

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 12-0675.01 Kate Meyer x4348

HOUSE BILL 12-1268

HOUSE SPONSORSHIP

Acree, Beezley, Joshi, Kerr J., McCann, Ramirez

SENATE SPONSORSHIP

(None),

House Committees

Health and Environment
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A TRANSFER OF FUNCTIONS PERTAINING TO HEALTH**
102 **FACILITY COMPLIANCE WITH CERTAIN BUILDING SAFETY**
103 **STANDARDS FROM THE DEPARTMENT OF PUBLIC HEALTH AND**
104 **ENVIRONMENT TO THE DIVISION OF FIRE SAFETY IN THE OFFICE**
105 **OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE**
106 **DEPARTMENT OF PUBLIC SAFETY, AND, IN CONNECTION**
107 **THEREWITH, CREATING THE HEALTH FACILITY CONSTRUCTION**
108 **AND INSPECTION SECTION IN THE DIVISION OF FIRE SAFETY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

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.*

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Currently, the division of fire safety (division) in the office of preparedness, security, and fire safety within the Colorado department of public safety conducts construction plan reviews and performs inspections of public school buildings to determine compliance with building and fire safety codes. The department of public health and environment (department) is responsible for such reviews and inspections for health facility buildings.

Effective July 1, 2012, the bill transfers to the division the department's functions, personnel, and property directed principally for inspections of health care facilities for conformity to building and fire safety standards. With the exception of certain health facilities for which there are no central buildings used to provide health services to individuals, the division will be responsible for adopting building and fire safety standards, reviewing plans for construction, performing inspections, issuing certificates of occupancy and compliance, and otherwise assessing and enforcing compliance with building and fire safety standards.

To reflect its broader scope, the division's public school construction and inspection section is renamed the "health facility and public school construction and inspection section" (section). Laws setting forth the current administrative duties and processes of the division and the section, as they relate to the public school construction and inspection program, are amended to include health facilities.

The bill leaves intact the existing authority of a local jurisdiction to adopt and enforce concurrent building and fire safety codes, and describes the interaction between local and division oversight and regulations.

The department is prohibited from licensing a health facility unless the division issues to the department a certificate of compliance certifying that the health facility's buildings and structures conform to the building and fire safety standards adopted by the director of the division. Upon receipt of such certificate, the department must take action regarding the pending application for licensure within 30 days.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-1.5-103, **add** (5)

3 as follows:

4 **25-1.5-103. Health facilities - powers and duties of department**

1 - limitations on rules promulgated by department. (5) (a) THIS
2 SUBSECTION (5) APPLIES TO CONSTRUCTION, INCLUDING SUBSTANTIAL
3 RENOVATION, OF A HEALTH CARE FACILITY BUILDING OR STRUCTURE ON
4 OR AFTER JULY 1, 2012. ALL HEALTH FACILITY BUILDINGS AND
5 STRUCTURES SHALL BE CONSTRUCTED IN CONFORMITY WITH THE
6 STANDARDS ADOPTED BY THE DIRECTOR OF THE DIVISION OF FIRE SAFETY
7 IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE
8 DEPARTMENT OF PUBLIC SAFETY.

9 (b) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION
10 (5) BUT NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
11 CONTRARY, THE DEPARTMENT SHALL NOT ISSUE OR RENEW ANY LICENSE
12 UNDER THIS ARTICLE UNLESS THE DEPARTMENT HAS RECEIVED A
13 CERTIFICATE OF COMPLIANCE FROM THE DIVISION OF FIRE SAFETY
14 CERTIFYING THAT THE BUILDING OR STRUCTURE OF THE HEALTH FACILITY
15 ARE IN CONFORMITY WITH THE STANDARDS ADOPTED BY THE DIRECTOR OF
16 THE DIVISION OF FIRE SAFETY.

17 (c) HOME CARE AGENCIES, ASSISTED LIVING RESIDENCES, AND
18 OTHER FACILITIES OF A LIKE NATURE THAT DO NOT MAINTAIN BUILDINGS
19 OR STRUCTURES AT WHICH HEALTH CARE SERVICES ARE PROVIDED ARE
20 NOT REQUIRED TO OBTAIN A CERTIFICATE OF COMPLIANCE IN ACCORDANCE
21 WITH PARAGRAPH (b) OF THIS SUBSECTION (5) AS A CONDITION OF
22 LICENSURE BY THE DEPARTMENT.

23 (d) THE DEPARTMENT HAS NO AUTHORITY TO ESTABLISH OR
24 ENFORCE STANDARDS RELATING TO BUILDING OR FIRE CODES. ALL
25 FUNCTIONS, PERSONNEL, AND PROPERTY OF THE DEPARTMENT AS OF JUNE
26 30, 2012, THAT ARE PRINCIPALLY DIRECTED TO THE ADMINISTRATION,
27 INSPECTION, AND ENFORCEMENT OF ANY BUILDING OR FIRE CODES OR

1 STANDARDS SHALL BE TRANSFERRED TO THE HEALTH FACILITY
2 CONSTRUCTION AND INSPECTION SECTION OF THE DIVISION OF FIRE SAFETY
3 PURSUANT TO SECTION 24-33.5-1201 (4), C.R.S.

4 **SECTION 2.** In Colorado Revised Statutes, 25-3-102, **amend** (1);
5 and **add** (3) as follows:

6 **25-3-102. License - application - issuance - certificate of**
7 **compliance required.** (1) An application for a license described in
8 section 25-3-101 shall be made to the department of public health and
9 environment annually upon such form and in such manner as prescribed
10 by the department; except that a community residential home shall make
11 application for a license pursuant to section 27-10.5-109, C.R.S. The
12 department has authority to administer oaths, subpoena witnesses or
13 documents, and take testimony in all matters relating to issuing, denying,
14 limiting, suspending, or revoking such license. The department shall issue
15 licenses to applicants furnishing satisfactory evidence of fitness to
16 conduct and maintain a facility described in section 25-3-101 in
17 accordance with ~~the provisions of this part 1 and the rules and regulations~~
18 ~~adopted by such~~ THE department. The license shall be signed by the
19 president and attested by the secretary of the state board of health and
20 have the seal thereof affixed thereto. ~~Such~~ THE license expires one year
21 from the date of issuance.

22 (3) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
23 CONTRARY, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
24 SHALL NOT ISSUE OR RENEW ANY LICENSE DESCRIBED IN SECTION 25-3-101
25 FOR A FACILITY COVERED BY SECTION 25-1.5-103 (5) UNLESS THE
26 DEPARTMENT RECEIVES A CERTIFICATE OF COMPLIANCE FOR THE
27 APPLICANT'S BUILDING OR STRUCTURE FROM THE DIVISION OF FIRE SAFETY

1 IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE
2 DEPARTMENT OF PUBLIC SAFETY IN ACCORDANCE WITH PART 12 OF
3 ARTICLE 33.5 OF TITLE 24, C.R.S.

4 (b) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
5 SHALL TAKE ACTION ON AN APPLICATION FOR LICENSURE WITHIN THIRTY
6 DAYS AFTER THE DATE IT RECEIVES THE CERTIFICATE OF COMPLIANCE
7 FROM THE DIVISION OF FIRE SAFETY.

8 **SECTION 3.** In Colorado Revised Statutes, 25-3-105, **add** (4) as
9 follows:

10 **25-3-105. License - fee - rules - penalty.** (4) ON JUNE 30, 2012,
11 ANY MONEYS REMAINING IN THE HEALTH FACILITIES GENERAL LICENSURE
12 CASH FUND CREATED IN SECTION 25-3-103.1 (1) FROM FEES COLLECTED BY
13 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR HEALTH
14 FACILITY BUILDING AND STRUCTURE CODE PLAN REVIEWS AND
15 INSPECTIONS ARE TRANSFERRED TO THE HEALTH FACILITY CONSTRUCTION
16 AND INSPECTION CASH FUND CREATED IN SECTION 24-33.5-1207.8, C.R.S.

17 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-1201, **add**
18 (4) as follows:

19 **24-33.5-1201. Division of fire safety - creation - public school**
20 **construction and inspection section - health facility construction and**
21 **inspection section.** (4) (a) THERE IS HEREBY CREATED WITHIN THE
22 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION SECTION
23 TO IMPLEMENT SECTION 24-33.5-1212.5 AND TO ADMINISTER AND
24 ENFORCE THE CODES IN ACCORDANCE WITH SECTIONS 24-33.5-1212.5 AND
25 24-33.5-1213. THE HEALTH FACILITY CONSTRUCTION AND INSPECTION
26 SECTION SHALL PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DIVISION
27 AND THE EXECUTIVE DIRECTOR AS IF THE SAME WERE TRANSFERRED TO

1 THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED
2 IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF
3 THIS TITLE.

4 (b) ON AND AFTER JULY 1, 2012, ALL POSITIONS OF EMPLOYMENT
5 IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR WHICH
6 PRINCIPAL DUTIES ARE CONCERNED WITH LIFE SAFETY INSPECTION AND
7 THAT ARE DETERMINED BY THE DIRECTOR TO BE NECESSARY TO CARRY
8 OUT THE PURPOSES OF THE HEALTH FACILITY CONSTRUCTION AND
9 INSPECTION SECTION ARE TRANSFERRED TO THE DIVISION AND ARE
10 EMPLOYMENT POSITIONS THEREIN. THE EXECUTIVE DIRECTOR SHALL
11 APPOINT SUCH EMPLOYEES AS ARE NECESSARY TO CARRY OUT THE DUTIES
12 AND EXERCISE THE POWERS SPECIFIED IN THIS PART 12. THE EXECUTIVE
13 DIRECTOR MAY DELEGATE APPOINTING AUTHORITY AS APPROPRIATE.

14 (c) ON AND AFTER JULY 1, 2012, ALL EMPLOYEES OF THE
15 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CARRYING OUT THE
16 DUTIES PRINCIPALLY RELATING TO LIFE SAFETY CODE COMPLIANCE ARE
17 EMPLOYEES OF THE HEALTH FACILITY CONSTRUCTION AND INSPECTION
18 SECTION IN THE DIVISION. THE EMPLOYEES RETAIN ALL RIGHTS UNDER THE
19 STATE PERSONNEL SYSTEM AND TO RETIREMENT BENEFITS PURSUANT TO
20 THE LAWS OF THIS STATE, AND THEIR SERVICES ARE DEEMED TO HAVE
21 BEEN CONTINUOUS.

22 (d) ON JULY 1, 2012, ALL ITEMS OF PROPERTY, REAL AND
23 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,
24 DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH AND
25 ENVIRONMENT USED IN CARRYING OUT THE DUTIES PRINCIPALLY RELATING
26 TO LIFE SAFETY CODE COMPLIANCE ARE TRANSFERRED TO THE HEALTH
27 FACILITY CONSTRUCTION AND INSPECTION SECTION IN THE DIVISION AND

1 BECOME THE PROPERTY OF THAT SECTION.

2 (e) WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
3 PARAGRAPH (e), THE DIVISION SHALL WORK WITH THE GOVERNOR TO SEEK
4 FROM THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH
5 AND HUMAN SERVICES A MODIFICATION TO THE AGREEMENT ENTERED
6 INTO BETWEEN THE SECRETARY AND THE STATE OF COLORADO PURSUANT
7 TO SECTION 1864 OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C.
8 SEC. 1395aa, THAT ALLOWS THE DIVISION TO FULFILL THE DUTIES UNDER
9 THAT LAW ASSOCIATED WITH THE ASSESSMENT OF COMPLIANCE WITH THE
10 FEDERAL FIRE SAFETY CODE REQUIREMENTS FOR HEALTH FACILITIES.

11 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-1202,
12 **amend** (7.7); and **add** (7.9) as follows:

13 **24-33.5-1202. Definitions.** As used in this part 12, unless the
14 context otherwise requires:

15 (7.7) "Manufacturer" means any one or more of the following:

16 (a) ~~An entity that manufactures or otherwise produces cigarettes~~
17 ~~or causes cigarettes to be manufactured with the intent that such cigarettes~~
18 ~~be sold in Colorado, regardless of where the cigarettes are manufactured~~
19 ~~or produced and regardless of whether they are imported from outside the~~
20 ~~United States;~~

21 (b) ~~The first purchaser anywhere that intends to resell, in the~~
22 ~~United States, cigarettes manufactured anywhere that the original~~
23 ~~manufacturer or producer does not intend to be sold in the United States;~~

24 ~~or~~

25 (c) ~~An entity that becomes a successor to an entity described in~~
26 ~~paragraph (a) or (b) of this subsection (7.7) "HEALTH FACILITY" MEANS~~
27 ~~A GENERAL HOSPITAL, HOSPITAL UNIT AS DEFINED IN SECTION 25-3-101~~

1 (2), C.R.S., PSYCHIATRIC HOSPITAL, COMMUNITY CLINIC, REHABILITATION
2 CENTER, CONVALESCENT CENTER, COMMUNITY MENTAL HEALTH CENTER,
3 ACUTE TREATMENT UNIT, FACILITY FOR PERSONS WITH DEVELOPMENTAL
4 DISABILITIES, HABILITATION CENTER FOR CHILDREN WITH BRAIN DAMAGE,
5 CHIROPRACTIC CENTER AND HOSPITAL, MATERNITY HOSPITAL, NURSING
6 CARE FACILITY, REHABILITATIVE NURSING FACILITY, HOSPICE CARE
7 FACILITY, DIALYSIS TREATMENT CLINIC, AMBULATORY SURGICAL CENTER,
8 BIRTHING CENTER, OR OTHER FACILITY OF A LIKE NATURE; EXCEPT THAT
9 "HEALTH FACILITY" DOES NOT INCLUDE A FACILITY AT WHICH HEALTH
10 SERVICES ARE NOT PROVIDED TO INDIVIDUALS.

11 (7.9) "MANUFACTURER" MEANS ANY ONE OR MORE OF THE
12 FOLLOWING:

13 (a) AN ENTITY THAT MANUFACTURES OR OTHERWISE PRODUCES
14 CIGARETTES OR CAUSES CIGARETTES TO BE MANUFACTURED WITH THE
15 INTENT THAT SUCH CIGARETTES BE SOLD IN COLORADO, REGARDLESS OF
16 WHERE THE CIGARETTES ARE MANUFACTURED OR PRODUCED AND
17 REGARDLESS OF WHETHER THEY ARE IMPORTED FROM OUTSIDE THE
18 UNITED STATES;

19 (b) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL,
20 IN THE UNITED STATES, CIGARETTES MANUFACTURED ANYWHERE THAT
21 THE ORIGINAL MANUFACTURER OR PRODUCER DOES NOT INTEND TO BE
22 SOLD IN THE UNITED STATES; OR

23 (c) AN ENTITY THAT BECOMES A SUCCESSOR TO AN ENTITY
24 DESCRIBED IN PARAGRAPH (a) OR (b) OF THIS SUBSECTION (7.9).

25 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-1203,
26 **amend** (1) (b.5); and **add** (1) (p.5) as follows:

27 **24-33.5-1203. Duties of division.** (1) The division shall perform

1 the following duties:

2 (b.5) Advise the governor and the general assembly regarding
3 implementation of the public school construction and inspection program
4 AND THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM;

5 (p.5) CONDUCT, WHEN THERE IS NO LOCAL BUILDING DEPARTMENT
6 OR FIRE DEPARTMENT, CONSTRUCTION PLAN REVIEWS AND INSPECTIONS OF
7 HEALTH FACILITY BUILDINGS AND STRUCTURES AND ENFORCE THE CODES
8 IN ACCORDANCE WITH SECTIONS 24-33.5-1212.5 AND 24-33.5-1213;

9 **SECTION 7.** In Colorado Revised Statutes, 24-33.5-1204.5,
10 **amend** (1) (g); and **add** (1) (f.5) as follows:

11 **24-33.5-1204.5. Powers and duties of administrator - rules.**

12 (1) In addition to any other duties and powers granted by this section or
13 sections 24-33.5-1206.2 and 24-33.5-1206.4, the administrator has the
14 following duties and powers:

15 (f.5) TO ESTABLISH AND ADOPT RULES NECESSARY TO ADMINISTER
16 THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM FOR:

17 (I) WHERE THERE IS NO LOCAL BUILDING DEPARTMENT OR FIRE
18 DEPARTMENT, THE INSPECTION OF HEALTH FACILITY BUILDINGS AND
19 STRUCTURES AND PERFORMANCE OF PLAN REVIEWS; AND

20 (II) THE DEVELOPMENT OF A PROGRAM FOR CERTIFICATION OF
21 HEALTH FACILITY LIFE SAFETY INSPECTORS;

22 (g) To conduct hearings upon charges for discipline of a school
23 building inspector, HEALTH FACILITY LIFE SAFETY CODE INSPECTOR, OR
24 THIRD-PARTY INSPECTOR; issue subpoenas; compel attendance of
25 witnesses; compel the production of books, records, papers, and
26 documents; administer oaths to persons giving testimony at hearings; and
27 recommend prosecution of persons violating this part 12.

1 **SECTION 8.** In Colorado Revised Statutes, 24-33.5-1206,
2 **amend** (2) as follows:

3 **24-33.5-1206. Education and training programs - certification**
4 **programs - supervision and control.** (2) The public school construction
5 and inspection program, THE HEALTH FACILITY CONSTRUCTION AND
6 INSPECTION PROGRAM, and the certification ~~program~~ PROGRAMS for public
7 school and junior college building inspectors AND LIFE SAFETY CODE
8 INSPECTORS established pursuant to this part 12 ~~shall be~~ ARE under the
9 supervision and control of the director with the advice of the board of
10 appeals created in section 24-33.5-1213.7.

11 **SECTION 9.** In Colorado Revised Statutes, **add** 24-33.5-1207.8
12 as follows:

13 **24-33.5-1207.8. Health facility construction and inspection**
14 **cash fund - created.** ALL MONEYS COLLECTED BY THE DIVISION
15 PURSUANT TO SECTION 24-33.5-1212.5 SHALL BE TRANSMITTED TO THE
16 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH
17 FACILITY CONSTRUCTION AND INSPECTION CASH FUND, WHICH IS HEREBY
18 CREATED. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST
19 EARNED THEREON ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
20 GENERAL ASSEMBLY FOR PAYING THE EXPENSES OF THE HEALTH FACILITY
21 CONSTRUCTION AND INSPECTION PROGRAM. ANY UNEXPENDED AND
22 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A
23 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
24 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

25 **SECTION 10.** In Colorado Revised Statutes, **add** 24-33.5-1212.5
26 as follows:

27 **24-33.5-1212.5. Health facility fire and building codes -**

1 **third-party inspections authorized - temporary certificate of**
2 **occupancy - fees - rules - board of appeals.** (1) (a) THIS SECTION
3 APPLIES TO HEALTH FACILITY BUILDINGS OR STRUCTURES, INCLUDING THE
4 CONSTRUCTION OR SUBSTANTIAL REMODELING THEREOF, WHEN THERE IS
5 NO LOCAL BUILDING DEPARTMENT OR FIRE DEPARTMENT TO PERFORM
6 SUCH FUNCTIONS.

7 (b) ON AND AFTER JULY 1, 2012, HEALTH FACILITY BUILDINGS AND
8 STRUCTURES SHALL BE MAINTAINED IN ACCORDANCE WITH THEIR LOCAL
9 BUILDING AND FIRE CODES OR, IF NO SUCH LOCAL BUILDING AND FIRE
10 CODES EXIST, WITH THE BUILDING AND FIRE CODES ADOPTED BY THE
11 DIRECTOR PURSUANT TO SECTION 24-33.5-1203.5.

12 (c) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (1),
13 UPON REQUEST OF THE LOCAL FIRE AUTHORITY, THE DIRECTOR OF THE
14 DIVISION SHALL PROVIDE TECHNICAL ASSISTANCE IN THE REVIEW OF
15 HEALTH FACILITY PLANS AND, IF APPROPRIATE, CONDUCT INSPECTIONS ON
16 BEHALF OF THE LOCAL FIRE AUTHORITY.

17 (2) EXCEPT AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, IN
18 THE ABSENCE OF A LOCAL BUILDING DEPARTMENT OR FIRE DEPARTMENT,
19 THE DIVISION SHALL CONDUCT THE NECESSARY PLAN REVIEWS, ISSUE
20 BUILDING PERMITS, CAUSE THE NECESSARY INSPECTIONS TO BE
21 PERFORMED, PERFORM FINAL INSPECTIONS, AND ISSUE CERTIFICATES OF
22 OCCUPANCY TO ASSURE THAT A HEALTH FACILITY BUILDING OR
23 STRUCTURE HAS BEEN CONSTRUCTED IN CONFORMITY WITH THE BUILDING
24 AND FIRE CODES ADOPTED BY THE DIRECTOR AND THAT THE HEALTH
25 FACILITY HAS COMPLIED WITH THIS SECTION.

26 (3) **Third-party inspectors.** (a) THE DIVISION MAY CONTRACT
27 WITH THIRD-PARTY INSPECTORS WHO ARE CERTIFIED IN ACCORDANCE

1 WITH SECTION 24-33.5-1213.5 TO PERFORM INSPECTIONS.

2 (b) (I) A HEALTH FACILITY MAY HIRE AND COMPENSATE
3 THIRD-PARTY INSPECTORS UNDER CONTRACT WITH THE DIVISION OR HIRE
4 AND COMPENSATE OTHER THIRD-PARTY INSPECTORS WHO ARE CERTIFIED
5 IN ACCORDANCE WITH SECTION 24-33.5-1213.5 TO PERFORM INSPECTIONS.

6 (II) IF A THIRD-PARTY INSPECTOR IS USED, THE DIVISION SHALL
7 REQUIRE A SUFFICIENT NUMBER OF THIRD-PARTY INSPECTION REPORTS TO
8 BE SUBMITTED BY THE INSPECTOR TO THE DIVISION BASED UPON THE
9 SCOPE OF THE PROJECT TO ENSURE QUALITY INSPECTIONS ARE PERFORMED.

10 EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION, THE
11 THIRD-PARTY INSPECTOR SHALL ATTEST THAT INSPECTIONS ARE COMPLETE
12 AND ALL VIOLATIONS ARE CORRECTED BEFORE THE HEALTH FACILITY IS
13 ISSUED A CERTIFICATE OF OCCUPANCY. INSPECTION RECORDS SHALL BE
14 RETAINED BY THE THIRD-PARTY INSPECTOR FOR TWO YEARS AFTER THE
15 CERTIFICATE OF OCCUPANCY IS ISSUED. IF THE DIVISION FINDS THAT
16 INSPECTIONS ARE NOT COMPLETED SATISFACTORILY, AS DETERMINED BY
17 RULE OF THE DIVISION, OR THAT ALL VIOLATIONS ARE NOT CORRECTED,
18 THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE
19 APPROPRIATE HEALTH FACILITY PURSUANT TO SECTION 24-33.5-1213.

20 (4) **Temporary certificate of occupancy.** IF INSPECTIONS ARE
21 NOT COMPLETED AND A BUILDING OR STRUCTURE REQUIRES IMMEDIATE
22 OCCUPANCY, AND IF THE HEALTH FACILITY HAS PASSED THE APPROPRIATE
23 INSPECTIONS THAT INDICATE THERE ARE NO LIFE SAFETY ISSUES, THE
24 DIVISION MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY. THE
25 TEMPORARY CERTIFICATE OF OCCUPANCY EXPIRES NINETY DAYS AFTER
26 THE DATE OF OCCUPANCY. IF NO RENEWAL OF THE TEMPORARY
27 CERTIFICATE OF OCCUPANCY IS ISSUED OR A PERMANENT CERTIFICATE OF

1 OCCUPANCY IS NOT ISSUED, THE BUILDING OR STRUCTURE SHALL BE
2 VACATED UPON EXPIRATION OF THE TEMPORARY CERTIFICATE. THE
3 DIVISION SHALL ENFORCE THIS SUBSECTION (4) PURSUANT TO SECTION
4 24-33.5-1213.

5 (5) **Division fees.** IF THE DIVISION CONDUCTS THE NECESSARY
6 PLAN REVIEWS AND PERFORMS THE NECESSARY INSPECTIONS TO
7 DETERMINE THAT A BUILDING OR STRUCTURE HAS BEEN CONSTRUCTED IN
8 CONFORMITY WITH THE BUILDING AND FIRE CODES ADOPTED BY THE
9 DIRECTOR, THE DIVISION SHALL CHARGE FEES AS ESTABLISHED BY THE
10 DIRECTOR BY RULE, BASED ON THE DIRECT COST OF PROVIDING THE
11 SERVICE. THE FEES SHALL COVER THE ACTUAL, REASONABLE, AND
12 NECESSARY EXPENSES OF THE DIVISION. THE DIRECTOR, BY RULE OR AS
13 OTHERWISE PROVIDED BY LAW, MAY INCREASE OR REDUCE THE AMOUNT
14 OF THE FEES AS NECESSARY TO COVER THE ACTUAL, REASONABLE, AND
15 NECESSARY COSTS OF THE DIVISION. ANY FEES COLLECTED BY THE
16 DIVISION PURSUANT TO THIS SUBSECTION (5) SHALL BE TRANSMITTED TO
17 THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH
18 FACILITY CONSTRUCTION AND INSPECTION CASH FUND CREATED IN
19 SECTION 24-33.5-1207.8.

20 (6) **Rules.** RULES PROMULGATED PURSUANT TO THIS SECTION
21 SHALL BE ADOPTED IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE.

22 (7) **Board of appeals.** (a) (I) THERE IS HEREBY CREATED IN THE
23 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM
24 BOARD OF APPEALS, REFERRED TO IN THIS SECTION AS THE "BOARD OF
25 APPEALS". THE BOARD OF APPEALS CONSISTS OF SEVEN MEMBERS
26 APPOINTED BY THE EXECUTIVE DIRECTOR.

27 (II) THE MEMBERS OF THE BOARD OF APPEALS SHALL BE PERSONS

1 WHO ARE QUALIFIED BY EXPERIENCE AND TRAINING TO PASS UPON
2 MATTERS PERTAINING TO HEALTH FACILITY BUILDING CONSTRUCTION AND
3 SHALL INCLUDE:

4 (A) THE FOUR MEMBERS OF THE BOARD OF APPEALS CREATED IN
5 SECTION 24-33.5-1213.7 WHO REPRESENT THE COLORADO CHAPTER OF
6 THE INTERNATIONAL CODE COUNCIL, THE FIRE MARSHAL'S ASSOCIATION OF
7 COLORADO, THE COLORADO STATE FIRE CHIEFS' ASSOCIATION, AND
8 COLORADO COUNTIES, INCORPORATED, OR ANY MEMBER APPOINTED FROM
9 A SUCCESSOR TO ANY OF THESE ORGANIZATIONS REPRESENTING
10 COMPARABLE INTERESTS; AND

11 (B) ONE REPRESENTATIVE FROM EACH OF THE FOLLOWING
12 ORGANIZATIONS OR A SUCCESSOR TO ANY OF SUCH ORGANIZATIONS
13 REPRESENTING COMPARABLE INTERESTS: THE COLORADO ASSOCIATION OF
14 HEALTHCARE ENGINEERS AND DIRECTORS; THE AMERICAN SOCIETY FOR
15 HEALTHCARE ENGINEERING; AND THE COLORADO CHAPTER OF THE
16 AMERICAN INSTITUTE OF ARCHITECTS.

17 (III) THE MEMBERS OF THE BOARD OF APPEALS SERVE AT THE
18 PLEASURE OF THE EXECUTIVE DIRECTOR.

19 (IV) FOR THE INITIAL APPOINTMENTS TO THE BOARD OF APPEALS:

20 (A) THE MEMBERS SERVING PURSUANT TO SUB-SUBPARAGRAPH
21 (A) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) SERVE TERMS
22 COEXTENSIVE WITH THE TERMS TO WHICH THEY WERE APPOINTED UNDER
23 SECTION 24-33.5-1213.7; AND

24 (B) FOR THE MEMBERS APPOINTED PURSUANT TO
25 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a),
26 THE EXECUTIVE DIRECTOR SHALL APPOINT ONE MEMBER FOR A ONE-YEAR
27 TERM, ONE MEMBER FOR A TWO-YEAR TERM, AND ONE MEMBER FOR A

1 THREE-YEAR TERM. ALL SUBSEQUENT APPOINTMENTS ARE FOR
2 THREE-YEAR TERMS; EXCEPT THAT AN APPOINTMENT TO FILL A VACANCY
3 ON THE BOARD SHALL BE FOR THE REMAINDER OF THE PREDECESSOR'S
4 TERM.

5 (V) THE MEMBERS OF THE BOARD OF APPEALS SHALL NOT BE
6 COMPENSATED FOR THEIR SERVICE ON THE BOARD AND SHALL NOT BE
7 REIMBURSED FOR EXPENSES.

8 (b) THE BOARD OF APPEALS SHALL SELECT A CHAIR FROM AMONG
9 ITS MEMBERS AND SHALL ADOPT REASONABLE PROCEDURES FOR
10 CONDUCTING ITS DELIBERATIONS.

11 (c) (I) A HEALTH FACILITY REPRESENTATIVE MAY APPEAL TO THE
12 BOARD OF APPEALS A FINAL WRITTEN DECISION OF A DIVISION INSPECTOR
13 OR THIRD-PARTY INSPECTOR THAT CONDUCTS A PLAN REVIEW OR
14 INSPECTION PURSUANT TO THIS SECTION. THE APPEAL SHALL BE FILED
15 WITH THE DIVISION WITHIN THIRTY DAYS AFTER THE DATE OF THE
16 DECISION. THE DIVISION SHALL SPECIFY THE FORM ON WHICH AN APPEAL
17 SHALL BE MADE AND SHALL PROVIDE THE FORM TO A HEALTH FACILITY
18 REPRESENTATIVE UPON REQUEST.

19 (II) UPON RECEIPT OF AN APPEAL, THE DIVISION SHALL NOTIFY THE
20 CHAIR OF THE BOARD OF APPEALS AND SCHEDULE A HEARING NO MORE
21 THAN FIFTEEN DAYS AFTER THE DATE ON WHICH THE APPEAL WAS FILED.

22 (III) THE BOARD OF APPEALS MAY REVIEW A FINAL WRITTEN
23 DECISION BY AN INSPECTING ENTITY THAT IS BASED ON THE CODES OR
24 STANDARDS ADOPTED BY THE DIRECTOR. THE BOARD OF APPEALS SHALL
25 NOT WAIVE ANY REQUIREMENT OF THE CODES OR STANDARDS. THE BOARD
26 OF APPEALS MAY RECOMMEND ALTERNATIVE MATERIALS AS PROVIDED IN
27 THE CODES OR STANDARDS. THE FINAL WRITTEN DECISION OF THE BOARD

1 IS FINAL AGENCY ACTION FOR PURPOSES OF SECTION 24-4-106.

2 (d) IN ADDITION TO HEARING APPEALS AS PROVIDED IN THIS
3 SECTION, THE BOARD OF APPEALS SHALL ADVISE THE DIRECTOR IN
4 PROMULGATING RULES AND ENACTING STANDARDS FOR THE HEALTH
5 FACILITY CONSTRUCTION AND INSPECTION PROGRAM.

6 **SECTION 11.** In Colorado Revised Statutes, 24-33.5-1213,
7 **amend** (1), (2) (a), and (4) (b) as follows:

8 **24-33.5-1213. Fire and building code - violations - enforcement**
9 **- inspections.** (1) The director shall enforce ~~the provisions of sections~~
10 ~~22-32-124 (2), and 23-71-122 (1) (v), C.R.S., and sections~~
11 ~~24-33.5-1212.5, 24-33.5-1213.3, and 24-33.5-1213.5, C.R.S., by~~
12 ~~appropriate actions in courts of competent jurisdiction.~~

13 (2) (a) The director may issue a notice of violation to a person
14 who is believed to have violated the codes as determined by an inspection
15 pursuant to section 22-32-124 (2), ~~or 23-71-122 (1) (v), C.R.S., or section~~
16 ~~24-33.5-1212.5, OR 24-33.5-1213.3, C.R.S.~~ The notice shall be delivered
17 to the alleged violator by certified mail, return receipt requested, or by
18 any means that verifies receipt as reliably as certified mail, return receipt
19 requested.

20 (4) (b) A civil penalty collected pursuant to this subsection (4)
21 shall be deposited in the public school construction and inspection cash
22 fund created in section 24-33.5-1207.7 OR THE HEALTH FACILITY
23 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
24 24-33.5-1207.8, AS APPROPRIATE.

25 **SECTION 12.** In Colorado Revised Statutes, 24-33.5-1213.7,
26 **add** (6) as follows:

27 **24-33.5-1213.7. Board of appeals. (6) THIS SECTION ONLY**

1 APPLIES TO MATTERS RELATED TO SCHOOL REVIEWS AND INSPECTIONS.

2 **SECTION 13.** In Colorado Revised Statutes, 24-75-402, **amend**

3 (5) (y) as follows:

4 **24-75-402. Cash funds - limit on uncommitted reserves -**
5 **reduction in amount of fees - exclusions.** (5) Notwithstanding any
6 provision of this section to the contrary, the following cash funds are
7 excluded from the limitations specified in this section:

8 (y) The public school construction and inspection cash fund
9 created in section 24-33.5-1207.7 AND THE HEALTH FACILITY
10 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
11 24-33.5-1207.8;

12 **SECTION 14. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.