under parts 1 and 4 of this article. The commission may
12 request an appropriation specifically designated for educational and
13 enforcement purposes. The expenditures incurred by the commission
14 under parts 1 and 4 of this article shall be made out of such appropriations
15 upon vouchers and warrants drawn pursuant to law.

16 (2) ALL FINES COLLECTED BY THE REAL ESTATE COMMISSION
17 UNDER PARTS 1 AND 4 OF THIS ARTICLE, INCLUDING ADMINISTRATIVE FEES
18 THAT ARE IN THE NATURE OF AN ADMINISTRATIVE FINE, SHALL BE
19 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
20 TO THE GENERAL FUND.

21 **SECTION 40. Repeal.** 12-61-113 (7), Colorado Revised
22 Statutes, is repealed as follows:

23 **12-61-113. Investigation - revocation - actions against licensee**
24 **- repeal.** (7) ~~All administrative fines collected pursuant to this section~~
25 ~~shall be transmitted to the state treasurer, who shall credit the same to the~~
26 ~~division of real estate cash fund.~~

27 **SECTION 41. Repeal.** 12-61-405 (3), Colorado Revised

1 Statutes, is repealed as follows:

2 **12-61-405. Refusal, revocation, or suspension of registration**
3 **- letter of admonition - probation.** (3) ~~All administrative fines~~
4 ~~collected pursuant to this section shall be transmitted to the state~~
5 ~~treasurer, who shall credit the same to the division of real estate cash~~
6 ~~fund.~~

7 **SECTION 42.** 12-61-106 (1), Colorado Revised Statutes, is
8 amended to read:

9 **12-61-106. Director, clerks, and assistants.** (1) The executive
10 director of the department of regulatory agencies is authorized by this
11 section to employ, subject to the provisions of the state personnel system
12 laws of the state, a director for the commission, ~~and~~ WHO IN TURN SHALL
13 EMPLOY such attorneys, deputies, investigators, clerks, and assistants as
14 are necessary to discharge the duties imposed by ~~the provisions of parts~~
15 1, 3, and 4 of this article.

16 **SECTION 43. Applicability.** This act shall apply to acts
17 occurring on or after the effective date of this act.

18 **SECTION 44. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.