

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

25 (d) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
26 CONTRARY, ALL HEALTH FACILITIES SEEKING CERTIFICATION PURSUANT TO
27 THE FEDERAL INSURANCE OR ASSISTANCE PROVIDED BY TITLE XIX OF THE

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

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

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

25 (3) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
26 CONTRARY, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
27 SHALL NOT ISSUE OR RENEW ANY LICENSE DESCRIBED IN SECTION 25-3-101

1 FOR A FACILITY COVERED BY SECTION 25-1.5-103 (5) UNLESS THE
2 DEPARTMENT RECEIVES A CERTIFICATE OF COMPLIANCE FOR THE
3 APPLICANT'S BUILDING OR STRUCTURE FROM THE DIVISION OF FIRE SAFETY
4 IN THE OFFICE OF PREPAREDNESS, SECURITY, AND FIRE SAFETY WITHIN THE
5 DEPARTMENT OF PUBLIC SAFETY IN ACCORDANCE WITH PART 12 OF
6 ARTICLE 33.5 OF TITLE 24, C.R.S.

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

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

13 **25-3-105. License - fee - rules - penalty.** (4) ON JUNE 30, 2013,
14 ANY MONEYS REMAINING IN THE HEALTH FACILITIES GENERAL LICENSURE
15 CASH FUND CREATED IN SECTION 25-3-103.1 (1) FROM FEES COLLECTED BY
16 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR HEALTH
17 FACILITY BUILDING AND STRUCTURE CODE PLAN REVIEWS AND
18 INSPECTIONS ARE TRANSFERRED TO THE HEALTH FACILITY CONSTRUCTION
19 AND INSPECTION CASH FUND CREATED IN SECTION 24-33.5-1207.8, C.R.S.

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

22 **24-33.5-1201. Division of fire safety - creation - public school**
23 **construction and inspection section - health facility construction and**
24 **inspection section.** (4) (a) THERE IS HEREBY CREATED WITHIN THE
25 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION SECTION
26 TO IMPLEMENT SECTION 24-33.5-1212.5 AND TO ADMINISTER AND
27 ENFORCE THE CODES IN ACCORDANCE WITH SECTIONS 24-33.5-1212.5 AND

1 24-33.5-1213. THE HEALTH FACILITY CONSTRUCTION AND INSPECTION
2 SECTION SHALL PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DIVISION
3 AND THE EXECUTIVE DIRECTOR AS IF THE SAME WERE TRANSFERRED TO
4 THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED
5 IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF
6 THIS TITLE.

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

17 (c) ON AND AFTER JULY 1, 2013, ALL EMPLOYEES OF THE
18 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CARRYING OUT THE
19 DUTIES PRINCIPALLY RELATING TO LIFE SAFETY CODE COMPLIANCE ARE
20 EMPLOYEES OF THE HEALTH FACILITY CONSTRUCTION AND INSPECTION
21 SECTION IN THE DIVISION. THE EMPLOYEES RETAIN ALL RIGHTS UNDER THE
22 STATE PERSONNEL SYSTEM AND TO RETIREMENT BENEFITS PURSUANT TO
23 THE LAWS OF THIS STATE, AND THEIR SERVICES ARE DEEMED TO HAVE
24 BEEN CONTINUOUS.

25 (d) ON JULY 1, 2013, ALL ITEMS OF PROPERTY, REAL AND
26 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,
27 DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH AND

1 ENVIRONMENT USED IN CARRYING OUT THE DUTIES PRINCIPALLY RELATING
2 TO LIFE SAFETY CODE COMPLIANCE ARE TRANSFERRED TO THE HEALTH
3 FACILITY CONSTRUCTION AND INSPECTION SECTION IN THE DIVISION AND
4 BECOME THE PROPERTY OF THAT SECTION.

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

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

18 **24-33.5-1202. Definitions.** As used in this part 12, unless the
19 context otherwise requires:

20 (7.7) "Manufacturer" means any one or more of the following:

21 (a) ~~An entity that manufactures or otherwise produces cigarettes~~
22 ~~or causes cigarettes to be manufactured with the intent that such cigarettes~~
23 ~~be sold in Colorado, regardless of where the cigarettes are manufactured~~
24 ~~or produced and regardless of whether they are imported from outside the~~
25 ~~United States;~~

26 (b) ~~The first purchaser anywhere that intends to resell, in the~~
27 ~~United States, cigarettes manufactured anywhere that the original~~

1 manufacturer or producer does not intend to be sold in the United States;

2 or

3 (c) ~~An entity that becomes a successor to an entity described in~~

4 ~~paragraph (a) or (b) of this subsection (7.7) "HEALTH FACILITY" MEANS~~

5 A GENERAL HOSPITAL, HOSPITAL UNIT AS DEFINED IN SECTION 25-3-101

6 (2), C.R.S., PSYCHIATRIC HOSPITAL, COMMUNITY CLINIC, REHABILITATION

7 CENTER, CONVALESCENT CENTER, COMMUNITY MENTAL HEALTH CENTER,

8 ACUTE TREATMENT UNIT, FACILITY FOR PERSONS WITH DEVELOPMENTAL

9 DISABILITIES, HABILITATION CENTER FOR CHILDREN WITH BRAIN DAMAGE,

10 CHIROPRACTIC CENTER AND HOSPITAL, MATERNITY HOSPITAL, NURSING

11 CARE FACILITY, REHABILITATIVE NURSING FACILITY, HOSPICE CARE

12 FACILITY, DIALYSIS TREATMENT CLINIC, AMBULATORY SURGICAL CENTER,

13 BIRTHING CENTER, OR OTHER FACILITY OF A LIKE NATURE; EXCEPT THAT

14 "HEALTH FACILITY" DOES NOT INCLUDE A FACILITY AT WHICH HEALTH

15 SERVICES ARE NOT PROVIDED TO INDIVIDUALS.

16 (7.9) "MANUFACTURER" MEANS ANY ONE OR MORE OF THE

17 FOLLOWING:

18 (a) AN ENTITY THAT MANUFACTURES OR OTHERWISE PRODUCES

19 CIGARETTES OR CAUSES CIGARETTES TO BE MANUFACTURED WITH THE

20 INTENT THAT SUCH CIGARETTES BE SOLD IN COLORADO, REGARDLESS OF

21 WHERE THE CIGARETTES ARE MANUFACTURED OR PRODUCED AND

22 REGARDLESS OF WHETHER THEY ARE IMPORTED FROM OUTSIDE THE

23 UNITED STATES;

24 (b) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL,

25 IN THE UNITED STATES, CIGARETTES MANUFACTURED ANYWHERE THAT

26 THE ORIGINAL MANUFACTURER OR PRODUCER DOES NOT INTEND TO BE

27 SOLD IN THE UNITED STATES; OR

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

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

5 **24-33.5-1203. Duties of division.** (1) The division shall perform
6 the following duties:

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

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

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

16 **24-33.5-1204.5. Powers and duties of administrator - rules.**

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

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

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

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

27 (g) To conduct hearings upon charges for discipline of a school

1 building inspector, HEALTH FACILITY LIFE SAFETY CODE INSPECTOR, OR
2 THIRD-PARTY INSPECTOR; issue subpoenas; compel attendance of
3 witnesses; compel the production of books, records, papers, and
4 documents; administer oaths to persons giving testimony at hearings; and
5 recommend prosecution of persons violating this part 12.

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

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

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

18 **24-33.5-1207.8. Health facility construction and inspection**
19 **cash fund - created.** ALL MONEYS COLLECTED BY THE DIVISION
20 PURSUANT TO SECTION 24-33.5-1212.5 SHALL BE TRANSMITTED TO THE
21 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH
22 FACILITY CONSTRUCTION AND INSPECTION CASH FUND, WHICH IS HEREBY
23 CREATED. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST
24 EARNED THEREON ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
25 GENERAL ASSEMBLY FOR PAYING THE EXPENSES OF THE HEALTH FACILITY
26 CONSTRUCTION AND INSPECTION PROGRAM. ANY UNEXPENDED AND
27 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A

1 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
2 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

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

5 **24-33.5-1212.5. Health facility fire and building codes -**
6 **third-party inspections authorized - temporary certificate of**
7 **occupancy - fees - rules - board of appeals.** (1) (a) THIS SECTION
8 APPLIES TO HEALTH FACILITY BUILDINGS OR STRUCTURES, INCLUDING THE
9 CONSTRUCTION OR SUBSTANTIAL REMODELING THEREOF, WHEN THERE IS
10 NO LOCAL BUILDING DEPARTMENT OR FIRE DEPARTMENT TO PERFORM
11 SUCH FUNCTIONS.

12 (b) ON AND AFTER JULY 1, 2013, HEALTH FACILITY BUILDINGS AND
13 STRUCTURES SHALL BE MAINTAINED IN ACCORDANCE WITH THEIR LOCAL
14 BUILDING AND FIRE CODES OR, IF NO SUCH LOCAL BUILDING AND FIRE
15 CODES EXIST, WITH THE BUILDING AND FIRE CODES ADOPTED BY THE
16 DIRECTOR PURSUANT TO SECTION 24-33.5-1203.5.

17 (c) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (1),
18 UPON REQUEST OF THE LOCAL FIRE AUTHORITY, THE DIRECTOR OF THE
19 DIVISION SHALL PROVIDE TECHNICAL ASSISTANCE IN THE REVIEW OF
20 HEALTH FACILITY PLANS AND, IF APPROPRIATE, CONDUCT INSPECTIONS ON
21 BEHALF OF THE LOCAL FIRE AUTHORITY.

22 (2) EXCEPT AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, IN
23 THE ABSENCE OF A LOCAL BUILDING DEPARTMENT OR FIRE DEPARTMENT,
24 THE DIVISION SHALL CONDUCT THE NECESSARY PLAN REVIEWS, ISSUE
25 BUILDING PERMITS, CAUSE THE NECESSARY INSPECTIONS TO BE
26 PERFORMED, PERFORM FINAL INSPECTIONS, AND ISSUE CERTIFICATES OF
27 OCCUPANCY TO ASSURE THAT A HEALTH FACILITY BUILDING OR

1 STRUCTURE HAS BEEN CONSTRUCTED IN CONFORMITY WITH THE BUILDING
2 AND FIRE CODES ADOPTED BY THE DIRECTOR AND THAT THE HEALTH
3 FACILITY HAS COMPLIED WITH THIS SECTION.

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

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

11 (II) IF A THIRD-PARTY INSPECTOR IS USED, THE DIVISION SHALL
12 REQUIRE A SUFFICIENT NUMBER OF THIRD-PARTY INSPECTION REPORTS TO
13 BE SUBMITTED BY THE INSPECTOR TO THE DIVISION BASED UPON THE
14 SCOPE OF THE PROJECT TO ENSURE QUALITY INSPECTIONS ARE PERFORMED.
15 EXCEPT AS SPECIFIED IN SUBSECTION (4) OF THIS SECTION, THE
16 THIRD-PARTY INSPECTOR SHALL ATTEST THAT INSPECTIONS ARE COMPLETE
17 AND ALL VIOLATIONS ARE CORRECTED BEFORE THE HEALTH FACILITY IS
18 ISSUED A CERTIFICATE OF OCCUPANCY. INSPECTION RECORDS SHALL BE
19 RETAINED BY THE THIRD-PARTY INSPECTOR FOR TWO YEARS AFTER THE
20 CERTIFICATE OF OCCUPANCY IS ISSUED. IF THE DIVISION FINDS THAT
21 INSPECTIONS ARE NOT COMPLETED SATISFACTORILY, AS DETERMINED BY
22 RULE OF THE DIVISION, OR THAT ALL VIOLATIONS ARE NOT CORRECTED,
23 THE DIVISION SHALL TAKE ENFORCEMENT ACTION AGAINST THE
24 APPROPRIATE HEALTH FACILITY PURSUANT TO SECTION 24-33.5-1213.

25 (4) **Temporary certificate of occupancy.** IF INSPECTIONS ARE
26 NOT COMPLETED AND A BUILDING OR STRUCTURE REQUIRES IMMEDIATE
27 OCCUPANCY, AND IF THE HEALTH FACILITY HAS PASSED THE APPROPRIATE

1 INSPECTIONS THAT INDICATE THERE ARE NO LIFE SAFETY ISSUES, THE
2 DIVISION MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY. THE
3 TEMPORARY CERTIFICATE OF OCCUPANCY EXPIRES NINETY DAYS AFTER
4 THE DATE OF OCCUPANCY. IF NO RENEWAL OF THE TEMPORARY
5 CERTIFICATE OF OCCUPANCY IS ISSUED OR A PERMANENT CERTIFICATE OF
6 OCCUPANCY IS NOT ISSUED, THE BUILDING OR STRUCTURE SHALL BE
7 VACATED UPON EXPIRATION OF THE TEMPORARY CERTIFICATE. THE
8 DIVISION SHALL ENFORCE THIS SUBSECTION (4) PURSUANT TO SECTION
9 24-33.5-1213.

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

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

27 (7) **Board of appeals.** (a) (I) THERE IS HEREBY CREATED IN THE

1 DIVISION THE HEALTH FACILITY CONSTRUCTION AND INSPECTION PROGRAM
2 BOARD OF APPEALS, REFERRED TO IN THIS SECTION AS THE "BOARD OF
3 APPEALS". THE BOARD OF APPEALS CONSISTS OF SEVEN MEMBERS
4 APPOINTED BY THE EXECUTIVE DIRECTOR.

5 (II) THE MEMBERS OF THE BOARD OF APPEALS SHALL BE PERSONS
6 WHO ARE QUALIFIED BY EXPERIENCE AND TRAINING TO PASS UPON
7 MATTERS PERTAINING TO HEALTH FACILITY BUILDING CONSTRUCTION AND
8 SHALL INCLUDE:

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

16 (B) ONE REPRESENTATIVE FROM EACH OF THE FOLLOWING
17 ORGANIZATIONS OR A SUCCESSOR TO ANY OF SUCH ORGANIZATIONS
18 REPRESENTING COMPARABLE INTERESTS: THE COLORADO ASSOCIATION OF
19 HEALTHCARE ENGINEERS AND DIRECTORS; THE AMERICAN SOCIETY FOR
20 HEALTHCARE ENGINEERING; AND THE COLORADO CHAPTER OF THE
21 AMERICAN INSTITUTE OF ARCHITECTS.

22 (III) THE MEMBERS OF THE BOARD OF APPEALS SERVE AT THE
23 PLEASURE OF THE EXECUTIVE DIRECTOR.

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

25 (A) THE MEMBERS SERVING PURSUANT TO SUB-SUBPARAGRAPH
26 (A) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) SERVE TERMS
27 COEXTENSIVE WITH THE TERMS TO WHICH THEY WERE APPOINTED UNDER

1 SECTION 24-33.5-1213.7; AND

2 (B) FOR THE MEMBERS APPOINTED PURSUANT TO
3 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a),
4 THE EXECUTIVE DIRECTOR SHALL APPOINT ONE MEMBER FOR A ONE-YEAR
5 TERM, ONE MEMBER FOR A TWO-YEAR TERM, AND ONE MEMBER FOR A
6 THREE-YEAR TERM. ALL SUBSEQUENT APPOINTMENTS ARE FOR
7 THREE-YEAR TERMS; EXCEPT THAT AN APPOINTMENT TO FILL A VACANCY
8 ON THE BOARD SHALL BE FOR THE REMAINDER OF THE PREDECESSOR'S
9 TERM.

10 (V) THE MEMBERS OF THE BOARD OF APPEALS SHALL NOT BE
11 COMPENSATED FOR THEIR SERVICE ON THE BOARD AND SHALL NOT BE
12 REIMBURSED FOR EXPENSES.

13 (b) THE BOARD OF APPEALS SHALL SELECT A CHAIR FROM AMONG
14 ITS MEMBERS AND SHALL ADOPT REASONABLE PROCEDURES FOR
15 CONDUCTING ITS DELIBERATIONS.

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

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

27 (III) THE BOARD OF APPEALS MAY REVIEW A FINAL WRITTEN

1 DECISION BY AN INSPECTING ENTITY THAT IS BASED ON THE CODES OR
2 STANDARDS ADOPTED BY THE DIRECTOR. THE BOARD OF APPEALS SHALL
3 NOT WAIVE ANY REQUIREMENT OF THE CODES OR STANDARDS. THE BOARD
4 OF APPEALS MAY RECOMMEND ALTERNATIVE MATERIALS AS PROVIDED IN
5 THE CODES OR STANDARDS. THE FINAL WRITTEN DECISION OF THE BOARD
6 IS FINAL AGENCY ACTION FOR PURPOSES OF SECTION 24-4-106.

7 (d) IN ADDITION TO HEARING APPEALS AS PROVIDED IN THIS
8 SECTION, THE BOARD OF APPEALS SHALL ADVISE THE DIRECTOR IN
9 PROMULGATING RULES AND ENACTING STANDARDS FOR THE HEALTH
10 FACILITY CONSTRUCTION AND INSPECTION PROGRAM.

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

13 **24-33.5-1213. Fire and building code - violations - enforcement**
14 **- inspections.** (1) The director shall enforce ~~the provisions of sections~~
15 ~~22-32-124 (2), and 23-71-122 (1) (v), C.R.S., and sections~~
16 ~~24-33.5-1212.5, 24-33.5-1213.3, and 24-33.5-1213.5, C.R.S., by~~
17 ~~appropriate actions in courts of competent jurisdiction.~~

18 (2) (a) The director may issue a notice of violation to a person
19 who is believed to have violated the codes as determined by an inspection
20 pursuant to section 22-32-124 (2), ~~or 23-71-122 (1) (v), C.R.S., or section~~
21 ~~24-33.5-1212.5, OR 24-33.5-1213.3, C.R.S.~~ The notice shall be delivered
22 to the alleged violator by certified mail, return receipt requested, or by
23 any means that verifies receipt as reliably as certified mail, return receipt
24 requested.

25 (4) (b) A civil penalty collected pursuant to this subsection (4)
26 shall be deposited in the public school construction and inspection cash
27 fund created in section 24-33.5-1207.7 OR THE HEALTH FACILITY

1 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
2 24-33.5-1207.8, AS APPROPRIATE.

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

5 **24-33.5-1213.7. Board of appeals.** (6) THIS SECTION ONLY
6 APPLIES TO MATTERS RELATED TO SCHOOL REVIEWS AND INSPECTIONS.

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

9 **24-75-402. Cash funds - limit on uncommitted reserves -**
10 **reduction in amount of fees - exclusions.** (5) Notwithstanding any
11 provision of this section to the contrary, the following cash funds are
12 excluded from the limitations specified in this section:

13 (y) The public school construction and inspection cash fund
14 created in section 24-33.5-1207.7 AND THE HEALTH FACILITY
15 CONSTRUCTION AND INSPECTION CASH FUND CREATED IN SECTION
16 24-33.5-1207.8;

17 **SECTION 14. No appropriation.** The general assembly intends
18 and determines that this act can be implemented through the transfer of
19 resources, as such resources exist in the fiscal year beginning July 1,
20 2012, and that therefore no additional appropriation of state moneys is
21 necessary to carry out this act.

22 **SECTION 15. Effective date.** (1) Except as otherwise provided
23 in subsection (2) of this section, this act takes effect July 1, 2013, only if
24 the division of fire safety in the department of public safety notifies the
25 revisor of statutes in writing, by June 30, 2013, that the secretary of the
26 United States department of health and human services has granted a
27 modification to the agreement entered into between said secretary and the

1 state of Colorado pursuant to section 1864 of the federal "Social Security
2 Act", 42 U.S.C. sec. 1395aa, which modification allows said division to
3 fulfill the duties under that law associated with the assessment of
4 compliance with the federal fire safety code requirements for health
5 facilities.

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

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