

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 12-0675.01 Kate Meyer x4348

HOUSE BILL 12-1268

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

Hudak,

House Committees

Health and Environment
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.

HOUSE
Amended 2nd Reading
April 30, 2012

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, AND ONGOING COMPLIANCE WITH ARTICLE 33.5 OF TITLE 24,
4 C.R.S., OF A HEALTH CARE FACILITY BUILDING OR STRUCTURE ON OR
5 AFTER JULY 1, 2013. ALL HEALTH FACILITY BUILDINGS AND STRUCTURES
6 SHALL BE CONSTRUCTED IN CONFORMITY WITH THE STANDARDS ADOPTED
7 BY THE DIRECTOR OF THE DIVISION OF FIRE SAFETY IN THE OFFICE OF
8 PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE DEPARTMENT OF
9 PUBLIC SAFETY.

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

18 (c) THE DEPARTMENT HAS NO AUTHORITY TO ESTABLISH OR
19 ENFORCE STANDARDS RELATING TO BUILDING OR FIRE CODES. ALL
20 FUNCTIONS, PERSONNEL, AND PROPERTY OF THE DEPARTMENT AS OF JUNE
21 30, 2013, THAT ARE PRINCIPALLY DIRECTED TO THE ADMINISTRATION,
22 INSPECTION, AND ENFORCEMENT OF ANY BUILDING OR FIRE CODES OR
23 STANDARDS SHALL BE TRANSFERRED TO THE HEALTH FACILITY
24 CONSTRUCTION AND INSPECTION SECTION OF THE DIVISION OF FIRE SAFETY
25 PURSUANT TO SECTION 24-33.5-1201 (4), C.R.S.

26 (d) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
27 CONTRARY, ALL HEALTH FACILITIES SEEKING CERTIFICATION PURSUANT TO

1 THE FEDERAL INSURANCE OR ASSISTANCE PROVIDED BY TITLE XIX OF THE
2 FEDERAL "SOCIAL SECURITY ACT", AS AMENDED AND COMMONLY KNOWN
3 AS "MEDICAID", OR THE FEDERAL INSURANCE OR ASSISTANCE PROVIDED BY
4 TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED AND
5 COMMONLY KNOWN AS "MEDICARE", OR ANY SUCCESSOR CODE ADOPTED
6 OR PROMULGATED BY THE APPROPRIATE FEDERAL AUTHORITIES, SHALL
7 CONTINUE TO MEET SUCH CERTIFICATION REQUIREMENTS.

8 (f) NOTHING IN THIS SUBSECTION (5) DIVESTS THE DEPARTMENT OF
9 THE AUTHORITY TO PERFORM HEALTH SURVEY WORK OR PREVENTS THE
10 DEPARTMENT FROM ACCESSING RELATED FUNDS.

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

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

1 from the date of issuance.

2 (3) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
3 CONTRARY, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
4 SHALL NOT ISSUE OR RENEW ANY LICENSE DESCRIBED IN SECTION 25-3-101
5 FOR A FACILITY COVERED BY SECTION 25-1.5-103 (5) UNLESS THE
6 DEPARTMENT RECEIVES A CERTIFICATE OF COMPLIANCE FOR THE
7 APPLICANT'S BUILDING OR STRUCTURE FROM THE DIVISION OF FIRE SAFETY
8 IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE
9 DEPARTMENT OF PUBLIC SAFETY IN ACCORDANCE WITH PART 12 OF
10 ARTICLE 33.5 OF TITLE 24, C.R.S.

11 (b) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
12 SHALL TAKE ACTION ON AN APPLICATION FOR LICENSURE WITHIN THIRTY
13 DAYS AFTER THE DATE THAT THE DEPARTMENT RECEIVES FROM THE
14 APPLICANT ALL OF THE NECESSARY INFORMATION AND DOCUMENTATION
15 REQUIRED FOR LICENSURE, INCLUDING A CERTIFICATE OF COMPLIANCE
16 FROM THE DIVISION OF FIRE SAFETY.

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

19 **25-3-105. License - fee - rules - penalty.** (4) ON JUNE 30, 2013,
20 ANY MONEYS REMAINING IN THE HEALTH FACILITIES GENERAL LICENSURE
21 CASH FUND CREATED IN SECTION 25-3-103.1 (1) FROM FEES COLLECTED BY
22 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR HEALTH
23 FACILITY BUILDING AND STRUCTURE CODE PLAN REVIEWS AND
24 INSPECTIONS ARE TRANSFERRED TO THE HEALTH FACILITY CONSTRUCTION
25 AND INSPECTION CASH FUND CREATED IN SECTION 24-33.5-1207.8, C.R.S.

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

1 **24-33.5-1201. Division of fire safety - creation - public school**
2 **construction and inspection section - health facility construction and**
3 **inspection section - legislative declaration.** (4) (a) THERE IS HEREBY
4 CREATED WITHIN THE DIVISION THE HEALTH FACILITY CONSTRUCTION AND
5 INSPECTION SECTION TO IMPLEMENT SECTION 24-33.5-1212.5 AND TO
6 ADMINISTER AND ENFORCE THE CODES IN ACCORDANCE WITH SECTIONS
7 24-33.5-1212.5 AND 24-33.5-1213. THE HEALTH FACILITY CONSTRUCTION
8 AND INSPECTION SECTION SHALL PERFORM ITS DUTIES AND FUNCTIONS
9 UNDER THE DIVISION AND THE EXECUTIVE DIRECTOR AS IF THE SAME WERE
10 TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH
11 TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF
12 1968", ARTICLE 1 OF THIS TITLE.

13 (b) ON AND AFTER JULY 1, 2013, ALL POSITIONS OF EMPLOYMENT
14 IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR WHICH
15 PRINCIPAL DUTIES ARE CONCERNED WITH LIFE SAFETY INSPECTION AND
16 THAT ARE DETERMINED BY THE DIRECTOR TO BE NECESSARY TO CARRY
17 OUT THE PURPOSES OF THE HEALTH FACILITY CONSTRUCTION AND
18 INSPECTION SECTION ARE TRANSFERRED TO THE DIVISION AND ARE
19 EMPLOYMENT POSITIONS THEREIN. THE EXECUTIVE DIRECTOR SHALL
20 APPOINT SUCH EMPLOYEES AS ARE NECESSARY TO CARRY OUT THE DUTIES
21 AND EXERCISE THE POWERS SPECIFIED IN THIS PART 12. THE EXECUTIVE
22 DIRECTOR MAY DELEGATE APPOINTING AUTHORITY AS APPROPRIATE.

23 (c) ON AND AFTER JULY 1, 2013, ALL EMPLOYEES OF THE
24 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CARRYING OUT THE
25 DUTIES PRINCIPALLY RELATING TO LIFE SAFETY CODE COMPLIANCE ARE
26 EMPLOYEES OF THE HEALTH FACILITY CONSTRUCTION AND INSPECTION
27 SECTION IN THE DIVISION. THE EMPLOYEES RETAIN ALL RIGHTS UNDER THE

1 STATE PERSONNEL SYSTEM AND TO RETIREMENT BENEFITS PURSUANT TO
2 THE LAWS OF THIS STATE, AND THEIR SERVICES ARE DEEMED TO HAVE
3 BEEN CONTINUOUS.

4 (d) ON JULY 1, 2013, ALL ITEMS OF PROPERTY, REAL AND
5 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,
6 DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH AND
7 ENVIRONMENT USED IN CARRYING OUT THE DUTIES PRINCIPALLY RELATING
8 TO LIFE SAFETY CODE COMPLIANCE ARE TRANSFERRED TO THE HEALTH
9 FACILITY CONSTRUCTION AND INSPECTION SECTION IN THE DIVISION AND
10 BECOME THE PROPERTY OF THAT SECTION.

11 (e) BY OCTOBER 1, 2012, THE DIVISION AND THE GOVERNOR SHALL
12 SUBMIT AN APPLICATION TO THE SECRETARY OF THE UNITED STATES
13 DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR A MODIFICATION TO
14 THE AGREEMENT ENTERED INTO BETWEEN THE SECRETARY AND THE STATE
15 OF COLORADO PURSUANT TO SECTION 1864 OF THE FEDERAL "SOCIAL
16 SECURITY ACT", 42 U.S.C. SEC. 1395AA, WHICH MODIFICATION ALLOWS
17 THE DIVISION TO FULFILL THE DUTIES UNDER THAT LAW ASSOCIATED WITH
18 THE ASSESSMENT OF COMPLIANCE WITH THE FEDERAL FIRE SAFETY CODE
19 REQUIREMENTS FOR HEALTH FACILITIES, AND A MODIFICATION TO
20 WAIVERS FOR RESIDENTIAL MEDICAID PROVIDER TYPES TO ALLOW THE
21 DIVISION TO CONDUCT CONSTRUCTION PLANS AND INSPECTIONS.

22 (f) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND
23 DECLARES THAT, IN DISCHARGING ITS DUTIES UNDER THIS ARTICLE, AS
24 THEY PERTAIN TO HEALTH FACILITY BUILDINGS AND STRUCTURES, THE
25 HEALTH FACILITY CONSTRUCTION AND INSPECTION SECTION IS
26 ENCOURAGED TO COOPERATE WITH LOCAL AUTHORITIES, ESPECIALLY IN
27 REGARD TO PLAN REVIEWS AND WHETHER SUCH PLANS COMPORT WITH

1 LOCAL REQUIREMENTS.

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

4 24-33.5-1202. Definitions. As used in this part 12, unless the
5 context otherwise requires:

6 (7.7) "Manufacturer" means any one or more of the following:

7 (a) ~~An entity that manufactures or otherwise produces cigarettes~~
8 ~~or causes cigarettes to be manufactured with the intent that such cigarettes~~
9 ~~be sold in Colorado, regardless of where the cigarettes are manufactured~~
10 ~~or produced and regardless of whether they are imported from outside the~~
11 ~~United States;~~

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

16 (c) ~~An entity that becomes a successor to an entity described in~~
17 ~~paragraph (a) or (b) of this subsection (7.7) "HEALTH FACILITY" MEANS~~
18 ~~A GENERAL HOSPITAL, HOSPITAL UNIT AS DEFINED IN SECTION 25-3-101~~
19 ~~(2), C.R.S., PSYCHIATRIC HOSPITAL, COMMUNITY CLINIC, REHABILITATION~~
20 ~~CENTER, CONVALESCENT CENTER, COMMUNITY MENTAL HEALTH CENTER,~~
21 ~~ACUTE TREATMENT UNIT, FACILITY FOR PERSONS WITH DEVELOPMENTAL~~
22 ~~DISABILITIES, HABILITATION CENTER FOR CHILDREN WITH BRAIN DAMAGE,~~
23 ~~CHIROPRACTIC CENTER AND HOSPITAL, MATERNITY HOSPITAL, NURSING~~
24 ~~CARE FACILITY, REHABILITATIVE NURSING FACILITY, HOSPICE CARE~~
25 ~~FACILITY, DIALYSIS TREATMENT CLINIC, AMBULATORY SURGICAL CENTER,~~
26 ~~BIRTHING CENTER, OR OTHER FACILITY OF A LIKE NATURE; EXCEPT THAT~~
27 ~~"HEALTH FACILITY" DOES NOT INCLUDE A FACILITY AT WHICH HEALTH~~

1 SERVICES ARE NOT PROVIDED TO INDIVIDUALS.

2 (7.9) "MANUFACTURER" MEANS ANY ONE OR MORE OF THE
3 FOLLOWING:

4 (a) AN ENTITY THAT MANUFACTURES OR OTHERWISE PRODUCES
5 CIGARETTES OR CAUSES CIGARETTES TO BE MANUFACTURED WITH THE
6 INTENT THAT SUCH CIGARETTES BE SOLD IN COLORADO, REGARDLESS OF
7 WHERE THE CIGARETTES ARE MANUFACTURED OR PRODUCED AND
8 REGARDLESS OF WHETHER THEY ARE IMPORTED FROM OUTSIDE THE
9 UNITED STATES;

10 (b) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL,
11 IN THE UNITED STATES, CIGARETTES MANUFACTURED ANYWHERE THAT
12 THE ORIGINAL MANUFACTURER OR PRODUCER DOES NOT INTEND TO BE
13 SOLD IN THE UNITED STATES; OR

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

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

18 **24-33.5-1203. Duties of division.** (1) The division shall perform
19 the following duties:

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

23 (p.5) WHEN THERE IS NO LOCAL BUILDING DEPARTMENT OR FIRE
24 DEPARTMENT, CONDUCT CONSTRUCTION PLAN REVIEWS AND INSPECTIONS
25 OF HEALTH FACILITY BUILDINGS AND STRUCTURES, ENFORCE THE CODES
26 IN ACCORDANCE WITH SECTIONS 24-33.5-1212.5 AND 24-33.5-1213, AND
27 ISSUE CERTIFICATES OF OCCUPANCY FOR SUCH BUILDINGS AND

1 STRUCTURES;

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

4 24-33.5-1204.5. Powers and duties of administrator - rules.

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

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

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

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

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

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

23 24-33.5-1206. Education and training programs - certification
24 programs - supervision and control. (2) The public school construction
25 and inspection program, THE HEALTH FACILITY CONSTRUCTION AND
26 INSPECTION PROGRAM, and the certification program PROGRAMS for public
27 school and junior college building inspectors AND LIFE SAFETY CODE

1 INSPECTORS established pursuant to this part 12 ~~shall be~~ ARE under the
2 supervision and control of the director with the advice of the board of
3 appeals created in section 24-33.5-1213.7.

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

6 **24-33.5-1207.8. Health facility construction and inspection**
7 **cash fund - created.** ALL MONEYS COLLECTED BY THE DIVISION
8 PURSUANT TO SECTION 24-33.5-1212.5 SHALL BE TRANSMITTED TO THE
9 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH
10 FACILITY CONSTRUCTION AND INSPECTION CASH FUND, WHICH IS HEREBY
11 CREATED. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST
12 EARNED THEREON ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
13 GENERAL ASSEMBLY FOR PAYING THE EXPENSES OF THE HEALTH FACILITY
14 CONSTRUCTION AND INSPECTION PROGRAM. ANY UNEXPENDED AND
15 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A
16 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
17 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

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

20 **24-33.5-1212.5. Health facility fire and building codes -**
21 **third-party inspections authorized - temporary certificate of**
22 **occupancy - fees - rules - board of appeals.** (1) (a) THIS SECTION
23 APPLIES TO HEALTH FACILITY BUILDINGS OR STRUCTURES, INCLUDING THE
24 CONSTRUCTION OR SUBSTANTIAL REMODELING AND ONGOING COMPLIANCE
25 WITH THIS ARTICLE THEREOF, WHEN THERE IS NO LOCAL BUILDING
26 DEPARTMENT OR FIRE DEPARTMENT TO PERFORM SUCH FUNCTIONS.

27 (b) ON AND AFTER JULY 1, 2013, HEALTH FACILITY BUILDINGS AND

1 STRUCTURES SHALL BE MAINTAINED IN ACCORDANCE WITH THEIR LOCAL
2 BUILDING AND FIRE CODES OR, IF NO SUCH LOCAL BUILDING AND FIRE
3 CODES EXIST, WITH THE BUILDING AND FIRE CODES ADOPTED BY THE
4 DIRECTOR PURSUANT TO SECTION 24-33.5-1203.5.

5 (c) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (1),
6 UPON REQUEST OF THE LOCAL FIRE AUTHORITY, THE DIRECTOR OF THE
7 DIVISION SHALL PROVIDE TECHNICAL ASSISTANCE IN THE REVIEW OF
8 HEALTH FACILITY PLANS AND, IF APPROPRIATE, CONDUCT INSPECTIONS ON
9 BEHALF OF THE LOCAL FIRE AUTHORITY.

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

19 (3) **Third-party inspectors.** (a) THE DIVISION MAY CONTRACT
20 WITH THIRD-PARTY INSPECTORS WHO ARE CERTIFIED IN ACCORDANCE
21 WITH SECTION 24-33.5-1213.5 TO PERFORM INSPECTIONS.

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

26 (II) IF A THIRD-PARTY INSPECTOR IS USED, THE DIVISION SHALL
27 REQUIRE A SUFFICIENT NUMBER OF THIRD-PARTY INSPECTION REPORTS TO

1 BE SUBMITTED BY THE INSPECTOR TO THE DIVISION BASED UPON THE
2 SCOPE OF THE PROJECT TO ENSURE QUALITY INSPECTIONS ARE PERFORMED.
3 EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION, THE
4 THIRD-PARTY INSPECTOR SHALL ATTEST THAT INSPECTIONS ARE COMPLETE
5 AND ALL VIOLATIONS ARE CORRECTED BEFORE THE HEALTH FACILITY IS
6 ISSUED A CERTIFICATE OF OCCUPANCY. INSPECTION RECORDS SHALL BE
7 RETAINED BY THE THIRD-PARTY INSPECTOR FOR TWO YEARS AFTER THE
8 CERTIFICATE OF OCCUPANCY IS ISSUED. IF THE DIVISION FINDS THAT
9 INSPECTIONS ARE NOT COMPLETED SATISFACTORILY, AS DETERMINED BY
10 RULE OF THE DIVISION, OR THAT ALL VIOLATIONS ARE NOT CORRECTED,
11 THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE
12 APPROPRIATE HEALTH FACILITY PURSUANT TO SECTION 24-33.5-1213.

13 (4) **Temporary certificate of occupancy.** IF INSPECTIONS ARE
14 NOT COMPLETED AND A BUILDING OR STRUCTURE REQUIRES IMMEDIATE
15 OCCUPANCY, AND IF THE HEALTH FACILITY HAS PASSED THE APPROPRIATE
16 INSPECTIONS THAT INDICATE THERE ARE NO LIFE SAFETY ISSUES, THE
17 DIVISION MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY. THE
18 TEMPORARY CERTIFICATE OF OCCUPANCY EXPIRES NINETY DAYS AFTER
19 THE DATE OF OCCUPANCY. IF NO RENEWAL OF THE TEMPORARY
20 CERTIFICATE OF OCCUPANCY IS ISSUED OR A PERMANENT CERTIFICATE OF
21 OCCUPANCY IS NOT ISSUED, THE BUILDING OR STRUCTURE SHALL BE
22 VACATED UPON EXPIRATION OF THE TEMPORARY CERTIFICATE. THE
23 DIVISION SHALL ENFORCE THIS SUBSECTION (4) PURSUANT TO SECTION
24 24-33.5-1213.

25 (5) **Division fees.** IF THE DIVISION CONDUCTS THE NECESSARY
26 PLAN REVIEWS AND PERFORMS THE NECESSARY INSPECTIONS TO
27 DETERMINE THAT A BUILDING OR STRUCTURE HAS BEEN CONSTRUCTED IN

1 CONFORMITY WITH THE BUILDING AND FIRE CODES ADOPTED BY THE
2 DIRECTOR, THE DIVISION SHALL CHARGE FEES AS ESTABLISHED BY THE
3 DIRECTOR BY RULE, BASED ON THE DIRECT AND INDIRECT COST OF
4 PROVIDING THE SERVICE. THE FEES SHALL COVER THE ACTUAL,
5 REASONABLE, AND NECESSARY EXPENSES OF THE DIVISION. THE DIRECTOR,
6 BY RULE OR AS OTHERWISE PROVIDED BY LAW, MAY INCREASE OR REDUCE
7 THE AMOUNT OF THE FEES AS NECESSARY TO COVER THE ACTUAL,
8 REASONABLE, AND NECESSARY COSTS OF THE DIVISION. ANY FEES
9 COLLECTED BY THE DIVISION PURSUANT TO THIS SUBSECTION (5) SHALL BE
10 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
11 TO THE HEALTH FACILITY CONSTRUCTION AND INSPECTION CASH FUND
12 CREATED IN SECTION 24-33.5-1207.8.

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

15 (7) **Board of appeals.** (a) (I) THERE IS HEREBY CREATED IN THE
16 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM
17 BOARD OF APPEALS, REFERRED TO IN THIS SECTION AS THE "BOARD OF
18 APPEALS". THE BOARD OF APPEALS CONSISTS OF SEVEN MEMBERS
19 APPOINTED BY THE EXECUTIVE DIRECTOR AND ONE EX OFFICIO NONVOTING
20 MEMBER APPOINTED IN ACCORDANCE WITH SUB-SUBPARAGRAPH (C) OF
21 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

22 (II) THE MEMBERS OF THE BOARD OF APPEALS SHALL BE PERSONS
23 WHO ARE QUALIFIED BY EXPERIENCE AND TRAINING TO PASS UPON
24 MATTERS PERTAINING TO HEALTH FACILITY BUILDING CONSTRUCTION,
25 INCLUDING ONE MEMBER WITH EXPERIENCE AND KNOWLEDGE OF THE LIFE
26 SAFETY CODE, AND SHALL INCLUDE:

27 (A) THE FOUR MEMBERS OF THE BOARD OF APPEALS CREATED IN

1 SECTION 24-33.5-1213.7 WHO REPRESENT THE COLORADO CHAPTER OF
2 THE INTERNATIONAL CODE COUNCIL, THE FIRE MARSHAL'S ASSOCIATION OF
3 COLORADO, THE COLORADO STATE FIRE CHIEFS' ASSOCIATION, AND
4 COLORADO COUNTIES, INCORPORATED, OR ANY MEMBER APPOINTED FROM
5 A SUCCESSOR TO ANY OF THESE ORGANIZATIONS REPRESENTING
6 COMPARABLE INTERESTS;

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

13 (C) ONE EX OFFICIO NONVOTING MEMBER, APPOINTED BY THE
14 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND
15 ENVIRONMENT, WHO IS EMPLOYED BY THAT DEPARTMENT AS A HEALTH
16 SURVEYOR.

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. EACH TERM FOR THE MEMBER APPOINTED PURSUANT
2 TO SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH
3 (a) IS TWO YEARS. ALL SUBSEQUENT APPOINTMENTS ARE FOR THREE-YEAR
4 TERMS; EXCEPT THAT AN APPOINTMENT TO FILL A VACANCY ON THE
5 BOARD SHALL BE FOR THE REMAINDER OF THE PREDECESSOR'S TERM.

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

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

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

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

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

1 THE CODES OR STANDARDS. THE FINAL WRITTEN DECISION OF THE BOARD
2 IS FINAL AGENCY ACTION FOR PURPOSES OF SECTION 24-4-106.

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

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

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

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

21 (4) (b) A civil penalty collected pursuant to this subsection (4)
22 shall be deposited in the public school construction and inspection cash
23 fund created in section 24-33.5-1207.7 OR THE HEALTH FACILITY
24 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
25 24-33.5-1207.8, AS APPROPRIATE.

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

1 **24-33.5-1213.7. Board of appeals.** (6) THIS SECTION ONLY
2 APPLIES TO MATTERS RELATED TO SCHOOL REVIEWS AND INSPECTIONS.

3 **SECTION 13.** In Colorado Revised Statutes, 24-75-402, **amend**
4 (5) (y) as follows:

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

9 (y) The public school construction and inspection cash fund
10 created in section 24-33.5-1207.7 AND THE HEALTH FACILITY
11 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
12 24-33.5-1207.8;

13 **SECTION 14. No appropriation.** The general assembly intends
14 and determines that this act can be implemented through the transfer of
15 resources, as such resources exist in the fiscal year beginning July 1,
16 2012, and that therefore no additional appropriation of state moneys is
17 necessary to carry out this act.

18 **SECTION 15. Effective date.** (1) Except as otherwise provided
19 in subsection (2) of this section, this act takes effect July 1, 2013, only if
20 the division of fire safety in the department of public safety notifies the
21 revisor of statutes in writing, by June 30, 2013, that the secretary of the
22 United States department of health and human services has granted a
23 modification to the agreement entered into between said secretary and the
24 state of Colorado pursuant to section 1864 of the federal "Social Security
25 Act", 42 U.S.C. sec. 1395aa, which modification allows said division to
26 fulfill the duties under that law associated with the assessment of
27 compliance with the federal fire safety code requirements for health

1 facilities.

2 (2) Section 24-33.5-1201 (4) (e), Colorado Revised Statutes, as
3 enacted in section 4 of this act, takes effect upon passage.

4 **SECTION 16. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.