

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0378.01 Thomas Morris

HOUSE BILL 08-1212

---

HOUSE SPONSORSHIP

Carroll M.,

SENATE SPONSORSHIP

Tapia,

---

House Committees

Business Affairs and Labor

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), (2), and (5), Colorado Revised  
20 Statutes, 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 (2) (a) ~~If the commission is unable to obtain errors and omissions~~  
9 ~~insurance coverage to insure all licensees who choose to participate in the~~  
10 ~~group program at a reasonable annual premium, as determined by the~~  
11 ~~commission, a licensee shall independently obtain the errors and~~  
12 ~~omissions insurance required by this section.~~

13 (b) ~~The commission shall solicit and consider information and~~  
14 ~~comments from interested persons when determining the reasonableness~~  
15 ~~of annual premiums.~~

16 (5) ~~This section is repealed, effective July 1, 2008.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

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

21 **12-61-107. Resident licensee - nonresident licensee - consent**  
22 **to service.** (2) ~~Every applicant shall file an irrevocable consent that suits~~  
23 ~~and actions may be commenced against such applicant in the proper~~  
24 ~~courts of any county of this state in which a cause of action may arise and~~  
25 ~~in which the plaintiffs may reside by the service of any process or~~  
26 ~~pleading authorized by the laws of this state on the secretary of state, said~~  
27 ~~consent stipulating and agreeing that such service or such process or~~

1 ~~pleading on said secretary shall be held in all courts to be as valid and~~  
2 ~~binding as if due service had been made upon said applicant in the state~~  
3 ~~of Colorado. Said instrument containing such consent shall be~~  
4 ~~authenticated by the signature of the designated broker.~~ IF A BROKER HAS  
5 NO REGISTERED AGENT REGISTERED IN THIS STATE, SUCH REGISTERED  
6 AGENT IS NOT LOCATED UNDER ITS REGISTERED AGENT NAME AT ITS  
7 REGISTERED AGENT ADDRESS, OR THE REGISTERED AGENT CANNOT WITH  
8 REASONABLE DILIGENCE BE SERVED, THE BROKER MAY BE SERVED BY  
9 REGISTERED MAIL OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,  
10 ADDRESSED TO THE ENTITY AT ITS PRINCIPAL ADDRESS. SERVICE IS  
11 PERFECTED UNDER THIS SUBSECTION (2) AT THE EARLIEST OF:

12 (a) THE DATE THE BROKER RECEIVES THE PROCESS, NOTICE, OR  
13 DEMAND;

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

16 (c) FIVE DAYS AFTER MAILING.

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

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

26 **12-61-303. Simplified procedure - application for**  
27 **administrative order for payment from the fund - rules.**

1 (6) (a) ~~SERVICE UPON any real estate broker or real estate salesperson~~  
2 ~~who is licensed or who renews a license under part 1 of this article on or~~  
3 ~~after January 1, 1972 2008, and upon whom personal service cannot be~~  
4 ~~made with reasonable diligence shall be deemed to have appointed the~~  
5 ~~secretary of state as agent for service of process for purposes of actions~~  
6 ~~and applications filed against said broker or salesperson pursuant to this~~  
7 ~~part 3. Service of process upon such persons shall be made as nearly as~~  
8 ~~practicable in the manner prescribed by section 7-105-104, C.R.S. The~~  
9 ~~burden shall be upon the applicant to show that personal service cannot~~  
10 ~~be made with reasonable diligence~~ UPON THE REGISTERED AGENT OF SUCH  
11 REAL ESTATE BROKER. IF THE REAL ESTATE BROKER HAS NO REGISTERED  
12 AGENT, THE REGISTERED AGENT IS NOT LOCATED UNDER ITS REGISTERED  
13 AGENT NAME AT ITS REGISTERED AGENT ADDRESS, OR THE REGISTERED  
14 AGENT CANNOT WITH REASONABLE DILIGENCE BE SERVED, THE REAL  
15 ESTATE BROKER MAY BE SERVED BY REGISTERED MAIL OR BY CERTIFIED  
16 MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE ENTITY AT ITS  
17 PRINCIPAL ADDRESS. SERVICE IS PERFECTED UNDER THIS SUBSECTION (6)  
18 AT THE EARLIEST OF:

19 (I) THE DATE THE REAL ESTATE BROKER RECEIVES THE PROCESS,  
20 NOTICE, OR DEMAND;

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

23 (III) FIVE DAYS AFTER MAILING.

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

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

27 **SECTION 7.** 12-61-101, Colorado Revised Statutes, is amended

1 to read:

2 **12-61-101. Definitions.** As used in this part 1, unless the context  
3 otherwise requires:

4 (1) "Employing real estate broker" or "employing broker" means  
5 a broker who is shown in real estate commission records as employing or  
6 engaging another broker.

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

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

19 (1.7) "Partnership" includes, but is not limited to, a registered  
20 limited liability partnership.

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

- 1           (a) (I) Selling, exchanging, buying, renting, or leasing real estate,  
2 or interest therein, or improvements affixed thereon;
- 3           (b) (II) Offering to sell, exchange, buy, rent, or lease real estate,  
4 or interest therein, or improvements affixed thereon;
- 5           (c) (III) Selling or offering to sell or exchange an existing lease of  
6 real estate, or interest therein, or improvements affixed thereon;
- 7           (d) (IV) Negotiating the purchase, sale, or exchange of real estate,  
8 or interest therein, or improvements affixed thereon;
- 9           (e) (V) Listing, offering, attempting, or agreeing to list real estate,  
10 or interest therein, or improvements affixed thereon for sale, exchange,  
11 rent, or lease;
- 12           (f) (VI) Auctioning or offering, attempting, or agreeing to auction  
13 real estate, or interest therein, or improvements affixed thereon;
- 14           (g) (VII) Buying, selling, offering to buy or sell, or otherwise  
15 dealing in options on real estate, or interest therein, or improvements  
16 affixed thereon or acting as an "option dealer";
- 17           (h) (VIII) Performing any of the foregoing acts as an employee of,  
18 or in behalf of, the owner of real estate, or interest therein, or  
19 improvements affixed thereon at a salary or for a fee, commission, or  
20 other consideration;
- 21           (i) (IX) Negotiating or attempting or offering to negotiate the  
22 listing, sale, purchase, exchange, or lease of a business or business  
23 opportunity or the goodwill thereof or any interest therein when such act  
24 or transaction involves, directly or indirectly, any change in the ownership  
25 or interest in real estate, or in a leasehold interest or estate, or in a  
26 business or business opportunity which owns an interest in real estate or  
27 in a leasehold unless such act is performed by any broker-dealer licensed

1 under the provisions of article 51 of title 11, C.R.S., who is actually  
2 engaged generally in the business of offering, selling, purchasing, or  
3 trading in securities or any officer, partner, salesperson, employee, or  
4 other authorized representative or agent thereof;

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

18 (3) ~~"Real estate salesperson" or "salesperson" means any person~~  
19 ~~employed or engaged by or on behalf of a licensed real estate broker to~~  
20 ~~do or deal in any activity of a real estate broker, as defined in subsection~~  
21 ~~(1.5) or (2) of this section, for compensation or otherwise.~~

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

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

27 (b) (II) Any public official in the conduct of his OR HER official

1 duties;

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

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

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

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

21           ~~(g)~~ (VII) A natural person acting personally with respect to  
22 property owned or leased by that person or a natural person who is a  
23 general partner of a partnership, a manager of a limited liability company,  
24 or an owner of twenty percent or more of such partnership or limited  
25 liability company, and authorized to sell or lease property owned by such  
26 partnership or limited liability company, except as provided in subsection  
27 (1.5) of this section;

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

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

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

27           ~~(k)~~ (XI) (A) A corporation, partnership, or limited liability

1 company acting through its officers, partners, managers, or regularly  
2 salaried employees receiving no additional compensation therefor, or its  
3 wholly owned subsidiary or officers, partners, managers, or regular  
4 salaried employees thereof receiving no additional compensation, with  
5 respect to property located in Colorado which is owned or leased by such  
6 corporation, partnership, or limited liability company and on which has  
7 been or will be erected a shopping center, office building, or industrial  
8 park when such shopping center, office building, or industrial park is  
9 sold, leased, or otherwise offered for sale or lease in the ordinary course  
10 of the business of such corporation, partnership, limited liability  
11 company, or wholly owned subsidiary.

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

19 ~~(†)~~ (XII) A regularly salaried employee of an owner of an  
20 apartment building or complex who acts as an on-site manager of such an  
21 apartment building or complex. This exemption applies only in respect  
22 to the customary duties of an on-site manager performed for his OR HER  
23 employer.

24 ~~(m)~~ (XIII) A regularly salaried employee of an owner of  
25 condominium units who acts as an on-site manager of such units. For  
26 purposes of this ~~paragraph (m)~~ SUBPARAGRAPH (XIII) only, the term  
27 "owner" includes a homeowners' association formed and acting pursuant

1 to its recorded condominium declaration and bylaws. This exemption  
2 applies only in respect to the customary duties of an on-site manager  
3 performed for his OR HER employer.

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

7 ~~(o)~~ Repealed.

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

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

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

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

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

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

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

26 ~~(w)~~ (F) Transportation, so long as such person, firm, partnership,  
27 limited liability company, association, or corporation, including any

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

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

8 **12-61-102. License required.** It is unlawful for any person, firm,  
9 partnership, limited liability company, association, or corporation to  
10 engage in the business or capacity of real estate broker ~~or real estate~~  
11 ~~salesperson~~ in this state without first having obtained a license from the  
12 real estate commission. No person shall be granted a license until such  
13 person establishes compliance with the provisions of this part 1  
14 concerning education, experience, and testing; truthfulness and honesty  
15 and otherwise good moral character; and, in addition to any other  
16 requirements of this section, competency to transact the business of a real  
17 estate broker ~~or real estate salesperson~~ in such manner as to safeguard the  
18 interest of the public and only after satisfactory proof of such  
19 qualifications, together with the application for such license, is filed in the  
20 office of the commission. In determining such person's character, the real  
21 estate commission shall be governed by ~~the provisions of~~ section  
22 24-5-101, C.R.S.

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

25 **12-61-103. Application for license - rules.** (6) (c) In addition  
26 to all other applicable requirements, the following provisions apply to  
27 brokers that did not hold a current and valid broker's license on December

1 31, 1996:

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

7 (II) No such broker shall employ another broker ~~or salesperson~~  
8 without first having completed twenty-four clock hours of instruction, or  
9 the equivalent in correspondence hours, as approved by the commission,  
10 in brokerage administration.

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

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

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

22 **12-61-103.5. Transitional provisions - holders of existing**  
23 **salesperson's licenses.** ~~(1) Effective January 1, 1997, the real estate~~  
24 ~~commission shall no longer issue a real estate salesperson's license.~~

25 ~~(2) A holder of a salesperson's license who wishes to renew on~~  
26 ~~active status for the year 2000 or any subsequent year must renew, if at~~  
27 ~~all, as brokers and shall be issued a real estate broker's license in lieu of~~

1 a renewed salesperson's license upon meeting either of the following two  
2 alternative requirements:

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

6 (b) ~~Successful completion of a course of study approved by the~~  
7 ~~commission and consisting of twenty-four clock hours of instruction,~~  
8 ~~including instruction in closings and contract preparation, within the~~  
9 ~~three-year period immediately preceding the application for renewal.~~

10 ~~Such course shall be in lieu of the continuing education requirements of~~  
11 ~~sections 12-61-110 and 12-61-110.5 for the applicable renewal period.~~

12 ~~A person issued a broker's license pursuant to this paragraph (b) shall~~  
13 ~~practice, if at all, only in the employ of a licensed broker until passing the~~  
14 ~~Colorado portion of the real estate broker's license examination.~~

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

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

23 **12-61-105. Commission - compensation - immunity - subject**  
24 **to termination.** (3) No real estate broker's license ~~and no real estate~~  
25 ~~salesperson's license~~ shall be denied, suspended, or revoked except as  
26 determined by a majority vote of the members of the commission.

27 **SECTION 12.** 12-61-109 (2) and (4), Colorado Revised Statutes,

1 are amended to read:

2 **12-61-109. Change of license status - inactive - cancellation.**

3 (2) A broker who transfers to the address of another broker or a broker  
4 applicant who desires to be employed by another broker shall inform the  
5 commission if said broker is to be in the employ of the other broker. The  
6 employing broker shall have the control and custody of the employed  
7 broker's license. ~~and such employed broker shall have no salespersons  
8 licensed under the employed broker during the term of such employment,  
9 nor shall~~ The employed broker MAY NOT act on behalf of said broker or  
10 as broker for a partnership, limited liability company, or corporation  
11 during the term of such employment; but this shall not affect the  
12 employed broker's right to transfer to another employing broker or to a  
13 location where the employed broker may conduct business as an  
14 independent broker or as a broker acting for a partnership, limited liability  
15 company, or corporation.

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

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

27 **12-61-110. License fees - partnership, limited liability**

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

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

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

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

26 **12-61-113. Investigation - revocation - actions against licensee**  
27 **- repeal.** (1) The commission, upon its own motion, may, and, upon the

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

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

12 (f) In the case of a ~~salesperson or~~ of a broker registered as in the  
13 employ of another broker, failing to place, as soon after receipt as is  
14 practicably possible, in the custody of that licensed broker-employer any  
15 deposit money or other money or fund entrusted to the employee by any  
16 person dealing with the employee as the representative of that licensed  
17 broker-employer;

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

25 (j) Paying a commission or valuable consideration for performing  
26 any of the functions of a real estate broker, ~~or real estate salesperson~~, as  
27 described in this part 1, to any person not licensed under ~~the provisions~~

1 of this part 1; except that a licensed broker may pay a finder's fee or a  
2 share of any commission on a cooperative sale when such payment is  
3 made to a real estate broker licensed in another state or country. If a  
4 country does not license real estate brokers, then the payee must be a  
5 citizen or resident of said country and represent that the payee is in the  
6 business of selling real estate in said country.

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

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

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

24 (1.5) Every person licensed pursuant to section 12-61-101 ~~(2)(j)~~  
25 (2) (a) (X) shall give a prospective tenant a contract or receipt; and such  
26 contract or receipt shall include the address and telephone number of the  
27 real estate commission in prominent letters and shall state that the

1 regulation of rental location agents is under the purview of the real estate  
2 commission.

3 (3) Upon request of the commission, when any real estate broker  
4 ~~or salesperson~~ is a party to any suit or proceeding, either civil or criminal,  
5 arising out of any transaction involving the sale or exchange of any  
6 interest in real property or out of any transaction involving a leasehold  
7 interest in the real property and when such broker ~~or salesperson~~ is  
8 involved in such transaction in such capacity as a licensed broker, ~~or~~  
9 ~~salesperson~~, it shall be the duty of said broker ~~or salesperson~~ to supply to  
10 the commission a copy of the complaint, indictment, information, or other  
11 initiating pleading and the answer filed, if any, and to advise the  
12 commission of the disposition of the case and of the nature and amount  
13 of any judgment, verdict, finding, or sentence ~~which~~ THAT may be made,  
14 entered, or imposed therein.

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

17 **12-61-114. Hearing - administrative law judge - review -**  
18 **rule-making authority.** (2) Such proceedings shall be held in the  
19 county where the commission has its office or in such other place as the  
20 commission may designate. If the licensee is a ~~salesperson~~ or an  
21 employed broker, the commission shall also notify the broker employing  
22 the licensee by mailing, by first-class mail, a copy of the written notice  
23 required under section 24-4-104 (3), C.R.S., to the employing broker's  
24 last-known business address.

25 (5) Pursuant to said proceeding, the court has the right, in its  
26 discretion, to stay the execution or effect of any final order of the  
27 commission; but a hearing shall be held affording the parties an

1 opportunity to be heard for the purpose of determining whether the public  
2 health, safety, and welfare would be endangered by staying the  
3 commission's order. ~~In the event that~~ IF the court determines that the  
4 order should be stayed, it shall also determine at said hearing the amount  
5 of the bond and adequacy of the surety, which bond shall be conditioned  
6 upon the faithful performance by such petitioner of all obligations as a  
7 real estate broker ~~or salesperson~~ and upon the prompt payment of all  
8 damages arising from or caused by the delay in the taking effect of or  
9 enforcement of the order complained of and for all costs that may be  
10 assessed or required to be paid in connection with such proceedings.

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

13 **12-61-117. Broker remuneration.** It is unlawful for ~~any real~~  
14 ~~estate salesperson or for any~~ A real estate broker registered in the  
15 commission office as in the employ of another broker to accept a  
16 commission or valuable consideration for the performance of any of the  
17 acts specified in this part 1 from any person except the broker's ~~or the~~  
18 ~~salesperson's~~ employer, who ~~must~~ SHALL be a licensed real estate broker.

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

21 **12-61-118. Acts of third parties - broker's liability.** Any  
22 unlawful act or violation of any of the provisions of this part 1 upon the  
23 part of ~~any real estate salesperson or~~ AN employee, ~~or any~~ officer, or  
24 member of a licensed real estate broker shall not be cause for disciplinary  
25 action against a real estate broker, unless it appears to the satisfaction of  
26 the commission that the real estate broker had actual knowledge of the  
27 unlawful act or violation or had been negligent in the supervision of

1 ~~salespersons or employees.~~

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

4 **12-61-119. Violations.** Any natural person, firm, partnership,  
5 limited liability company, ~~or association, or any~~ corporation violating the  
6 provisions of this part 1 by acting as real estate broker ~~or real estate~~  
7 ~~salesperson~~ in this state without having obtained a license or by acting as  
8 real estate broker ~~or real estate salesperson~~ after ~~that person's~~ THE  
9 BROKER'S license has been revoked or during any period for which said  
10 license may have been suspended is guilty of a misdemeanor and, upon  
11 conviction thereof, if a natural person, shall be punished by a fine of not  
12 more than five hundred dollars, or by imprisonment in the county jail for  
13 not more than six months, or by both such fine and imprisonment and, if  
14 ~~a corporation~~ AN ENTITY, shall be punished by a fine of not more than five  
15 thousand dollars. A second violation, if by a natural person, shall be  
16 punishable by a fine of not more than one thousand dollars, or by  
17 imprisonment in the county jail for not more than six months, or by both  
18 such fine and imprisonment.

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

21 **12-61-203.5. Referral fees - interference with brokerage**  
22 **relationship.** (2) (b) As used in this subsection (2):

23 (I) "Brokerage relationship" means a relationship entered into  
24 between a broker ~~or salesperson~~ and a buyer, seller, landlord, or tenant  
25 under which the broker ~~or salesperson~~ engages in any of the acts set forth  
26 in section 12-61-101 (2). A brokerage relationship is not established until  
27 a written brokerage agreement is entered into between the parties or is

1 otherwise established by law.

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

4 **12-61-702. Definitions.** As used in this part 7, unless the context  
5 otherwise requires:

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

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

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

13 **12-61-718. Scope of article - regulated financial institutions -**  
14 **de minimis exemption.** (1) (a) ~~The provisions of~~ This article shall not  
15 apply to an appraisal relating to any real estate-related transaction or loan  
16 made or to be made by a financial institution or its affiliate if such real  
17 estate-related transaction or loan is excepted from appraisal regulations  
18 established by the primary federal regulator of said financial institution  
19 and the appraisal is performed by:

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

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

25 **12-61-802. Definitions.** As used in this part 8, unless the context  
26 otherwise requires:

27 (1) "Broker" shall have the same meaning as set forth in

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

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

6 **12-61-803. Relationships between brokers and the public.**

7 (1) When engaged in any of the activities enumerated in section  
8 12-61-101 (2), ~~or (3)~~, a broker may act in any transaction as a single agent  
9 or transaction-broker. The broker's general duties and obligations arising  
10 from that relationship shall be disclosed to the seller and the buyer or to  
11 the landlord and the tenant pursuant to section 12-61-808.

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

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

24 **12-61-808. Broker disclosures.** (2) (a) (I) Prior to engaging in  
25 any of the activities enumerated in ~~subsection (2) or (3) of section~~  
26 ~~12-61-101~~ SECTION 12-61-101 (2), a transaction-broker shall disclose in  
27 writing to the party to be assisted that such broker is not acting as agent

1 for such party and that such broker is acting as a transaction-broker.

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

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

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

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

23 **12-61-811. Violations.** The violation of any provision of this part  
24 8 by a broker ~~or salesperson shall constitute~~ CONSTITUTES an act pursuant  
25 to section 12-61-113 (1) (k) for which the real estate commission may  
26 investigate and take administrative action against any such broker ~~or~~  
27 ~~salesperson~~ pursuant to sections 12-61-113 and 12-61-114. ~~if it has reason~~

1 to believe that this part 8 has been violated.

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

4 **12-61-905. Powers and duties of the director.** (1) The director  
5 shall deny, refuse to renew, or revoke the license of an applicant who has:

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

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

13 **SECTION 28.** 12-61-912 (1), the introductory portion to  
14 12-61-912 (3) (a), and 12-61-912 (3) (b), Colorado Revised Statutes, are  
15 amended to read:

16 **12-61-912. Dual status as real estate broker - requirements.**

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

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

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

24 (3) (a) A real estate broker ~~or salesperson~~ licensed under part 1 of  
25 this article who also acts as a mortgage broker shall carry on such  
26 mortgage broker business activities and shall maintain such person's  
27 mortgage broker business records separate and apart from the real estate

1 broker activities conducted pursuant to part 1 of this article. Such  
2 activities shall be deemed separate and apart even if they are conducted  
3 at an office location with a common entrance and mailing address if:

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

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

13 **6-1-1103. Definitions.** As used in this part 11, unless the context  
14 otherwise requires:

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

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

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

21 **8-70-136. Employment does not include - brokers.**

22 (1) "Employment" does not include services performed by an individual  
23 as a licensed real estate ~~salesperson~~ BROKER or as a direct seller engaged  
24 in the trade or business of selling, or soliciting the sale of, a consumer  
25 product in a home or in an establishment other than a permanent retail  
26 establishment or as an individual engaged in the trade or business of the  
27 delivering or distribution of newspapers or shopping news, including any

1 services directly related to such trade or business if:

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

4 **29-26-101. Legislative declaration.** (1) The general assembly  
5 hereby finds and declares that:

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

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

13 **SECTION 32.** The introductory portion to 12-61-110.5 (1),  
14 12-61-110.5 (1) (c) and (2), and the introductory portion to 12-61-110.5  
15 (3), Colorado Revised Statutes, are amended to read:

16 **12-61-110.5. Renewal of license - continuing education**  
17 **requirement.** (1) Commencing January 1, 1992, except as otherwise  
18 provided in subsection (4) of this section, a ~~salesperson~~ or broker  
19 applying for renewal of a license pursuant to section 12-61-110 (4) shall  
20 include with such application a certified statement verifying successful  
21 completion of real estate courses in accordance with the following  
22 schedule:

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

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

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

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

27           **12-61-105. Commission - compensation - immunity - subject**

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

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

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

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

3           **12-61-113. Investigation - revocation - actions against licensee**  
4 **- repeal.** (1) The commission, upon its own motion, may, and, upon the  
5 complaint in writing of any person, shall, investigate the activities of any  
6 licensee or any person who assumes to act in such capacity within the  
7 state, and the commission, after the holding of a hearing pursuant to  
8 section 12-61-114, has the power to impose an administrative fine not to  
9 exceed two thousand five hundred dollars for each separate offense and  
10 to censure a licensee, to place the licensee on probation and to set the  
11 terms of probation, or to temporarily suspend or permanently revoke a  
12 license when the licensee has performed, is performing, or is attempting  
13 to perform any of the following acts and is guilty of:

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

- 19           (I) A MORTGAGE BROKER;
- 20           (II) A REAL ESTATE BROKER OR SALESPERSON;
- 21           (III) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION  
22 12-61-702 (5);
- 23           (IV) AN INSURANCE PRODUCER, AS DEFINED BY SECTION 10-2-103  
24 (6), C.R.S.;
- 25           (V) AN ATTORNEY;
- 26           (VI) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION  
27 11-51-201 (2), C.R.S.;

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

3 (VIII) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION  
4 11-51-201 (9.5), C.R.S.; OR

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

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

9 **12-61-113. Investigation - revocation - actions against licensee**  
10 **- repeal.** (1) The commission, upon its own motion, may, and, upon the  
11 complaint in writing of any person, shall, investigate the activities of any  
12 licensee or any person who assumes to act in such capacity within the  
13 state, and the commission, after the holding of a hearing pursuant to  
14 section 12-61-114, has the power to impose an administrative fine not to  
15 exceed two thousand five hundred dollars for each separate offense and  
16 to censure a licensee, to place the licensee on probation and to set the  
17 terms of probation, or to temporarily suspend or permanently revoke a  
18 license when the licensee has performed, is performing, or is attempting  
19 to perform any of the following acts and is guilty of:

20 (m) Conviction of, entering a plea of guilty to, or entering a plea  
21 of nolo contendere to any crime in article 3 of title 18, C.R.S.; ~~in~~ parts 1,  
22 2, 3, and 4 of article 4 of title 18, C.R.S.; ~~in~~ part 1, 2, 3, 4, 5, 7, ~~or~~ 8, OR  
23 9 of article 5 of title 18, C.R.S.; ~~in~~ ARTICLE 5.5 OF TITLE 18, C.R.S.; PARTS  
24 1, 3, 4, 6, 7, AND 8 OF ARTICLE 6 OF TITLE 18, C.R.S.; PARTS 1, 3, 4, 5, 6, 7,  
25 AND 8 OF ARTICLE 7 OF TITLE 18, C.R.S.; part 3 of article 8 of title 18,  
26 C.R.S.; ~~in~~ article 15 of title 18, C.R.S.; ~~in~~ article 17 of title 18, C.R.S.;  
27 SECTION 18-18-404, 18-18-405, 18-18-406, 18-18-411, 18-18-412.5,

1 18-18-412.7, 18-18-412.8, 18-18-415, 18-18-416, 18-18-422, OR  
2 18-18-423, C.R.S., or any other like crime under Colorado law, federal  
3 law, or the laws of other states. A certified copy of the judgment of a  
4 court of competent jurisdiction of such conviction or other official record  
5 indicating that such plea was entered shall be conclusive evidence of such  
6 conviction or plea in any hearing under this part 1.

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

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

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

25 **12-61-110. License fees - partnership, limited liability**  
26 **company, and corporation licenses - rules.** (4) (a) The commission  
27 shall require that any person licensed under this part 1, whether on an

1 active or inactive basis, renew said license on an anniversary date every  
2 three years. Renewal shall be conditioned upon fulfillment of the  
3 continuing education requirements set forth in section 12-61-110.5 and  
4 submission of fingerprints as required in section 12-61-110.8; except that  
5 any person licensed under this part 1 who maintains an inactive license  
6 and wants to renew to an active status shall only submit fingerprints as  
7 required in section 12-61-110.8 upon application to an active status AND,  
8 EXCEPT THAT, THE REAL ESTATE COMMISSION MAY ACQUIRE A  
9 NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT WHO  
10 HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY  
11 RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. For  
12 persons renewing or reinstating an active license, written certification  
13 verifying completion for the previous three-year licensing period of the  
14 continuing education requirements set forth in said section shall  
15 accompany and be submitted to the commission with the application for  
16 renewal or reinstatement. For persons who did not submit certification  
17 verifying compliance with section 12-61-110.5 at the time a license was  
18 renewed or reinstated on an inactive status, written certification verifying  
19 completion for the previous three-year licensing period of the continuing  
20 education requirements set forth in said section shall accompany and be  
21 submitted with any future application to reactivate the license. The  
22 commission may by rule establish procedures to facilitate such a renewal.  
23 Until such procedures are established, every license issued under the  
24 provisions of this part 1 shall expire at 12 midnight on December 31 of  
25 the year in which issued; except that each renewal of such license shall  
26 be for three years and shall expire at 12 midnight on December 31 of the  
27 third year. In the absence of any reason or condition that might warrant

1 the refusal of the granting of a license or the revocation thereof, the  
2 commission shall issue a new license upon receipt by the commission of  
3 the written request of the applicant and the fees therefor, as required by  
4 this section. Applications for renewal will be accepted thirty days prior  
5 to January 1. A person who fails to renew a license before January 1 of  
6 the year succeeding the year of the expiration of such license may  
7 reinstate the license as follows:

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

10 **12-61-111. Disposition of moneys.** (1) All ~~moneys~~ FEES  
11 collected by the real estate commission under parts 1 and 4 of this article,  
12 not including ADMINISTRATIVE FEES THAT ARE IN THE NATURE OF AN  
13 ADMINISTRATIVE FINE AND fees retained by contractors pursuant to  
14 contracts entered into in accordance with section 12-61-103 or 24-34-101,  
15 C.R.S., shall be transmitted to the state treasurer, who shall credit the  
16 same to the division of real estate cash fund. Pursuant to section  
17 12-61-111.5, the general assembly shall make annual appropriations from  
18 said fund for expenditures of the commission incurred in the performance  
19 of its duties under parts 1 and 4 of this article. The commission may  
20 request an appropriation specifically designated for educational and  
21 enforcement purposes. The expenditures incurred by the commission  
22 under parts 1 and 4 of this article shall be made out of such appropriations  
23 upon vouchers and warrants drawn pursuant to law.

24 (2) ALL FINES COLLECTED BY THE REAL ESTATE COMMISSION  
25 UNDER PARTS 1 AND 4 OF THIS ARTICLE, INCLUDING ADMINISTRATIVE FEES  
26 THAT ARE IN THE NATURE OF AN ADMINISTRATIVE FINE, SHALL BE  
27 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME

1 TO THE GENERAL FUND.

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

4 **12-61-113. Investigation - revocation - actions against licensee**  
5 **- repeal.** (7) ~~All administrative fines collected pursuant to this section~~  
6 ~~shall be transmitted to the state treasurer, who shall credit the same to the~~  
7 ~~division of real estate cash fund.~~

8 **SECTION 41. Repeal.** 12-61-405 (3), Colorado Revised  
9 Statutes, is repealed as follows:

10 **12-61-405. Refusal, revocation, or suspension of registration**  
11 **- letter of admonition - probation.** (3) ~~All administrative fines~~  
12 ~~collected pursuant to this section shall be transmitted to the state~~  
13 ~~treasurer, who shall credit the same to the division of real estate cash~~  
14 ~~fund.~~

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

17 **12-61-106. Director, clerks, and assistants.** (1) The executive  
18 director of the department of regulatory agencies is authorized by this  
19 section to employ, subject to the provisions of the state personnel system  
20 laws of the state, a director for the commission, ~~and~~ WHO IN TURN SHALL  
21 EMPLOY such attorneys, deputies, investigators, clerks, and assistants as  
22 are necessary to discharge the duties imposed by ~~the provisions of parts~~  
23 1, 3, and 4 of this article.

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

26 **SECTION 44. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.