

Chapter 1:

Real Estate Broker License Law

An * in the left margin indicates a change in the statute, rule, or text since the last publication of the manual.

I. Reason for Its Enactment

The Colorado Real Estate Broker License Law was passed to protect the people of the State of Colorado. Through licensing, the law seeks competency and integrity on the part of those engaged in the real estate business. The law has had the effect of raising the general standing of the real estate business and has helped to safeguard the interests of both the public and those engaged in the business.

II. What the Law Does Not Cover

The law does not dictate the ethical standards that should be observed in the real estate industry, or generally of any trade, business, or profession.

Codes of ethics have been voluntarily adopted by various real estate organizations as guiding standards of high moral and ethical practice. Adherence to such codes is recommended to all who are licensed to engage in real estate business, but is not regulated or enforced by the Colorado Real Estate Commission or the Division of Real Estate.

III. The Commission Office

The Division of Real Estate has a five-member Commission that meets bi-monthly to conduct rulemaking hearings, make policy decisions, consider licensing matters, review complaints, and take disciplinary action against real estate brokers. Rules are promulgated after notice and public hearings at which all interested parties may participate. The five Commission members consist of three real estate brokers who have had not less than five years' experience in the real estate business in Colorado, one of whom has substantial experience in property management, and two representatives of the public at large. Members of the Commission hold office for a period of three years.

The Division of Real Estate is part of the Department of Regulatory Agencies and is responsible for budgeting, purchasing, and related management functions. The director of the Division is an administrative officer who executes the directives of the Commission and is given statutory authority in all matters delegated by the Commission.

The Division of Real Estate is the licensing, regulation, and enforcement agency for real estate brokers, appraisers, mortgage loan originators, and subdivision developers. Additionally, the Division registers Homeowner's Associations (HOAs) and compiles regulatory statistics related to those HOAs. To become licensed, individuals must comply with education and/or experience requirements, qualify for reciprocity, and/or pass a general and/or state portion of the licensing exam.

The Division's objectives are to:

- Provide protection to consumers and other stakeholders.
- Promote consumer awareness throughout the State of Colorado.
- Enforce state and federal laws, rules, regulations, and standards and impose disciplinary action when recommended.
- License real estate brokers.
- License real estate appraisers.
- License mortgage loan originators.
- Register timeshares, raw land subdivisions developers and homeowners' associations.
- Investigate complaints.
- Enforce compliance with state and federal laws.
- Impose recommended disciplinary actions against licensees.
- Register HOAs and track and categorize complaints against those HOAs.

The Commission exercises its duties and authorities independently through the following programs or activities.

A. The Master File

The Division staff records the historical and day-to-day information concerning the licensing status of employers, employees, corporations, limited liability companies and partnership entities, trade names, office locations, and disciplinary actions.

B. Licensing

The Licensing section's major responsibility is the data entry and upkeep of nearly 70,000 real estate broker, appraiser, and mortgage loan originator licensing records, as well as registration of subdivision/timeshare developers and homeowners' associations. The Licensing staff reviews and processes all incoming applications, which are screened for required qualifications, including education, experience, examinations, errors & omission (E&O) insurance, and criminal history background checks. The Licensing section also issues license histories to licensees who need to prove their credentials to other jurisdictions.

Colorado recognizes real estate licenses issued by many other jurisdictions if the licensee in the other jurisdiction has held that license for 2 years or more. Licensing currently administers this program and offers a limited recognition program to these licensees. The Division also reciprocates with most other appraisal jurisdictions.

Applicants with a past civil judgment or criminal conviction may request a "preliminary advisory opinion" regarding the likelihood of receiving a license before completing the requirements to apply for a license (Commission Rule 3.8). The Commission/Board may issue either a favorable or unfavorable opinion.

Both "preliminary advisory" applicants and license applicants are subject to pre-licensing investigations and fingerprinting to safeguard the statutory mandate for truthfulness, honesty, good moral character, and general fitness. (*See* §§ 12-10-202, -203(3), -606(6), and -711(1), C.R.S.) All applications that disclose civil or criminal violations or any form of previous license discipline in any jurisdiction are reviewed and investigated thoroughly.

Licenses issued by the section include:

- Real estate broker
- Corporate/LLC real estate brokerage
- Partnership real estate brokerage
- Temporary real estate broker
- Ad Valorem appraiser
- Licensed appraiser
- Certified residential appraiser
- Certified general appraiser
- Temporary appraiser
- Mortgage loan originator

The Division also reviews and registers:

- Raw ground subdivision developers
- Timeshare and vacation club developers
- Condominium conversion developers
- Cooperative housing corporation developers
- Homeowners' associations

Information on licensing is located on the Division of Real Estate website at:
<https://dre.colorado.gov>

C. Enforcement Section

The Real Estate Commission has the power upon its own motion to investigate any licensee's real estate activities. If a written complaint alleging a potential license law violation is filed, the office is compelled to investigate.

If the complaint against the licensee is of such a serious nature that it may result in disciplinary action against a licensee, a hearing may be held before an administrative law judge. The judge is appointed by the Department of Personnel and Administration. The administrative law judge will make an initial decision of revocation, suspension, censure, or dismissal. Education courses, probation, and fines can also be mandated. If written objections are not filed with the Commission within 30 days, the initial decision becomes final. If written objections are filed, the Commission may adopt the findings and initial decision of the administrative law judge, modify the disciplinary action, or refer the matter back for rehearing. The Commission can also issue letters of admonishment in instances where conduct does not warrant formal disciplinary proceedings.

This program also includes:

- Investigation of applicants.
- Evaluation of complaints.
- Investigation of complaints.
- Routine and investigative audits.
- Recommendations for dismissal or disciplinary action.
- Preparation and execution of subpoenas, and other legal documents.

- Preparation of cases for formal hearing, restraining orders, injunctions, or complaints for filing with district attorneys and local law enforcement agencies.
- Working with federal agencies, *e.g.*, the Securities and Exchange Commission or Housing and Urban Development, the Federal Bureau of Investigation, or the Internal Revenue Service.

The Real Estate Commission should *not* be confused with the Colorado Association of REALTORS®, which is a private trade organization affiliated with the National Association of REALTORS® whose members are the only licensees authorized to use the registered trademark “REALTOR”®.

IV. License Law¹

A. Part 1 – Common Definitions

§ 12-10-101, C.R.S. Definitions.

Editor’s note: Subsection (1) is similar to former §§12-61-702 (7) and 12-61-902 (3); subsection (2) is similar to former §§12-61-702 (8) and 12-61-902 (4); and subsection (3) is similar to former §§12-61-101 (1.2) and 12-61-401 (2.5), as those sections existed prior to 2019, and the former §12-10-101 was relocated to §12-110-101.

As used in this article 10, unless the context otherwise requires:

- (1) “Director” means the director of the division of real estate.
- (2) “Division” means the division of real estate.
- (3) “HOA” or “homeowners’ association” means an association or unit owners’ association formed before, on, or after July 1, 1992, as part of a common interest community as defined in section 38-33.3-103.

B. Part 2 – Brokers and Salespersons

§ 12-10-201, C.R.S. Definitions.

Editor’s note: This section is similar to former §12-61-101 as it existed prior to 2019; except that §12-61-101 (1.2) was relocated to §12-10-101 (3).

As used in this part 2, unless the context otherwise requires:

- (1) “Commission” means the real estate commission created in section 12-10-206.
- (2) “Employing real estate broker” or “employing broker” means a broker who is shown in commission records as employing or engaging another broker.
- (3) “Limited liability company” shall have the same meaning as it is given in section 7-80-102 (7).
- (4) “Option dealer” means any person, firm, partnership, limited liability company, association, or corporation that, directly or indirectly, takes, obtains, or uses an option to purchase, exchange, rent, or lease real property or any interest therein with the intent or for the purpose of buying, selling, exchanging, renting, or leasing the real property or interest therein to another or others, whether or not the option is in that person’s or its name and whether or not title to said property passes through the name of the person, firm, partnership, limited liability company, association,

¹ Colorado Revised Statutes are subject to change through the legislative process. Check the Division website for updates.

Chapter 1: Real Estate Broker License Law

or corporation in connection with the purchase, sale, exchange, rental, or lease of the real property or interest therein.

- (5) “Partnership” includes, but is not limited to, a registered limited liability partnership.
- (6) (a) “Real estate broker” or “broker” means any person, firm, partnership, limited liability company, association, or corporation that, in consideration of compensation by fee, commission, salary, or anything of value or with the intention of receiving or collecting such compensation, engages in or offers or attempts to engage in, either directly or indirectly, by a continuing course of conduct or by any single act or transaction, any of the following acts:
 - (I) Selling, exchanging, buying, renting, or leasing real estate, or interest therein, or improvements affixed thereon;
 - (II) Offering to sell, exchange, buy, rent, or lease real estate, or interest therein, or improvements affixed thereon;
 - (III) Selling or offering to sell or exchange an existing lease of real estate, or interest therein, or improvements affixed thereon;
 - (IV) Negotiating the purchase, sale, or exchange of real estate, or interest therein, or improvements affixed thereon;
 - (V) Listing, offering, attempting, or agreeing to list real estate, or interest therein, or improvements affixed thereon for sale, exchange, rent, or lease;
 - (VI) Auctioning or offering, attempting, or agreeing to auction real estate, or interest therein, or improvements affixed thereon;
 - (VII) Buying, selling, offering to buy or sell, or otherwise dealing in options on real estate, or interest therein, or improvements affixed thereon, or acting as an “option dealer”;
 - (VIII) Performing any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon at a salary or for a fee, commission, or other consideration;
 - (IX) Negotiating or attempting or offering to negotiate the listing, sale, purchase, exchange, or lease of a business or business opportunity or the goodwill thereof or any interest therein when the act or transaction involves, directly or indirectly, any change in the ownership or interest in real estate, or in a leasehold interest or estate, or in a business or business opportunity that owns an interest in real estate or in a leasehold unless the act is performed by any broker-dealer licensed under the provisions of article 51 of title 11 who is actually engaged generally in the business of offering, selling, purchasing, or trading in securities or any officer, partner, salesperson, employee, or other authorized representative or agent thereof; or
 - (X) Soliciting a fee or valuable consideration from a prospective tenant for furnishing information concerning the availability of real property, including apartment housing that may be leased or rented as a private dwelling, abode, or place of residence. Any person, firm, partnership, limited liability company, association, or corporation or any employee or authorized agent thereof engaged in the act of soliciting a fee or valuable consideration from any person other than a prospective tenant for furnishing information concerning the availability of real property, including apartment housing that may be leased or rented as a private dwelling, abode, or place of residence, is exempt from this definition of “real estate broker” or “broker”. This exemption applies only in respect to the furnishing of information concerning the availability of real property.

- (b) “Real estate broker” or “broker” does not apply to any of the following:
- (I) Any attorney-in-fact acting without compensation under a power of attorney, duly executed by an owner of real estate, authorizing the consummation of a real estate transaction;
 - (II) Any public official in the conduct of his or her official duties;
 - (III) Any receiver, trustee, administrator, conservator, executor, or guardian acting under proper authorization;
 - (IV) Any person, firm, partnership, limited liability company, or association acting personally or a corporation acting through its officers or regularly salaried employees, on behalf of that person or on its own behalf as principal in acquiring or in negotiating to acquire any interest in real estate;
 - (V) An attorney-at-law in connection with his or her representation of clients in the practice of law;
 - (VI) Any person, firm, partnership, limited liability company, association, or corporation, or any employee or authorized agent thereof, engaged in the act of negotiating, acquiring, purchasing, assigning, exchanging, selling, leasing, or dealing in oil and gas or other mineral leases or interests therein or other severed mineral or royalty interests in real property, including easements, rights-of-way, permits, licenses, and any other interests in real property for or on behalf of a third party, for the purpose of, or facilities related to, intrastate and interstate pipelines for oil, gas, and other petroleum products, flow lines, gas gathering systems, and natural gas storage and distribution;
 - (VII) A natural person acting personally with respect to property owned or leased by that person or a natural person who is a general partner of a partnership, a manager of a limited liability company, or an owner of twenty percent or more of such partnership or limited liability company, and authorized to sell or lease property owned by the partnership or limited liability company, except as provided in subsection (4) of this section;
 - (VIII) A corporation with respect to property owned or leased by it, acting through its officers or regularly salaried employees, when the acts are incidental and necessary in the ordinary course of the corporation’s business activities of a non-real-estate nature (but only if the corporation is not engaged in the business of land transactions), except as provided in subsection (4) of this section. For the purposes of this subsection (6)(b)(VIII), the term “officers or regularly salaried employees” means persons regularly employed who derive not less than seventy-five percent of their compensation from the corporation in the form of salaries.
 - (IX) A principal officer of any corporation with respect to property owned by it when the property is located within the state of Colorado and when the principal officer is the owner of twenty percent or more of the outstanding stock of the corporation, except as provided in subsection (4) of this section, but this exemption does not include any corporation selling previously occupied one-family and two-family dwellings;
 - (X) A sole proprietor, corporation, partnership, or limited liability company, acting through its officers, partners, or regularly salaried employees, with respect to property owned or leased by the sole proprietor, corporation, partnership, or limited liability company on which has been or will be erected a commercial, industrial, or residential building that has not been previously occupied and where the consideration paid for the property includes the cost of the building, payable, less deposit or down payment, at the time of conveyance of the property and building;

Chapter 1: Real Estate Broker License Law

- (XI) (A) A corporation, partnership, or limited liability company acting through its officers, partners, managers, or regularly salaried employees receiving no additional compensation therefor, or its wholly owned subsidiary or officers, partners, managers, or regularly salaried employees thereof receiving no additional compensation, with respect to property located in Colorado that is owned or leased by the corporation, partnership, or limited liability company and on which has been or will be erected a shopping center, office building, or industrial park when such shopping center, office building, or industrial park is sold, leased, or otherwise offered for sale or lease in the ordinary course of the business of the corporation, partnership, limited liability company, or wholly owned subsidiary.
- (B) For the purposes of this subsection (6)(b)(XI): “Shopping center” means land on which buildings are or will be constructed that are used for commercial and office purposes around or adjacent to which off-street parking is provided; “office building” means a building used primarily for office purposes; and “industrial park” means land on which buildings are or will be constructed for warehouse, research, manufacturing, processing, or fabrication purposes.
- (XII) A regularly salaried employee of an owner of an apartment building or complex who acts as an on-site manager of such an apartment building or complex. This exemption applies only in respect to the customary duties of an on-site manager performed for his or her employer.
- (XIII) A regularly salaried employee of an owner of condominium units who acts as an on-site manager of such units. For purposes of this subsection (6)(b)(XIII) only, the term “owner” includes a homeowners’ association formed and acting pursuant to its recorded condominium declaration and bylaws. This exemption applies only in respect to the customary duties of an on-site manager performed for his or her employer.
- (XIV) A real estate broker licensed in another state who receives a share of a commission or finder’s fee on a cooperative transaction from a licensed Colorado real estate broker;
- (XV) A sole proprietor, corporation, partnership, or limited liability company, acting through its officers, partners, or regularly salaried employees, with respect to property located in Colorado, where the purchaser of the property is in the business of developing land for residential, commercial, or industrial purposes;
- (XVI) Any person, firm, partnership, limited liability company, association, or corporation, or any employee or authorized agent thereof, engaged in the act of negotiating, purchasing, assigning, exchanging, selling, leasing, or acquiring rights-of-way, permits, licenses, and any other interests in real property for, or on behalf, of a third party for the purpose of, or facilities related to:
 - (A) Telecommunication lines;
 - (B) Wireless communication facilities;
 - (C) CATV;
 - (D) Electric generation, transmission, and distribution lines;
 - (E) Water diversion, collection, distribution, treatment, and storage or use; and
 - (F) Transportation, so long as the person, firm, partnership, limited liability company, association, or corporation, including any employee or authorized agent thereof, does not represent any displaced person or entity as an agent thereof in the purchase, sale, or exchange of real estate, or an interest therein,

resulting from residential or commercial relocations required under any transportation project, regardless of the source of public funding.

§ 12-10-202, C.R.S. License required.

Editor's note: This section is similar to former §12-61-102 as it existed prior to 2019.

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

§ 12-10-203, C.R.S. Application for license – rules – definition.

Editor's note: (1) This section is similar to former §12-61-103 as it existed prior to 2019.

(2) Before its recodification in 2019, this section was amended in HB 19-1166. Those amendments were superseded by the repeal and reenactment of this title 12, effective October 1, 2019. For those amendments to the former section in effect from April 18, 2019, to October 1, 2019, see HB 19-1166, chapter 125, Session Laws of Colorado 2019.

(3) Section 78 of chapter 125 (HB 19-1166), Session Laws of Colorado 2019, provides that the act changing this section takes effect October 1, 2019, only if HB 19-1172 becomes law. HB 19-1172 became law and took effect October 1, 2019.

(1) (a) All persons desiring to become real estate brokers shall apply to the commission for a license under the provisions of this part 2. Application for a license as a real estate broker shall be made to the commission upon forms or in a manner prescribed by the commission.

(b) (I) Prior to submitting an application for a license pursuant to subsection (1)(a) of this section, each applicant shall submit a set of fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The applicant shall pay the fee established by the Colorado bureau of investigation for conducting the fingerprint-based criminal history record check to the bureau. Upon completion of the fingerprint-based criminal history record check, the bureau shall forward the results to the commission. The commission shall acquire a name-based judicial record check, as defined in section 22-2-119.3 (6)(d), for an applicant who has a record of arrest without a disposition. The applicant shall pay the costs associated with a name-based judicial record check.

(II) For purposes of this subsection (1)(b), "applicant" means an individual, or any person designated to act as broker for any partnership, limited liability company, or corporation pursuant to subsection (6) of this section.

(2) Every real estate broker licensed under this part 2 shall maintain a place of business within this state, except as provided in section 12-10-208. In case a real estate broker maintains more than one place of business within the state, the broker shall be responsible for supervising all licensed activities originating in the offices.

(3) The commission is authorized by this section to require and procure any such proof as is necessary in reference to the truthfulness, honesty, and good moral character of any applicant for a real estate broker's license or, if the applicant is a partnership, limited liability company, or

Chapter 1: Real Estate Broker License Law

corporation, of any partner, manager, director, officer, member, or stockholder if the person has, either directly or indirectly, a substantial interest in the applicant prior to the issuance of the license.

- (4) (a) An applicant for a broker's license shall be at least eighteen years of age. The applicant must furnish proof satisfactory to the commission that the applicant has either received a degree from an accredited degree-granting college or university with a major course of study in real estate or has successfully completed courses of study, approved by the commission, at any accredited college or university or any private occupational school that has a certificate of approval from the private occupational school division in accordance with the provisions of article 64 of title 23 or that has been approved by the commission or licensed by an official state agency of any other state as follows:
- (I) Forty-eight hours of classroom instruction or equivalent correspondent hours in real estate law and real estate practice; and
 - (II) Forty-eight hours of classroom instruction or equivalent correspondent hours in understanding and preparation of Colorado real estate contracts; and
 - (III) A total of seventy-two hours of instruction or equivalent correspondence hours from the following areas of study:
 - (A) Trust accounts and record keeping;
 - (B) Real estate closings;
 - (C) Current legal issues; and
 - (D) Practical applications.
- (b) An applicant for a broker's license who has been licensed as a real estate broker in another jurisdiction shall be required to complete only the course of study comprising the subject matter areas described in subsections (4)(a)(II) and (4)(a)(III)(B) of this section.
- (c) An applicant for a broker's license who has been licensed as a real estate salesperson in another jurisdiction shall be required to complete only the course of study required in subsections (4)(a)(II) and (4)(a)(III) of this section.
- (5) (a) The applicant for a broker's license shall submit to and pass an examination designated to determine the competency of the applicant and prepared by or under the supervision of the commission or its designated contractor. The commission may contract with an independent testing service to develop, administer, or grade examinations or to administer licensee records. The contract may allow the testing service to recover the costs of the examination and the costs of administering exam and license records from the applicant. The commission may contract separately for these functions and allow recovered costs to be collected and retained by a single contractor for distribution to other contractors. The commission shall have the authority to set the minimum passing score that an applicant must receive on the examination, and the score shall reflect the minimum level of competency required to be a broker. The examination shall be given at such times and places as the commission prescribes. The examination shall include, but not be limited to, ethics, reading, spelling, basic mathematics, principles of land economics, appraisal, financing, a knowledge of the statutes and law of this state relating to deeds, trust deeds, mortgages, listing contracts, contracts of sale, bills of sale, leases, agency, brokerage, trust accounts, closings, securities, the provisions of this part 2, and the rules of the commission. The examination for a broker's license shall also include the preparation of a real estate closing statement.
- (b) An applicant for a broker's license who has held a real estate license in another jurisdiction that administers a real estate broker's examination and who has been licensed for two or more years prior to applying for a Colorado license may be issued a broker's license if the applicant establishes that he or she possesses.

- (c) In addition to all other applicable requirements, the following provisions apply to brokers that did not hold a current and valid broker's license on December 31, 1996:
 - (I) No such broker shall engage in an independent brokerage practice without first having served actively as a real estate broker for at least two years. The commission shall adopt rules requiring an employing broker to ensure that a high level of supervision is exercised over such a broker during the two-year period.
 - (II) No such broker shall employ another broker without first having completed twenty-four clock hours of instruction, or the equivalent in correspondence hours, as approved by the commission, in brokerage administration.
 - (III) Effective January 1, 2019, a broker shall not act as an employing broker without first demonstrating, in accordance with rules of the commission, experience and knowledge sufficient to enable the broker to employ and adequately supervise other brokers, as appropriate to the broker's area of supervision. The commission's rules must set forth the method or methods by which the broker may demonstrate the experience and knowledge, either by documenting a specified number of transactions that the broker has completed or by other methods.
- (6) (a) Real estate brokers' licenses may be granted to individuals, partnerships, limited liability companies, or corporations. A partnership, limited liability company, or corporation, in its application for a license, shall designate a qualified, active broker to be responsible for management and supervision of the licensed actions of the partnership, limited liability company, or corporation and all licensees shown in the commission's records as being in the employ of the entity. The application of the partnership, limited liability company, or corporation and the application of the broker designated by it shall be filed with the commission.
- (b) No license shall be issued to any partnership, limited liability company, or corporation unless and until the broker so designated by the partnership, limited liability company, or corporation submits to and passes the examination required by this part 2 on behalf of the partnership, limited liability company, or corporation. Upon the broker successfully passing the examination and upon compliance with all other requirements of law by the partnership, limited liability company, or corporation, as well as by the designated broker, the commission shall issue a broker's license to the partnership, limited liability company, or corporation, which shall bear the name of the designated broker, and thereupon the broker so designated shall conduct business as a real estate broker only through the partnership, limited liability company, or corporation and not for the broker's own account.
- (c) If the person so designated is refused a license by the commission or ceases to be the designated broker of the partnership, limited liability company, or corporation, the entity may designate another person to make application for a license. If the person ceases to be the designated broker of the partnership, limited liability company, or corporation, the director may issue a temporary license to prevent hardship for a period not to exceed ninety days to the licensed person so designated. The director may extend a temporary license for one additional period not to exceed ninety days upon proper application and a showing of good cause; if the director refuses, no further extension of a temporary license shall be granted except by the commission. If any broker or employee of any such partnership, limited liability company, or corporation, other than the one designated as provided in this section, desires to act as a real estate broker, the broker or employee shall first obtain a license as a real estate broker as provided in this section and shall pay the regular fee therefor.
- (7) The broker designated to act as broker for any partnership, limited liability company, or corporation is personally responsible for the handling of any and all earnest money deposits or escrow or trust funds received or disbursed by the partnership, limited liability company, or

corporation. In the event of any breach of duty by the partnership, limited liability company, or corporation as a fiduciary, any person aggrieved or damaged by the breach of fiduciary duty shall have a claim for relief against the partnership, limited liability company, or corporation, as well as against the designated broker, and may pursue the claim against the partnership, limited liability company, or corporation and the designated broker personally. The broker may be held responsible and liable for damages based upon the breach of fiduciary duty as may be recoverable against the partnership, limited liability company, or corporation, and any judgment so obtained may be enforced jointly or severally against the broker personally and the partnership, limited liability company, or corporation.

- (8) No license for a broker registered as being in the employ of another broker shall be issued to a partnership, a limited liability company, or a corporation or under a fictitious name or trade name; except that a married woman may elect to use her birth name.
- (9) No person shall be licensed as a real estate broker under more than one name, and no person shall conduct or promote a real estate brokerage business except under the name under which the person is licensed.
- (10) A licensed attorney shall take and pass the examination referred to in this section after having completed twelve hours of classroom instruction or equivalent correspondent hours in trust accounts, record keeping, and real estate closings.

§ 12-10-204, C.R.S. Errors and omissions insurance required – rules.

Editor's note: This section is similar to former §12-61-103.6 as it existed prior to 2019.

- (1) Every licensee under this part 2, except an inactive broker or an attorney licensee who maintains a policy of professional malpractice insurance that provides coverage for errors and omissions for their activities as a licensee under this part 2, shall maintain errors and omissions insurance to cover all activities contemplated under parts 2 to 6 of this article 10. The division shall make the errors and omissions insurance available to all licensees by contracting with an insurer for a group policy after a competitive bid process in accordance with article 103 of title 24. A group policy obtained by the division must be available to all licensees with no right on the part of the insurer to cancel a licensee. A licensee may obtain errors and omissions insurance independently if the coverage complies with the minimum requirements established by the division.
- (2)
 - (a) If the division is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group program at a reasonable annual premium, as determined by the division, a licensee shall independently obtain the errors and omissions insurance required by this section.
 - (b) The division shall solicit and consider information and comments from interested persons when determining the reasonableness of annual premiums.
- (3) The division shall determine the terms and conditions of coverage required under this section based on rules promulgated by the commission. The commission shall notify each licensee of the required terms and conditions at least thirty days before the annual premium renewal date as determined by the commission. Each licensee shall file a certificate of coverage showing compliance with the required terms and conditions with the commission by the annual premium renewal date, as determined by the division.
- (4) In addition to all other powers and duties conferred upon the commission by this article 10, the commission shall adopt such rules as it deems necessary or proper to carry out the provisions of this section.

§ 12-10-205, C.R.S. Licenses – issuance – contents – display.

Editor's note: This section is similar to former §12-61-104 as it existed prior to 2019.

The commission shall make available for each licensee a license in such form and size as the commission shall prescribe and adopt. The real estate license shall show the name of the licensee and shall have imprinted thereon the seal, or a facsimile, of the department and, in addition to the foregoing, shall contain such other matter as the commission shall prescribe.

§ 12-10-206, C.R.S. Real estate commission – created – compensation – immunity.

Editor's note: (1) This section is similar to former §12-61-105 as it existed prior to 2019. (1)

There is created a commission of five members, appointed by the governor, which shall administer parts 2 and 5 of this article 10. This commission is known as the real estate commission. The commission is a type 1 entity, as defined in section 24-1-105, and consists of three real estate brokers who have had not less than five years' experience in the real estate business in Colorado, one of whom has substantial experience in property management, and two representatives of the public at large. Members of the commission serve three-year terms. Upon the death, resignation, removal, or otherwise of any member of the commission, the governor shall appoint a member to fill out the unexpired term. The governor may remove any member for misconduct, neglect of duty, or incompetence.

- (2) Each member of the commission shall receive the same compensation and reimbursement of expenses as those provided for members of boards and commissions in the division of professions and occupations pursuant to section 12-20-103 (6). Payment for all such per diem compensation and expenses shall be made out of annual appropriations from the division of real estate cash fund provided for in section 12-10-215.
- (3) Members of the commission, consultants, expert witnesses, and complainants shall be immune from suit in any civil action based upon any disciplinary proceedings or other official acts they performed in good faith.
- (4) No real estate broker's license shall be denied, suspended, or revoked except as determined by a majority vote of the members of the commission.

§ 12-10-207, C.R.S. Division of real estate – creation – director, clerks, and assistants.

Editor's note: (1) This section is similar to former §12-61-106 as it existed prior to 2019.

- (1) There is created in the department the division of real estate. The executive director is authorized by this section to employ, subject to the provisions of the state personnel system laws of the state, a director of the division, who in turn shall employ such attorneys, deputies, investigators, clerks, and assistants as are necessary to discharge the duties imposed by parts 2 and 5 of this article 10. The division and the director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department.
- (2) It is the duty of the director, personally, or the director's designee to aid in the administration and enforcement of parts 2 and 5 of this article 10 and in the prosecution of all persons charged with violating any of their provisions, to conduct audits of business accounts of licensees, to perform such duties of the commission as the commission prescribes, and to act in behalf of the commission on such occasions and in such circumstances as the commission directs.

§ 12-10-208, C.R.S. Resident licensee – nonresident licensee – consent to service.

Editor's note: This section is similar to former §12-61-107 as it existed prior to 2019.

- (1) A nonresident of the state may become a real estate broker in this state by conforming to all the conditions of this part 2; except that the nonresident broker shall not be required to maintain a

place of business within this state if that broker maintains a definite place of business in another state.

- (2) If a broker has no registered agent registered in this state, the registered agent is not located under its registered agent name at its registered agent address, or the registered agent cannot with reasonable diligence be served, the broker may be served by registered mail or by certified mail, return receipt requested, addressed to the entity at its principal address. Service is perfected under this subsection (2) at the earliest of:
 - (a) The date the broker receives the process, notice, or demand;
 - (b) The date shown on the return receipt, if signed by or on behalf of the broker; or
 - (c) Five days after mailing.
- (3) All such applications shall contain a certification that the broker is authorized to act for the corporation.

§ 12-10-209, C.R.S. Record of licensees – publications.

Editor's note: This section is similar to former §12-61-108 as it existed prior to 2019.

The commission shall maintain a record of the names and addresses of all licensees licensed under the provisions of parts 2 and 5 of this article 10, together with such other information relative to the enforcement of the provisions as deemed by the commission to be necessary. Publication of the record and of any other information circulated in quantity outside the executive branch shall be in accordance with the provisions of section 24-1-136.

§ 12-10-210, C.R.S. Compilation and publication of passing rates per educational institution for real estate licensure examinations – definition – rules.

Editor's note: This section is similar to former §12-61-108.5 as it existed prior to 2019.

- (1) The commission shall have the authority to obtain information from each educational institution authorized to offer courses in real estate for the purpose of compiling the number of applicants who pass the real estate licensure examination from each educational institution. The information shall include the name of each student who attended the institution and a statement of whether the student completed the necessary real estate courses required for licensure. The commission shall have access to such other information as necessary to accomplish the purpose of this section. For the purposes of this section, an “applicant” is a student who completed the required education requirements and who applied for and sat for the licensure examination.
- (2) The commission shall compile the information obtained in subsection (1) of this section with applicant information retained by the commission. Specifically, the commission shall compile whether the student applied for the licensure examination and whether the applicant passed the licensure examination. The commission shall create statistical data setting forth:
 - (a) The name of the educational institution;
 - (b) The number of students who completed the necessary real estate course required for licensure;
 - (c) Whether the student registered and sat for the licensure examination; and
 - (d) The number of those applicants who passed the licensure examination.
- (3) The commission shall publish this statistical data and make it available to the public quarterly.
- (4) The commission shall retain the statistical data for three years.
- (5) Specific examination scores for an applicant will be kept confidential by the commission unless the applicant authorizes release of the information.
- (6) The commission may promulgate rules for the administration of this section.

§ 12-10-211, C.R.S. Change of license status – inactive – cancellation.

Editor's note: This section is similar to former §12-61-109 as it existed prior to 2019.

- (1) Immediate notice shall be given in a manner acceptable to the commission by each licensee of any change of business location or employment. A change of business address or employment without notification to the commission shall automatically inactivate the licensee's license.
- (2) A broker who transfers to the address of another broker or a broker applicant who desires to be employed by another broker shall inform the commission if the broker is to be in the employ of the other broker. The employing broker shall have the control and custody of the employed broker's license. The employed broker may not act on behalf of the broker or as broker for a partnership, limited liability company, or corporation during the term of the employment; but this shall not affect the employed broker's right to transfer to another employing broker or to a location where the employed broker may conduct business as an independent broker or as a broker acting for a partnership, limited liability company, or corporation.
- (3) In the event that any licensee is discharged by or terminates employment with a broker, it shall be the joint duty of both such parties to immediately notify the commission. Either party may furnish the notice in a manner acceptable to the commission. The party giving notice shall notify the other party in person or in writing of the termination of employment.
- (4) It is unlawful for any such licensee to perform any of the acts authorized under the license in pursuance of this part 2, either directly or indirectly, on or after the date that employment has been terminated. When any real estate broker whose employment has been terminated is employed by another real estate broker, the commission shall, upon proper notification, enter the change of employment in the records of the commission. Not more than one employer or place of employment shall be shown for any real estate broker for the same period of time.

§ 12-10-212, C.R.S. License fees – partnership, limited liability company, and corporation licenses – rules.

Editor's note: This section is similar to former §12-61-110 as it existed prior to 2019.

- (1) Fees established pursuant to section 12-10-215 shall be charged by and paid to the commission or the agent for the commission for the following:
 - (a) Each broker's examination;
 - (b) Each broker's original application and license;
 - (c) Each renewal of a broker's license;
 - (d) Any change of name, address, or employing broker requiring a change in commission records;
 - (e) A new application that shall be submitted when a licensed real estate broker wishes to become the broker acting for a partnership, a limited liability company, or a corporation.
- (2) The proper fee shall accompany each application for licensure. The fee shall not be refundable. Failure by the person taking an examination to file the appropriate broker's application within one year of the date the person passed the examination will automatically cancel the examination, and all rights to a passing score will be terminated.
- (3) Each real estate broker's license granted to an individual shall entitle the individual to perform all the acts contemplated by this part 2, without any further application on his or her part and without the payment of any fee other than the fees specified in this section.
- (4) (a) (I) The commission shall require that any person licensed under this part 2, whether on an active or inactive basis, renew the license on or before December 31 of every third year after issuance; except that an initial license issued under this part 2 on or after

April 23, 2018, expires at 12 midnight on December 31 of the year in which it was issued.

- (II) Renewal is conditioned upon fulfillment of the continuing education requirements set forth in section 12-10-213. For persons renewing or reinstating an active license, written certification verifying completion for the previous licensing period of the continuing education requirements set forth in section 12-10-213 must accompany and be submitted to the commission with the application for renewal or reinstatement. For persons who did not submit certification verifying compliance with section 12-10-213 at the time a license was renewed or reinstated on an inactive status, written certification verifying completion for the previous licensing period of the continuing education requirements set forth in that section must accompany and be submitted with any future application to reactivate the license. The commission may, by rule, establish procedures to facilitate such a renewal. In the absence of any reason or condition that might warrant the refusal of the granting of a license or the revocation thereof, the commission shall issue a new license upon receipt by the commission of the written request of the applicant and the appropriate fees required by this section. Applications for renewal will be accepted thirty days prior to January 1.
- (III) A person who fails to renew a license before January 1 of the year succeeding the year of the expiration of the license may reinstate the license as follows:
 - (A) If proper application is made within thirty-one days after the date of expiration, by payment of the regular renewal fee;
 - (B) If proper application is made more than thirty-one days but within one year after the date of expiration, by payment of the regular renewal fee and payment of a reinstatement fee equal to one-half the regular renewal fee;
 - (C) If proper application is made more than one year but within three years after the date of expiration, by payment of the regular renewal fee and payment of a reinstatement fee equal to the regular renewal fee.
- (IV) The commission may, by rule, establish procedures to facilitate the transition of the reinstatement license periods described in subsections (4)(a)(III)(A) to (4)(a)(III)(C) of this section from an anniversary expiration date to a December 31 expiration date.
- (b) Any reinstated license shall be effective only as of the date of reinstatement. Any person who fails to apply for reinstatement within three years after the expiration of a license shall, without exception, be treated as a new applicant for licensure.
- (c) All reinstatement fees shall be transmitted to the state treasurer, who shall credit the fees to the division of real estate cash fund, as established by section 12-10-215.
- (5) The suspension, expiration, or revocation of a real estate broker's license shall automatically inactivate every real estate broker's license where the holder of the license is shown in the commission records to be in the employ of the broker whose license has expired or has been suspended or revoked pending notification to the commission by the employed licensee of a change of employment.

§ 12-10-213, C.R.S. Renewal of license – continuing education requirement – rules.

Editor's note: This section is similar to former §12-61-110.5 as it existed prior to 2019.

- (1) A broker applying for renewal of a license pursuant to section 12-10-212 (4) shall include with the application a certified statement verifying successful completion of real estate courses in accordance with the following schedule:
 - (a) For licensees applying for renewal of a three-year license, passage within the previous three years of the Colorado portion of the real estate exam or completion of a minimum of

- twenty-four hours of credit, twelve of which must be the credits developed by the commission pursuant to subsection (2) of this section;
- (b) For licensees applying for renewal of a license that expires less than three years after it was issued, passage within the license period of the Colorado portion of the real estate exam or completion of a minimum of twenty-four hours of credit, at least eight of which must be the credits developed by the commission pursuant to subsection (2) of this section.
- (2) The commission shall develop twelve hours of credit designed to assure reasonable currency of real estate knowledge by licensees, which credits shall include an update of the current statutes and the rules promulgated by the commission that affect the practice of real estate. If a licensee takes a course pursuant to rule 250 of the Colorado rules of civil procedure and the course concerns real property law, the licensee shall receive credit for the course toward the fulfillment of the licensee's continuing education requirements pursuant to this section. The credits shall be taken from an accredited Colorado college or university; a Colorado community college; a Colorado private occupational school holding a certificate of approval from the state board for community colleges and occupational education; or an educational institution or an educational service described in section 23-64-104. Successful completion of the credits shall require satisfactory passage of a written examination or written examinations of the materials covered. The examinations shall be audited by the commission to verify their accuracy and the validity of the grades given. The commission shall set the standards required for satisfactory passage of the examinations.
- (3) All credits, other than the credits specified in subsection (2) of this section, shall be acquired from educational courses approved by the commission that contribute directly to the professional competence of a licensee. The credits may be acquired through successful completion of instruction in one or more of the following subjects:
- (a) Real estate law;
 - (b) Property exchanges;
 - (c) Real estate contracts;
 - (d) Real estate finance;
 - (e) Real estate appraisal;
 - (f) Real estate closing;
 - (g) Real estate ethics;
 - (h) Condominiums and cooperatives;
 - (i) Real estate time-sharing;
 - (j) Real estate marketing principles;
 - (k) Real estate construction;
 - (l) Land development;
 - (m) Real estate energy concerns;
 - (n) Real estate geology;
 - (o) Water and waste management;
 - (p) Commercial real estate;
 - (q) Real estate securities and syndications;
 - (r) Property management;
 - (s) Real estate computer principles;
 - (t) Brokerage administration and management;
 - (u) Agency; and
 - (v) Any other subject matter as approved by the commission.

- (4) A licensee applying for renewal of a license that expires on December 31 of the year in which it was issued is not subject to the education requirements set forth in subsection (1) of this section.
- (5) The commission shall promulgate rules to implement this section.

§ 12-10-214, C.R.S. Disposition of fees.

Editor's note: This section is similar to former §12-61-111 as it existed prior to 2019.

All fees collected by the commission under parts 2 and 5 of this article 10, not including administrative fees that are in the nature of an administrative fine and fees retained by contractors pursuant to contracts entered into in accordance with section 12-10-203 or 24-34-101, shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund. Pursuant to section 12-10-215, the general assembly shall make annual appropriations from the fund for expenditures of the commission incurred in the performance of its duties under parts 2 and 5 of this article 10. The commission may request an appropriation specifically designated for educational and enforcement purposes. The expenditures incurred by the commission under parts 2 and 5 of this article 10 shall be made out of the appropriations upon vouchers and warrants drawn pursuant to law.

§ 12-10-215, C.R.S. Fee adjustments – cash fund created.

Editor's note: This section is similar to former §12-61-111.5 as it existed prior to 2019.

- (1) This section applies to all activities of the division under parts 2, 5, 6, and 7 of this article 10.
- (2) (a) (I) The division shall propose, as part of its annual budget request, an adjustment in the amount of each fee that it is authorized by law to collect under parts 2, 5, 6, and 7 of this article 10. The budget request and the adjusted fees for the division must reflect direct and indirect costs.
 - (II) The costs of the HOA information and resource center, created in section 12-10-801, shall be paid from the division of real estate cash fund created in this section. The division shall estimate the direct and indirect costs of operating the HOA information and resource center and shall establish the amount of the annual registration fee to be collected under section 38-33.3-401. The amount of the registration fee shall be sufficient to recover these costs, subject to a maximum limit of fifty dollars.
- (b) Based upon the appropriation made and subject to the approval of the executive director, the division shall adjust its fees so that the revenue generated from the fees approximates its direct and indirect costs incurred in administering the programs and activities from which the fees are derived. The fees shall remain in effect for the fiscal year for which the budget request applies. All fees collected by the division, not including fees retained by contractors pursuant to contracts entered into in accordance with section 12-10-203 or 24-34-101, shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund, which fund is hereby created. All money credited to the division of real estate cash fund shall be used as provided in this section or in section 12-10-214 and shall not be deposited in or transferred to the general fund of this state or any other fund.
- (c) Beginning July 1, 1979, and each July 1 thereafter, whenever money appropriated to the division for its activities for the prior fiscal year is unexpended, the money shall be made a part of the appropriation to the division for the next fiscal year, and the amount shall not be raised from fees collected by the division. If a supplemental appropriation is made to the division for its activities, its fees, when adjusted for the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount that is sufficient to compensate for the supplemental appropriation. Funds appropriated to the division in the annual long appropriations bill shall be designated as a

cash fund and shall not exceed the amount anticipated to be raised from fees collected by the division.

§ 12-10-216, C.R.S. Records – evidence – inspection.

Editor's note: This section is similar to former §12-61-112 as it existed prior to 2019.

- (1) The executive director shall adopt a seal by which all proceedings authorized under parts 2 and 5 of this article 10 shall be authenticated. Copies of records and papers in the office of the commission or department relating to the administration of parts 2 and 5 of this article 10, when duly certified and authenticated by the seal, shall be received as evidence in all courts equally and with like effect as the originals. All records kept in the office of the commission or department, under authority of parts 2 and 5 of this article 10, must be open to public inspection at such time and in such manner as may be prescribed by rules formulated by the commission.
- (2) The commission shall not be required to maintain or preserve licensing history records of any person licensed under the provisions of this part 2 for any period of time longer than seven years.

§ 12-10-217, C.R.S. Investigation – revocation – actions against licensee or applicant – definition.

Editor's note: This section is similar to former §12-61-113 as it existed prior to 2019.

- (1) The commission, upon its own motion, may, and, upon the complaint in writing of any person, shall, investigate the activities of any licensee or any person who assumes to act in the capacity of a licensee within the state, and the commission, after holding a hearing pursuant to section 12-10-219, has the power to impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense and to censure a licensee, to place the licensee on probation and to set the terms of probation, or to temporarily suspend a license, or permanently revoke a license, when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:
 - (a) Knowingly making any misrepresentation or knowingly making use of any false or misleading advertising;
 - (b) Making any promise of a character that influences, persuades, or induces another person when he or she could not or did not intend to keep the promise;
 - (c) Knowingly misrepresenting or making false promises through agents, advertising, or otherwise;
 - (d) Violating any provision of the “Colorado Consumer Protection Act”, article 1 of title 6;
 - (e) Acting for more than one party in a transaction without the knowledge of all parties thereto;
 - (f) Representing or attempting to represent a real estate broker other than the licensee’s employer without the express knowledge and consent of that employer;
 - (g) In the case of a broker registered as in the employ of another broker, failing to place, as soon after receipt as is practicably possible, in the custody of that licensed broker-employer any deposit money or other money or fund entrusted to the employee by any person dealing with the employee as the representative of that licensed broker-employer;
 - (h) Failing to account for or to remit, within a reasonable time, any money coming into the licensee’s possession that belongs to others, whether acting as real estate brokers or otherwise, and failing to keep records relative to the money, which records shall contain such information as may be prescribed by the rules of the commission relative thereto and shall be subject to audit by the commission;
 - (i) Converting funds of others, diverting funds of others without proper authorization, commingling funds of others with the broker’s own funds, or failing to keep the funds of others in an escrow or a trustee account with some bank or recognized depository in this

state, which account may be any type of checking, demand, passbook, or statement account insured by an agency of the United States government, and to keep records relative to the deposit that contain such information as may be prescribed by the rules of the commission relative thereto, which records shall be subject to audit by the commission;

- (j) Failing to provide the purchaser and seller of real estate with a closing statement of the transaction, containing such information as may be prescribed by the rules of the commission or failing to provide a signed duplicate copy of the listing contract and the contract of sale or the preliminary agreement to sell to the parties thereto;
- (k) Failing to maintain possession, for future use or inspection by an authorized representative of the commission, for a period of four years, of the documents or records prescribed by the rules of the commission or to produce the documents or records upon reasonable request by the commission or by an authorized representative of the commission;
- (l) Paying a commission or valuable consideration for performing any of the functions of a real estate broker, as described in this part 2, to any person not licensed under this part 2; except that a licensed broker may pay a finder's fee or a share of any commission on a cooperative sale when the payment is made to a real estate broker licensed in another state or country. If a country does not license real estate brokers, then the payee must be a citizen or resident of the country and represent that the payee is in the business of selling real estate in the country.
- (m) Disregarding or violating any provision of this part 2 or part 4 of this article 10, violating any reasonable rule promulgated by the commission in the interests of the public and in conformance with the provisions of this part 2 or part 4 of this article 10; violating any lawful commission orders; or aiding and abetting a violation of any rule, commission order, or provision of this part 2 or part 4 of this article 10;
- (n) (I) Conviction of, entering a plea of guilty to, or entering a plea of nolo contendere to any crime in article 3 of title 18; parts 1, 2, 3, and 4 of article 4 of title 18; part 1, 2, 3, 4, 5, 7, 8, or 9 of article 5 of title 18; article 5.5 of title 18; parts 3, 4, 6, 7, and 8 of article 6 of title 18; parts 1, 3, 4, 5, 6, 7, and 8 of article 7 of title 18; part 3 of article 8 of title 18; article 15 of title 18; article 17 of title 18; section 18-18-404, 18-18-405, 18-18-406, 18-18-411, 18-18-412.5, 18-18-412.7, 18-18-412.8, 18-18-415, 18-18-416, 18-18-422, or 18-18-423; or any other like crime under Colorado law, federal law, or the laws of other states. A certified copy of the judgment of a court of competent jurisdiction of the conviction or other official record indicating that the plea was entered shall be conclusive evidence of the conviction or plea in any hearing under this part 2.
(II) As used in this subsection (1)(n), "conviction" includes the imposition of a deferred judgment or deferred sentence.

(Editor's note: The numbered articles in Title 18 of Colorado Revised Statute shown in this Part "n" refer to the following types of crimes:

Article 3 is titled Offenses Against the Person and consists of six parts: homicide and related offenses, assaults, kidnapping, unlawful sexual behavior, human trafficking and slavery, and stalking.

Article 4 deals with offenses against property, under which part 1 is arson, part 2 is burglary and related offenses, part 3 is robbery, and part 4 is theft.

Article 5 consists of offenses involving fraud, including part 1 – forgery, simulation, impersonation, and related offenses (obtaining a signature by deception, offering a false instrument for recording, et al.), part 2 – fraud in obtaining property or services (dual contracts), part 3 – fraudulent and deceptive sales and business practices (unlawful activity concerning the sale of land), part 4 – bribery and rigging of contests, part 5 –

offenses relating to the uniform commercial code, part 7 – financial transaction device crime act (ATM's, et al), part 8 – equity skimming and related offenses, and part 9 – identity theft and related offenses.

*Article 5.5 consists of **computer crime offenses**.*

*Article 6 consists of **offenses involving family relations**.*

*Article 7 consists of **offenses relating to morals**.*

*Article 8 – part 3 refers to **governmental operations**, specifically bribery and corrupt influences.*

*Article 15 deals with making, financing, or collection of **loans**.*

*Article 17 is the Colorado **Organized Crime Control Act**.*

*Article 18 is the Uniform Controlled Substances Act, and part 4 deals with **offenses and penalties**.)*

- (o) Violating or aiding and abetting in the violation of the Colorado or federal fair housing laws;
- (p) Failing to immediately notify the commission in writing of a conviction, plea, or violation pursuant to subsection (1)(n) or (1)(o) of this section;
- (q) Having demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public;
- (r) In the case of a broker licensee, failing to exercise reasonable supervision over the activities of licensed employees;
- (s) Procuring, or attempting to procure, a real estate broker's license or renewing, reinstating, or reactivating, or attempting to renew, reinstate, or reactivate, a real estate broker's license by fraud, misrepresentation, or deceit or by making a material misstatement of fact in an application for the license;
- (t) Claiming, arranging for, or taking any secret or undisclosed amount of compensation, commission, or profit or failing to reveal to the licensee's principal or employer the full amount of the licensee's compensation, commission, or profit in connection with any acts for which a license is required under this part 2;
- (u) Using any provision allowing the licensee an option to purchase in any agreement authorizing or employing the licensee to sell, buy, or exchange real estate for compensation or commission, except when the licensee, prior to or coincident with election to exercise the option to purchase, reveals in writing to the licensee's principal or employer the full amount of the licensee's profit and obtains the written consent of the principal or employer approving the amount of the profit;
- (v) Effective on and after August 26, 2013, fraud, misrepresentation, deceit, or conversion of trust funds that results in the entry of a civil judgment for damages;
- (w) Any other conduct, whether of the same or a different character than specified in this subsection (1), that constitutes dishonest dealing;
- (x) Having had a real estate broker's or a subdivision developer's license suspended or revoked in any jurisdiction, or having had any disciplinary action taken against the broker or subdivision developer in any other jurisdiction if the broker's or subdivision developer's action would constitute a violation of this subsection (1). A certified copy of the order of disciplinary action shall be prima facie evidence of the disciplinary action.
- (y) Failing to keep records documenting proof of completion of the continuing education requirements in accordance with section 12-10-213 for a period of four years from the date of compliance with the section;
- (z) (I) Violating any provision of section 12-10-218.

Chapter 1: Real Estate Broker License Law

- (II) In addition to any other remedies available to the commission pursuant to this article 10, after notice and a hearing pursuant to section 24-4-105, the commission may assess a penalty for a violation of section 12-10-218 or of any rule promulgated pursuant to section 12-10-218. The penalty shall be the amount of remuneration improperly paid and shall be transmitted to the state treasurer and credited to the general fund.
- (aa) Within the last five years, having a license, registration, or certification issued by Colorado or another state revoked or suspended for fraud, deceit, material misrepresentation, theft, or the breach of a fiduciary duty, and such discipline denied the person authorization to practice as:
- (I) A mortgage broker or mortgage loan originator;
 - (II) A real estate broker or salesperson;
 - (III) A real estate appraiser, as defined by section 12-10-602 (9);
 - (IV) An insurance producer, as defined by section 10-2-103 (6);
 - (V) An attorney;
 - (VI) A securities broker-dealer, as defined by section 11-51-201 (2);
 - (VII) A securities sales representative, as defined by section 11-51-201 (14);
 - (VIII) An investment advisor, as defined by section 11-51-201 (9.5); or
 - (IX) An investment advisor representative, as defined by section 11-51-201 (9.6).
- (2) Every person licensed pursuant to section 12-10-201 (6)(a)(X) shall give a prospective tenant a contract or receipt; and the contract or receipt shall include the address and telephone number of the commission in prominent letters and shall state that the regulation of rental location agents is under the purview of the commission.
- (3) In the event a firm, partnership, limited liability company, association, or corporation operating under the license of a broker designated and licensed as representative of the firm, partnership, limited liability company, association, or corporation is guilty of any of the foregoing acts, the commission may suspend or revoke the right of the firm, partnership, limited liability company, association, or corporation to conduct its business under the license of the broker, whether or not the designated broker had personal knowledge thereof and whether or not the commission suspends or revokes the individual license of the broker.
- (4) Upon request of the commission, when any real estate broker is a party to any suit or proceeding, either civil or criminal, arising out of any transaction involving the sale or exchange of any interest in real property or out of any transaction involving a leasehold interest in the real property and when the broker is involved in the transaction in such capacity as a licensed broker, it shall be the duty of the broker to supply to the commission a copy of the complaint, indictment, information, or other initiating pleading and the answer filed, if any, and to advise the commission of the disposition of the case and of the nature and amount of any judgment, verdict, finding, or sentence that may be made, entered, or imposed therein.
- (5) This part 2 shall not be construed to relieve any person from civil liability or criminal prosecution under the laws of this state.
- (6) Complaints of record in the office of the commission and commission investigations, including commission investigative files, are closed to public inspection. Stipulations and final agency orders are public records subject to sections 24-72-203 and 24-72-204.
- (7) When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the commission, does not warrant formal action by the commission but that should not be dismissed as being without merit, the commission may send a letter of admonition by certified mail, return receipt requested, to the licensee against whom a complaint was made and a copy thereof to the person making the complaint, but the letter shall advise the licensee that the licensee

has the right to request in writing, within twenty days after proven receipt, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based. If the request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal disciplinary proceedings.

- (8) All administrative fines collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund.
- (9) Any application for licensure from a person whose license has been revoked shall not be considered until the passage of one year from the date of revocation.
- (10) When the division becomes aware of facts or circumstances that fall within the jurisdiction of a criminal justice or other law enforcement authority upon investigation of the activities of a licensee, the division shall, in addition to the exercise of its authority under this part 2, refer and transmit the information, which may include originals or copies of documents and materials, to one or more criminal justice or other law enforcement authorities for investigation and prosecution as authorized by law.

§ 12-10-218, C.R.S. *Affiliated business arrangements – definitions – disclosures – enforcement and penalties – reporting – rules – investigation information shared with the division of insurance.*

Editor's note: This section is similar to former §12-61-113.2 as it existed prior to 2019.

- (1) As used in this section, unless the context otherwise requires:
 - (a) “Affiliated business arrangement” means an arrangement in which:
 - (I) A provider of settlement services or an associate of a provider of settlement services has either an affiliate relationship with or a direct beneficial ownership interest of more than one percent in another provider of settlement services; and
 - (II) A provider of settlement services or the associate of a provider directly or indirectly refers settlement service business to another provider of settlement services or affirmatively influences the selection of another provider of settlement services.
 - (b) “Associate” means a person who has one or more of the following relationships with a person in a position to refer settlement service business:
 - (I) A spouse, parent, or child of the person;
 - (II) A corporation or business entity that controls, is controlled by, or is under common control with the person;
 - (III) An employer, officer, director, partner, franchiser, or franchisee of the person, including a broker acting as an independent contractor; or
 - (IV) Anyone who has an agreement, arrangement, or understanding with the person, the purpose or substantial effect of which is to enable the person in a position to refer settlement service business to benefit financially from referrals of the business.
 - (c) “Settlement service” means any service provided in connection with a real estate settlement including, but not limited to, the following:
 - (I) Title searches;
 - (II) Title examinations;
 - (III) The provision of title certificates;
 - (IV) Title insurance;
 - (V) Services rendered by an attorney;
 - (VI) The preparation of title documents;
 - (VII) Property surveys;

Chapter 1: Real Estate Broker License Law

- (VIII) The rendering of credit reports or appraisals;
 - (IX) Real estate appraisal services;
 - (X) Home inspection services;
 - (XI) Services rendered by a real estate broker;
 - (XII) Pest and fungus inspections;
 - (XIII) The origination of a loan;
 - (XIV) The taking of a loan application;
 - (XV) The processing of a loan;
 - (XVI) Underwriting and funding of a loan;
 - (XVII) Escrow handling services;
 - (XVIII) The handling of the processing; and
 - (XIX) Closing of settlement.
- (2) (a) An affiliated business arrangement is permitted where the person referring business to the affiliated business arrangement receives payment only in the form of a return on an investment and where it does not violate the provisions of section 12-10-217.
- (b) If a licensee or the employing broker of a licensee is part of an affiliated business arrangement when an offer to purchase real property is fully executed, the licensee shall disclose to all parties to the real estate transaction the existence of the arrangement. The disclosure shall be written, shall be signed by all parties to the real estate transaction, and shall comply with the federal "Real Estate Settlement Procedures Act of 1974", as amended, 12 U.S.C. sec. 2601 et seq.
- (c) A licensee shall not require the use of an affiliated business arrangement or a particular provider of settlement services as a condition of obtaining services from that licensee for any settlement service. For the purposes of this subsection (2)(c), "require the use" shall have the same meaning as "required use" in 24 CFR 3500.2 (b).
- (d) No licensee shall give or accept any fee, kickback, or other thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or part of a settlement service involving an affiliated business arrangement shall be referred to any provider of settlement services.
- (e) Nothing in this section shall be construed to prohibit payment of a fee to:
- (I) An attorney for services actually rendered;
 - (II) A title insurance company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance;
 - (III) A lender to its duly appointed agent for services actually performed in the making of a loan.
- (f) Nothing in this section shall be construed to prohibit payment to any person of:
- (I) A bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed;
 - (II) A fee pursuant to cooperative brokerage and referral arrangements or agreements between real estate brokers.
- (g) It shall not be a violation of this section for an affiliated business arrangement:
- (I) To require a buyer, borrower, or seller to pay for the services of any attorney, credit reporting agency, or real estate appraiser chosen by the lender to represent the lender's interest in a real estate transaction; or
 - (II) If an attorney or law firm represents a client in a real estate transaction and issues or arranges for the issuance of a policy of title insurance in the transaction directly as

agent or through a separate corporate title insurance agency that may be established by that attorney or law firm and operated as an adjunct to his or her law practice.

- (h) No person shall be liable for a violation of this section if the person proves by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding maintenance of procedures that are reasonably adopted to avoid the error.
- (3) On and after July 1, 2006, a licensee shall disclose at the time the licensee enters into or changes an affiliated business arrangement, in a form and manner acceptable to the commission, the names of all affiliated business arrangements to which the licensee is a party. The disclosure shall include the physical locations of the affiliated businesses.
- (4) On and after July 1, 2006, an employing broker, in a form and manner acceptable to the commission, shall at least annually disclose the names of all affiliated business arrangements to which the employing broker is a party. The disclosure shall include the physical locations of the affiliated businesses.
- (5) The commission may promulgate rules concerning the creation and conduct of an affiliated business arrangement, including, but not limited to, rules defining what constitutes a sham affiliated business arrangement. The commission shall adopt the rules, policies, or guidelines issued by the United States department of housing and urban development concerning the federal “Real Estate Settlement Procedures Act of 1974”, as amended, 12 U.S.C. sec. 2601 et seq. Rules adopted by the commission shall be at least as stringent as the federal rules and shall ensure that consumers are adequately informed about affiliated business arrangements. The commission shall consult with the insurance commissioner pursuant to section 10-11-124 (2), concerning rules, policies, or guidelines the insurance commissioner adopts concerning affiliated business arrangements. Neither the rules promulgated by the insurance commissioner nor the commission may create a conflicting regulatory burden on an affiliated business arrangement.
- (6) The division of real estate may share information gathered during an investigation of an affiliated business arrangement with the division of insurance.

§ 12-10-219, C.R.S. Hearing – administrative law judge – review – rules.

Editor’s note: This section is similar to former §12-61-114 as it existed prior to 2019.

- (1) Except as otherwise provided in this section, all proceedings before the commission with respect to disciplinary actions and denial of licensure under this part 2 and part 4 of this article 10 and certifications issued under part 5 of this article 10 shall be conducted by an administrative law judge pursuant to the provisions of sections 24-4-104 and 24-4-105.
- (2) The proceedings shall be held in the county where the commission has its office or in such other place as the commission may designate. If the licensee is an employed broker, the commission shall also notify the broker employing the licensee by mailing, by first-class mail, a copy of the written notice required under section 24-4-104 (3) to the employing broker’s last-known business address.
- (3) An administrative law judge shall conduct all hearings for denying, suspending, or revoking a license or certificate on behalf of the commission, subject to appropriations made to the department of personnel. Each administrative law judge shall be appointed pursuant to part 10 of article 30 of title 24. The administrative law judge shall conduct the hearing pursuant to the provisions of sections 24-4-104 and 24-4-105. No license shall be denied, suspended, or revoked until the commission has made its decision by a majority vote.
- (4) The decision of the commission in any disciplinary action or denial of licensure under this section is subject to review by the court of appeals by appropriate proceedings under section 24-4-106 (11). In order to effectuate the purposes of parts 2, 4, and 5 of this article 10, the commission has

the power to promulgate rules pursuant to article 4 of title 24. The commission may appear in court by its own attorney.

- (5) Pursuant to the proceeding, the court has the right, in its discretion, to stay the execution or effect of any final order of the commission; but a hearing shall be held affording the parties an opportunity to be heard for the purpose of determining whether the public health, safety, and welfare would be endangered by staying the commission's order. If the court determines that the order should be stayed, it shall also determine at the hearing the amount of the bond and adequacy of the surety, which bond shall be conditioned upon the faithful performance by the petitioner of all obligations as a real estate broker and upon the prompt payment of all damages arising from or caused by the delay in the taking effect of or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with the proceedings.
- (6) In any hearing conducted by the commission in which there is a possibility of the denial, suspension, or revocation of a license because of the conviction of a felony or of a crime involving moral turpitude, the commission shall be governed by the provisions of section 24-5-101.

§ 12-10-220, C.R.S. Rules.

Editor's note: This section is similar to former §12-61-114.5 as it existed prior to 2019.

All rules adopted or amended by the commission are subject to sections 24-4-103 (8)(c) and (8)(d) and 24-34-104 (6)(b).

§ 12-10-220.5, C.R.S. Radion disclosure – rules.

Editor's note: (2023) Section 7(2) of chapter 356 (SB 23-206), Session Laws of Colorado 2023, provides that the act adding this section applies to contracts and lease agreements entered into on or after August 7, 2023.

The commission shall promulgate rules to implement section 38-35.7-112 (2)(c).

§ 12-10-221, C.R.S. Broker remuneration.

Editor's note: This section is similar to former §12-61-117 as it existed prior to 2019.

It is unlawful for a real estate broker registered in the commission office as in the employ of another broker to accept a commission or valuable consideration for the performance of any of the acts specified in this part 2 from any person except the broker's employer, who shall be a licensed real estate broker.

§ 12-10-222, C.R.S. Acts of third parties – broker's liability.

Editor's note: This section is similar to former §12-61-118 as it existed prior to 2019.

Any unlawful act or violation of any of the provisions of this part 2 upon the part of an employee, officer, or member of a licensed real estate broker shall not be cause for disciplinary action against a real estate broker, unless it appears to the satisfaction of the commission that the real estate broker had actual knowledge of the unlawful act or violation or had been negligent in the supervision of employees.

§ 12-10-223, C.R.S. Violations.

Editor's note: (1) This section is similar to former §12-61-119 as it existed prior to 2019.

Any natural person, firm, partnership, limited liability company, association, or corporation violating the provisions of this part 2 by acting as real estate broker in this state without having obtained a license or by acting as real estate broker after the broker's license has been revoked or during any period for which the license may have been suspended commits a class 2 misdemeanor.

§ 12-10-224, C.R.S. Subpoena compelling attendance of witnesses and production of records and documents.

Editor's note: This section is similar to former §12-61-120 as it existed prior to 2019.

The commission, the director, or the administrative law judge appointed for hearings may issue a subpoena compelling the attendance and testimony of witnesses and the production of books, papers, or records pursuant to an investigation or hearing of the commission. The subpoenas shall be served in the same manner as subpoenas issued by district courts and shall be issued without discrimination between public or private parties requiring the attendance of witnesses and the production of documents at hearings. If a person fails or refuses to obey a subpoena issued by the commission, the director, or the appointed administrative law judge, the commission may petition the district court having jurisdiction for issuance of a subpoena in the premises, and the court shall, in a proper case, issue its subpoena. Any person who refuses to obey a subpoena shall be punished as provided in section 12-10-225.

§ 12-10-225, C.R.S. Failure to obey subpoena – penalty.

Editor's note: This section is similar to former §12-61-121 as it existed prior to 2019.

(2) Effective March 1, 2022, this entire section was amended.

Any person who willfully fails or neglects to appear and testify or to produce books, papers, or records required by subpoena, duly served upon him or her in any matter conducted under parts 2 and 5 of this article 10 commits a petty offense. Each day a person so refuses or neglects constitutes a separate offense.

§ 12-10-226, C.R.S. Powers of commission – injunctions.

Editor's note: This section is similar to former §12-61-122 as it existed prior to 2019.

The commission may apply to a court of competent jurisdiction for an order enjoining any act or practice that constitutes a violation of parts 2 and 5 of this article 10, and, upon a showing that a person is engaging or intends to engage in any such act or practice, an injunction, restraining order, or other appropriate order shall be granted by the court regardless of the existence of another remedy therefor. Any notice, hearing, or duration of any injunction or restraining order shall be made in accordance with the provisions of the Colorado rules of civil procedure.

§ 12-10-226.3, C.R.S. HOA homeowners' rights task force – creation – membership – duties – reporting – definitions – repeal.

- (1) As used in this section and in section 12-10-226.5, unless the context otherwise requires:
 - (a) "Common interest community" has the meaning set forth in section 38-33.3-103 (8).
 - (b) "Developer" means any person that owns a subdivision or is a designee of the owner of a subdivision.
 - (c) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b).
 - (d) "Executive board" has the meaning set forth in section 38-33.3-103 (16).
 - (e) "HOA homeowner" means a unit owner as defined in section 38-33.3-103 (31).
 - (f) "Homeowners' association" or "association" means an association as defined in section 38-33.3-103 (3).
 - (g) "Subdivision" has the meaning set forth in section 12-10-501 (3)(a).
 - (h) "Task force" means the HOA homeowners' rights task force created in subsection (2) of this section.

Chapter 1: Real Estate Broker License Law

(2) The HOA homeowners' rights task force is created in the department of regulatory agencies, created in section 24-34-101 (1)(a), to examine issues confronting communities that are governed by the executive board of an association.

(3) (a) The HOA homeowners' rights task force consists of the following:

- (I) Ex officio members:
 - (A) The director of the division of real estate created in section 12-10-207 (1) or the director's designee;
 - (B) The state director of the division of housing in the department of local affairs appointed pursuant to section 24-32-704 (1) or the state director's designee; and
 - (C) The HOA information officer appointed pursuant to section 12-10-801 (1);
- (II) Members appointed by the speaker of the house of representatives, in consultation with the chairs of the house of representatives transportation, housing, and local government committee and the senate local government and housing committee:
 - (A) Two HOA homeowners in the state, at least one of whom resides in a common interest community located in a disproportionately impacted community and at least one of whom serves on the executive board of the HOA homeowner's HOA;
 - (B) A representative of an organization that advocates for HOA homeowners in the state;
 - (C) An attorney licensed in the state who primarily represents homeowners in legal proceedings against common interest communities;
 - (D) A member of the house of representatives; and
 - (E) A member of the senate; and
- (III) Members appointed by the governor:
 - (A) An attorney licensed in the state who specializes in common interest community law;
 - (B) A representative of a developer registered pursuant to section 12-10-503 (1); and
 - (C) An accredited community association manager.
- (b) (I) Members of the task force shall be designated or appointed to the task force pursuant to subsection (3)(a) of this section on or before August 1, 2023.
- (II) Members appointed to the task force serve at the pleasure of the appointing authorities. The appointing authorities may appoint a new member to the task force to replace a member who can no longer serve on the task force.
- (III) (A) Except as provided in subsection (3)(b)(III)(B) of this section, members of the task force serve without compensation.
- (B) Legislative members appointed to the task force pursuant to subsections (3)(a)(II)(D) and (3)(a)(II)(E) of this section are compensated pursuant to section 2-2-307.
- (IV) The task force shall meet as early as practicable after all members have been designated or appointed pursuant to subsection (3)(a) of this section. The director of the division of real estate or the director's designee serving on the task force is the chair of the task force. The chair shall convene as many meetings of the task force as the chair deems necessary.
- (V) An association shall notify its unit owners about the task force before the task force holds its first meeting.

- (c) (I) The task force shall examine issues confronting HOA homeowners' rights, including the following authority and practices of associations:
 - (A) Fining authority and practices;
 - (B) Foreclosure practices;
 - (C) Communications with HOA homeowners regarding association processes and HOA homeowners' rights and responsibilities; and
 - (D) For each association in a representative sample of associations in the state that the task force selects, the availability of and method of making available to HOA homeowners in the association: The declaration; covenants; bylaws; articles of incorporation if the association is a corporation or other organizational documents if the association is another type of entity; rules and regulations; responsible governance policies adopted pursuant to section 38-33.3-209.5; any other policies that the executive board of the HOA adopts; financial statements as described in section 7-136-106; the most recent reserve study, if the association has conducted a reserve study; and records of the executive board's actions related to collections activity or legal action taken against a unit owner.
 - (II) The task force shall also review HOA homeowners' complaints, as reported to the HOA information and resource center created in section 12-10-801 (1) or to homeowners' advocacy groups in the state.
 - (III) As part of the task force's examination, the task force shall review:
 - (A) The "Colorado Common Interest Ownership Act", article 33.3 of title 38, and any other laws in the state regarding common interest communities;
 - (B) Other states' laws regarding common interest communities; and
 - (C) The uniform common interest ownership act of 2021, as promulgated by the national conference of commissioners on uniform state laws.
 - (IV) The executive board of an association shall cooperate with any request from the task force for information regarding the association, including any request for the association's governing documents, financial statements, reserve studies, or records related to collections activity or legal actions. An association submitting documentation to the task force shall remove all personal identifying information from the documentation before submitting it. The task force may only report on information received from an association in a manner that protects against the publication of any personal identifying information of HOA homeowners.
- (4) The task force may seek and assign members of the public to serve on an advisory committee to assist the task force in its work.
 - (5) (a) On or before the second meeting of the task force, the task force shall determine the areas of focus for legislative recommendations for the 2024 legislative session as part of the task force's initial written findings and conclusions.
 - (b) On or before April 15, 2024, the task force shall prepare a final report of its findings and conclusions regarding matters the task force examines pursuant to subsection (3)(c) of this section.
 - (c) The department shall publish the task force's initial findings and conclusions, including the legislative recommendations, and final report on the department's website and submit copies of the findings and conclusions and the final report to:
 - (I) The metropolitan district homeowners' rights task force created in section 12-10-226.5 (1)(a);

- (II) The house of representatives transportation, housing, and local government committee and the senate local government and housing committee, or their successor committees; and
 - (III) The governor.
- (6) This section is repealed, effective September 1, 2024.

§ 12-10-226.5, C.R.S. Metropolitan district homeowners' rights task force – creation – membership – duties – reporting – definitions – repeal.

- (1) (a) The metropolitan district homeowners' rights task force is created in the department of regulatory agencies, created in section 24-34-101 (1)(a), to examine issues confronting communities that are governed by the board of a metropolitan district.
 - (b) (I) As used in this section, "metropolitan district" means a special district that is operated in compliance with section 32-1-1004 and created to finance infrastructure to support a housing subdivision.
 - (II) Definitions set forth in section 12-10-226.3 (1) also apply to the terms as they are used in this section.
- (2) (a) The metropolitan district homeowners' rights task force consists of the following:
- (I) Ex officio members:
 - (A) The state director of the division of housing in the department of local affairs appointed pursuant to section 24-32-704 (1) or the director's designee; and
 - (B) The director of the division of real estate created in section 12-10-207 (1) or the director's designee;
 - (II) Members appointed by the speaker of the house of representatives, in consultation with the chairs of the house of representatives transportation, housing, and local government committee and the senate local government and housing committee:
 - (A) Two homeowners residing in a metropolitan district in the state, at least one of whom resides in a metropolitan district located in a disproportionately impacted community and at least one of whom serves on the board of the metropolitan district in which the homeowner resides;
 - (B) An elected city council member, as recommended by a statewide organization that represents municipalities;
 - (C) An attorney licensed in the state who primarily represents homeowners in legal proceedings against metropolitan districts;
 - (D) A representative of a nonprofit organization that represents the affordable housing community;
 - (E) A member of the house of representatives; and
 - (F) A member of the senate; and
 - (III) Members appointed by the governor:
 - (A) An attorney licensed in the state who specializes in metropolitan district law, as recommended by a statewide organization that represents special districts;
 - (B) An elected county commissioner, as recommended by a statewide organization that represents counties;
 - (C) A representative of a developer registered pursuant to section 12-10-503 (1) that has one or more subdivisions located within a metropolitan district; and
 - (D) A representative recommended by a statewide nonprofit organization that represents metropolitan district education in a coalition.

- (b) (I) Members of the task force shall be designated or appointed to the task force pursuant to subsection (2)(a) of this section on or before November 1, 2023.
 - (II) Members appointed to the task force serve at the pleasure of the appointing authorities. The appointing authorities may appoint a new member to the task force to replace a member who can no longer serve on the task force.
 - (III) (A) Except as provided in subsection (2)(b)(III)(B) of this section, members of the task force serve without compensation.
 - (B) Legislative members appointed to the task force pursuant to subsections (2)(a)(II)(E) and (2)(a)(II)(F) of this section are compensated pursuant to section 2-2-307.
 - (IV) The task force shall meet as early as practicable after all members have been designated or appointed pursuant to subsection (2)(a) of this section. The director of the division of real estate or the director's designee serving on the task force is the chair of the task force. The chair shall convene as many meetings of the task force as the chair deems necessary.
 - (V) A metropolitan district shall notify its residents about the task force before the task force holds its first meeting.
 - (c) (I) The task force shall examine issues confronting metropolitan district homeowners' rights, including the following authority and practices of metropolitan district boards:
 - (A) Tax levying authority and practices;
 - (B) Foreclosure practices;
 - (C) Communications with homeowners regarding metropolitan district processes and homeowners' rights and responsibilities; and
 - (D) Governance policies, including voting and elections policies.
 - (II) The task force shall also examine the process by which a metropolitan district could transition from a metropolitan district that enforces covenants and collects assessments into a common interest community governed under article 33.3 of title 38.
 - (III) As part of the task force's examination, the task force shall review the recommendations and report of the HOA homeowners' rights task force, created in section 12-10-226.3 (2), to determine whether the findings and conclusions set forth in the recommendations and report apply to, and provide guidance for, the task force's own findings and conclusions regarding issues confronting metropolitan district homeowners' rights.
- (3) The task force may seek and assign members of the public to serve on an advisory committee to assist the task force in its work.
 - (4) On or before March 1, 2024, the task force shall prepare an interim report and on or before June 15, 2024, shall prepare a final report of its findings and conclusions regarding matters the task force examines pursuant to subsection (2)(c) of this section. The department of regulatory agencies shall publish the reports on its website and submit copies of the reports to:
 - (a) The house of representatives transportation, housing, and local government committee and the senate local government and housing committee, or their successor committees; and
 - (b) The governor.
 - (5) This section is repealed, effective September 1, 2024.

§ 12-10-227, C.R.S. Repeal of part – subject to review.

Editor's note: This section is similar to former §12-61-123 as it existed prior to 2019.

This part 2 is repealed, effective September 1, 2026. Before the repeal, the division, including the commission, is scheduled for review in accordance with section 24-34-104.

C. Part 3 – Brokers' Commissions

§ 12-10-301, C.R.S. When entitled to commission.

Editor's note: This section is similar to former §12-61-201 as it existed prior to 2019.

No real estate agent or broker is entitled to a commission for finding a purchaser who is ready, willing, and able to complete the purchase of real estate as proposed by the owner until the same is consummated or is defeated by the refusal or neglect of the owner to consummate the same as agreed upon.

§ 12-10-302, C.R.S. Objections on account of title.

Editor's note: This section is similar to former §12-61-202 as it existed prior to 2019.

No real estate agent or broker is entitled to a commission when a proposed purchaser fails or refuses to complete his or her contract of purchase because of defects in the title of the owner, unless the owner, within a reasonable time, has the defects corrected by legal proceedings or otherwise.

§ 12-10-303, C.R.S. When owner must perfect title.

Editor's note: This section is similar to former §12-61-203 as it existed prior to 2019.

The owner shall not be required to begin legal or other proceedings for the correction of a title until the agent or broker secures from the proposed purchaser an enforceable contract in writing, binding him or her to complete the purchase whenever the defects in the title are corrected.

§ 12-10-304, C.R.S. Referral fees – conformity with federal law required – remedies for violation – definitions.

Editor's note: This section is similar to former §12-61-203.5 as it existed prior to 2019.

- (1) A person licensed under part 2, 3, or 5 of this article 10 shall not pay or receive a referral fee except in accordance with the federal "Real Estate Settlement Procedures Act of 1974", as amended, 12 U.S.C. sec. 2601 et seq., and unless reasonable cause for payment of the referral fee exists. A reasonable cause for payment means:
 - (a) An actual introduction of business has been made;
 - (b) A contractual referral fee relationship exists; or
 - (c) A contractual cooperative brokerage relationship exists.
- (2)
 - (a) No person shall interfere with the brokerage relationship of a licensee.
 - (b) As used in this subsection (2):
 - (I) "Brokerage relationship" means a relationship entered into between a broker and a buyer, seller, landlord, or tenant under which the broker engages in any of the acts set forth in section 12-10-201 (6). A brokerage relationship is not established until a written brokerage agreement is entered into between the parties or is otherwise established by law.
 - (II) "Interfere with the brokerage relationship" means demanding a referral fee from a licensee without reasonable cause.

- (III) “Referral fee” means any fee paid by a licensee to any person or entity, other than a cooperative commission offered by a listing broker to a selling broker or vice versa.
- (3) Any person aggrieved by a violation of any provision of this section may bring a civil action in a court of competent jurisdiction. The prevailing party in any such action shall be entitled to actual damages and, in addition, the court may award an amount up to three times the amount of actual damages sustained as a result of any such violation plus reasonable attorney fees.

§ 12-10-305, C.R.S. Repeal of part – subject to review.

Editor’s note: This section is similar to former §12-61-204 as it existed prior to 2019.

This part 3 is repealed, effective September 1, 2026. Before the repeal, this part 3 is scheduled for review in accordance with section 24-34-104.

D. Part 4 – Brokerage Relationships

§ 12-10-401, C.R.S. Legislative declaration.

Editor’s note: This section is similar to former §12-61-801 as it existed prior to 2019.

- (1) The general assembly finds, determines, and declares that the public will best be served through a better understanding of the public’s legal and working relationships with real estate brokers and by being able to engage any such real estate broker on terms and under conditions that the public and the real estate broker find acceptable. This includes engaging a broker as a single agent or transaction-broker. Individual members of the public should not be exposed to liability for acts or omissions of real estate brokers that have not been approved, directed, or ratified by the individuals. Further, the public should be advised of the general duties, obligations, and responsibilities of the real estate broker they engage.
- (2) This part 4 is enacted to govern the relationships between real estate brokers and sellers, landlords, buyers, and tenants in real estate transactions.

§ 12-10-402, C.R.S. Definitions.

Editor’s note: This section is similar to former §12-61-802 as it existed prior to 2019.

As used in this part 4, unless the context otherwise requires:

- (1) “Broker” shall have the same meaning as set forth in section 12-10-201 (6), except as otherwise specified in this part 4.
- (2) “Customer” means a party to a real estate transaction with whom the broker has no brokerage relationship because the party has not engaged or employed a broker.
- (3) (a) “Designated broker” means an employing broker or employed broker who is designated in writing by an employing broker to serve as a single agent or transaction-broker for a seller, landlord, buyer, or tenant in a real estate transaction.
- (b) “Designated broker” does not include a real estate brokerage firm that consists of only one licensed natural person.
- (4) “Dual agent” means a broker who, with the written informed consent of all parties to a contemplated real estate transaction, is engaged as a limited agent for both the seller and buyer or both the landlord and tenant.
- (5) “Limited agent” means an agent whose duties and obligations to a principal are only those set forth in section 12-10-404 or 12-10-405, with any additional duties and obligations agreed to pursuant to section 12-10-403 (5).
- (6) “Single agent” means a broker who is engaged by and represents only one party in a real estate transaction. A single agent includes the following:

- (a) “Buyer’s agent”, which means a broker who is engaged by and represents the buyer in a real estate transaction;
 - (b) “Landlord’s agent”, which means a broker who is engaged by and represents the landlord in a leasing transaction;
 - (c) “Seller’s agent”, which means a broker who is engaged by and represents the seller in a real estate transaction; and
 - (d) “Tenant’s agent”, which means a broker who is engaged by and represents the tenant in a leasing transaction.
- (7) “Subagent” means a broker engaged to act for another broker in performing brokerage tasks for a principal. The subagent owes the same obligations and responsibilities to the principal as does the principal’s broker.
- (8) “Transaction-broker” means a broker who assists one or more parties throughout a contemplated real estate transaction with communication, interposition, advisement, negotiation, contract terms, and the closing of the real estate transaction without being an agent or advocate for the interests of any party to the transaction. Upon agreement in writing pursuant to section 12-10-403 (2) or a written disclosure pursuant to section 12-10-408 (2)(c), a transaction-broker may become a single agent.

§ 12-10-403, C.R.S. Relationships between brokers and the public – definition – rules.

Editor’s note: This section is similar to former §12-61-803 as it existed prior to 2019.

- (1) When engaged in any of the activities enumerated in section 12-10-201 (6), a broker may act in any transaction as a single agent or transaction-broker. The broker’s general duties and obligations arising from that relationship shall be disclosed to the seller and the buyer or to the landlord and the tenant pursuant to section 12-10-408.
- (2) A broker shall be considered a transaction-broker unless a single agency relationship is established through a written agreement between the broker and the party or parties to be represented by the broker.
- (3) A broker may work with a single party in separate transactions pursuant to different relationships including, but not limited to, selling one property as a seller’s agent and working with that seller in buying another property as a transaction-broker or buyer’s agent, but only if the broker complies with this part 4 in establishing the relationships for each transaction.
- (4) (a) A broker licensed pursuant to part 2 of this article 10, whether acting as a single agent or transaction-broker, may complete standard forms for use in a real estate transaction, including standard forms intended to convey personal property as part of the real estate transaction, when a broker is performing the activities enumerated or referred to in section 12-10-201 (6) in the transaction.
- (b) As used in this subsection (4), “standard form” means:
 - (I) A form promulgated by the real estate commission for current use by brokers, also referred to in this section as a “commission-approved form”;
 - (II) A form drafted by a licensed Colorado attorney representing the broker, employing broker, or brokerage firm, so long as the name of the attorney or law firm and the name of the broker, employing broker, or brokerage firm for whom the form is prepared are included on the form itself;
 - (III) A form provided by a party to the transaction if the broker is acting in the transaction as either a transaction-broker or as a single agent for the party providing the form to the broker, so long as the broker retains written confirmation that the form was provided by a party to the transaction;

- (IV) A form prescribed by a governmental agency, a quasi-governmental agency, or a lender regulated by state or federal law, if use of the form is mandated by the agency or lender;
 - (V) A form issued with the written approval of the Colorado Bar Association or its successor organization and specifically designated for use by brokers in Colorado, so long as the form is used within any guidelines or conditions specified by the Colorado Bar Association or successor organization in connection with the use of the form;
 - (VI) A form used for disclosure purposes only, if the disclosure does not purport to waive or create any legal rights or obligations affecting any party to the transaction and if the form provides only information concerning either:
 - (A) The real estate involved in the transaction specifically; or
 - (B) The geographic area in which the real estate is located generally;
 - (VII) A form prescribed by a title company that is providing closing services in a transaction for which the broker is acting either as a transaction-broker or as a single agent for a party to the transaction; or
 - (VIII) A letter of intent created or prepared by a broker, employing broker, or brokerage firm, so long as the letter of intent states on its face that it is nonbinding and creates no legal rights or obligations.
- (c) A broker shall use a commission-approved form when such a form exists and is appropriate for the transaction. A broker's use of any standard form described in subsection (4)(b)(III) or (4)(b)(IV) of this section must be limited to inserting transaction-specific information within the form. In using standard forms described in subsection (4)(b)(II), (4)(b)(V), (4)(b)(VI), (4)(b)(VII), or (4)(b)(VIII) of this section, the broker may also advise the parties as to effects thereof, and the broker's use of those standard forms must be appropriate for the transaction and the circumstances in which they are used. In any transaction described in this subsection (4), the broker shall advise the parties that the forms have important legal consequences and that the parties should consult legal counsel before signing the forms.
- (5) Nothing contained in this section shall prohibit the public from entering into written contracts with any broker that contain duties, obligations, or responsibilities that are in addition to those specified in this part 4.
- (6) (a) If a real estate brokerage firm has more than one licensed natural person, the employing broker or an individual broker employed or engaged by that employing broker shall be designated to work with the seller, landlord, buyer, or tenant as a designated broker. The employing broker may designate more than one of its individual brokers to work with a seller, landlord, buyer, or tenant.
- (b) The brokerage relationship established between the seller, landlord, buyer, or tenant and a designated broker, including the duties, obligations, and responsibilities of that relationship, shall not extend to the employing broker nor to any other broker employed or engaged by that employing broker who has not been so designated and shall not extend to the firm, partnership, limited liability company, association, corporation, or other entity that employs the broker.
- (c) A real estate broker may have designated brokers working as single agents for a seller or landlord and a buyer or tenant in the same real estate transaction without creating dual agency for the employing real estate broker, or any broker employed or engaged by that employing real estate broker.
- (d) An individual broker may be designated to work for both a seller or landlord and a buyer or tenant in the same transaction as a transaction-broker for both, as a single agent for the seller or landlord treating the buyer or tenant as a customer, or as a single agent for a buyer

or tenant treating the seller or landlord as a customer, but not as a single agent for both. The applicable designated broker relationship shall be disclosed in writing to the seller or landlord and buyer or tenant in a timely manner pursuant to rules promulgated by the real estate commission.

- (e) A designated broker may work with a seller or landlord in one transaction and work with a buyer or tenant in another transaction.
 - (f) When a designated broker serves as a single agent pursuant to section 12-10-404 or 12-10-405, there shall be no imputation of knowledge to the employing or employed broker who has not been so designated.
 - (g) The extent and limitations of the brokerage relationship with the designated broker shall be disclosed to the seller, landlord, buyer, or tenant working with that designated broker pursuant to section 12-10-408.
- (7) No seller, buyer, landlord, or tenant shall be vicariously liable for a broker's acts or omissions that have not been approved, directed, or ratified by the seller, buyer, landlord, or tenant.
 - (8) Nothing in this section shall be construed to limit the employing broker's or firm's responsibility to supervise licensees employed by the broker or firm nor to shield the broker or firm from vicarious liability.

§ 12-10-403.5, C.R.S. Broker engagement contracts—residential premises—prohibited terms—definition.

Editor's note: (2023) Section 3(2) of chapter 50 (SB 23-077), Session Laws of Colorado 2023, provides that the act adding this section applies to broker engagement contracts executed or renewed on or after August 7, 2023.

- (1) As used in this section, unless the context otherwise requires, "broker engagement contract" means a written contract in which a seller, buyer, landlord, or tenant of a residential premises becomes the client of a broker or agrees to retain the services of a broker in the future and promises to pay the broker a valuable consideration or agrees that the broker may receive a valuable consideration from another person in exchange for the broker:
 - (a) Producing a seller, buyer, tenant, or landlord ready, able, and willing to sell, buy, or rent the residential premises; or
 - (b) Performing other services.
- (2) A broker engagement contract must not:
 - (a) Purport to be a covenant running with the land or to be binding on future owners of interests in the real property;
 - (b) Allow for assignment of the right to provide service without notice and agreement of the owner of the residential premises; or
 - (c) Purport to create a recordable lien, encumbrance, or other real property security interest. Any such lien, encumbrance, or other real property security interest is void and unenforceable.
- (3) A person who offers to a consumer a broker engagement contract that includes a provision in violation of subsection (2) of this section commits an unfair or deceptive trade practice, as provided in section 6-1-105 (1)(uuu).
- (4) This section does not apply to:
 - (a) A home warranty service contract, as defined in section 12-10-901 (2)(a);
 - (b) A building warranty or similar product that covers the cost of maintenance of a major housing or building system, such as a plumbing or an electrical system, for a specific period of time after the date on which a house or building is sold;
 - (c) An insurance contract;

- (d) An option to purchase, a put requirement to purchase, a right of first offer, or a right of refusal;
- (e) A declaration created in the formation of a common interest community, as defined in section 38-33.3-103 (8), or an amendment to the declaration;
- (f) A maintenance or repair agreement entered into by a unit owners' association, as defined in section 38-33.3-103 (3);
- (g) A loan or a commitment to make or receive a loan, which loan or commitment is secured by real estate;
- (h) A security agreement under the "Uniform Commercial Code" relating to the sale or rental of personal property or fixtures;
- (i) Water, sewer, electrical, telephone, cable, or other regulated utility service providers; or
- (j) A property management agreement by which the owner of real property contracts with a party to provide management services for the maintenance, ownership, operation, or lease of a residential premises.

§ 12-10-404, C.R.S. Single agent engaged by seller or landlord.

Editor's note: This section is similar to former §12-61-804 as it existed prior to 2019.

- (1) A broker engaged by a seller or landlord to act as a seller's agent or a landlord's agent is a limited agent with the following duties and obligations:
 - (a) To perform the terms of the written agreement made with the seller or landlord;
 - (b) To exercise reasonable skill and care for the seller or landlord;
 - (c) To promote the interests of the seller or landlord with the utmost good faith, loyalty, and fidelity, including, but not limited to:
 - (I) Seeking a price and terms that are acceptable to the seller or landlord; except that the broker shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;
 - (II) Presenting all offers to and from the seller or landlord in a timely manner regardless of whether the property is subject to a contract for sale or a lease or letter of intent to lease;
 - (III) Disclosing to the seller or landlord adverse material facts actually known by the broker;
 - (IV) Counseling the seller or landlord as to any material benefits or risks of a transaction that are actually known by the broker;
 - (V) Advising the seller or landlord to obtain expert advice as to material matters about which the broker knows but the specifics of which are beyond the expertise of the broker;
 - (VI) Accounting in a timely manner for all money and property received; and
 - (VII) Informing the seller or landlord that the seller or landlord shall not be vicariously liable for the acts of the seller's or landlord's agent that are not approved, directed, or ratified by the seller or landlord;
 - (d) To comply with all requirements of this article 10 and any rules promulgated pursuant to this article 10; and
 - (e) To comply with any applicable federal, state, or local laws, rules, regulations, or ordinances including fair housing and civil rights statutes or regulations.
- (2) The following information shall not be disclosed by a broker acting as a seller's or landlord's agent without the informed consent of the seller or landlord:

Chapter 1: Real Estate Broker License Law

- (a) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;
 - (b) What the motivating factors are for the party selling or leasing the property;
 - (c) That the seller or landlord will agree to financing terms other than those offered;
 - (d) Any material information about the seller or landlord unless disclosure is required by law or failure to disclose the information would constitute fraud or dishonest dealing; or
 - (e) Any facts or suspicions regarding circumstances that may psychologically impact or stigmatize any real property pursuant to section 38-35.5-101.
- (3) (a) A broker acting as a seller's or landlord's agent owes no duty or obligation to the buyer or tenant; except that a broker shall, subject to the limitations of section 38-35.5-101, concerning psychologically impacted property, disclose to any prospective buyer or tenant all adverse material facts actually known by the broker. The adverse material facts may include but shall not be limited to adverse material facts pertaining to the title and the physical condition of the property, any material defects in the property, and any environmental hazards affecting the property that are required by law to be disclosed.
- (b) A seller's or landlord's agent owes no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant and owes no duty to independently verify the accuracy or completeness of any statement made by the seller or landlord or any independent inspector.
- (4) A seller's or landlord's agent may show alternative properties not owned by the seller or landlord to prospective buyers or tenants and may list competing properties for sale or lease and not be deemed to have breached any duty or obligation to the seller or landlord.
- (5) A designated broker acting as a seller's or landlord's agent may cooperate with other brokers but may not engage or create any subagents.

§ 12-10-405, C.R.S. Single agent engaged by buyer or tenant.

Editor's note: This section is similar to former §12-61-805 as it existed prior to 2019.

- (1) A broker engaged by a buyer or tenant to act as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations:
- (a) To perform the terms of the written agreement made with the buyer or tenant;
 - (b) To exercise reasonable skill and care for the buyer or tenant;
 - (c) To promote the interests of the buyer or tenant with the utmost good faith, loyalty, and fidelity, including, but not limited to:
 - (I) Seeking a price and terms that are acceptable to the buyer or tenant; except that the broker shall not be obligated to seek other properties while the buyer is a party to a contract to purchase property or while the tenant is a party to a lease or letter of intent to lease;
 - (II) Presenting all offers to and from the buyer or tenant in a timely manner regardless of whether the buyer is already a party to a contract to purchase property or the tenant is already a party to a contract or a letter of intent to lease;
 - (III) Disclosing to the buyer or tenant adverse material facts actually known by the broker;
 - (IV) Counseling the buyer or tenant as to any material benefits or risks of a transaction that are actually known by the broker;
 - (V) Advising the buyer or tenant to obtain expert advice as to material matters about which the broker knows but the specifics of which are beyond the expertise of the broker;
 - (VI) Accounting in a timely manner for all money and property received; and

- (VII) Informing the buyer or tenant that the buyer or tenant shall not be vicariously liable for the acts of the buyer's or tenant's agent that are not approved, directed, or ratified by the buyer or tenant;
 - (d) To comply with all requirements of this article 10 and any rules promulgated pursuant to this article 10; and
 - (e) To comply with any applicable federal, state, or local laws, rules, regulations, or ordinances including fair housing and civil rights statutes or regulations.
- (2) The following information shall not be disclosed by a broker acting as a buyer's or tenant's agent without the informed consent of the buyer or tenant:
- (a) That a buyer or tenant is willing to pay more than the purchase price or lease rate for the property;
 - (b) What the motivating factors are for the party buying or leasing the property;
 - (c) That the buyer or tenant will agree to financing terms other than those offered;
 - (d) Any material information about the buyer or tenant unless disclosure is required by law or failure to disclose the information would constitute fraud or dishonest dealing; or
 - (e) Any facts or suspicions regarding circumstances that would psychologically impact or stigmatize any real property pursuant to section 38-35.5-101.
- (3) (a) A broker acting as a buyer's or tenant's agent owes no duty or obligation to the seller or landlord; except that the broker shall disclose to any prospective seller or landlord all adverse material facts actually known by the broker including but not limited to adverse material facts concerning the buyer's or tenant's financial ability to perform the terms of the transaction and whether the buyer intends to occupy the property to be purchased as a principal residence.
- (b) A buyer's or tenant's agent owes no duty to conduct an independent investigation of the buyer's or tenant's financial condition for the benefit of the seller or landlord and owes no duty to independently verify the accuracy or completeness of statements made by the buyer or tenant or any independent inspector.
- (4) A buyer's or tenant's agent may show properties in which the buyer or tenant is interested to other prospective buyers or tenants without breaching any duty or obligation to the buyer or tenant. Nothing in this section shall be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property.
- (5) A broker acting as a buyer's or tenant's agent owes no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant and owes no duty to independently verify the accuracy or completeness of statements made by the seller, landlord, or independent inspectors; except that nothing in this subsection (5) shall be construed to limit the broker's duties and obligations imposed pursuant to subsection (1) of this section.
- (6) A broker acting as a buyer's or tenant's agent may cooperate with other brokers but may not engage or create any subagents.

§ 12-10-406, C.R.S. Dual agent.

Editor's note: This section is similar to former §12-61-806 as it existed prior to 2019.

A broker shall not establish dual agency with any seller, landlord, buyer, or tenant.

§ 12-10-407, C.R.S. Transaction-broker.

Editor's note: This section is similar to former §12-61-807 as it existed prior to 2019.

- (1) A broker engaged as a transaction-broker is not an agent for either party.

- (2) A transaction-broker shall have the following obligations and responsibilities:
 - (a) To perform the terms of any written or oral agreement made with any party to the transaction;
 - (b) To exercise reasonable skill and care as a transaction-broker, including, but not limited to:
 - (I) Presenting all offers and counteroffers in a timely manner regardless of whether the property is subject to a contract for sale or lease or letter of intent;
 - (II) Advising the parties regarding the transaction and suggesting that the parties obtain expert advice as to material matters about which the transaction-broker knows but the specifics of which are beyond the expertise of the broker;
 - (III) Accounting in a timely manner for all money and property received;
 - (IV) Keeping the parties fully informed regarding the transaction;
 - (V) Assisting the parties in complying with the terms and conditions of any contract including closing the transaction;
 - (VI) Disclosing to all prospective buyers or tenants any adverse material facts actually known by the broker including but not limited to adverse material facts pertaining to the title, the physical condition of the property, any defects in the property, and any environmental hazards affecting the property required by law to be disclosed;
 - (VII) Disclosing to any prospective seller or landlord all adverse material facts actually known by the broker including but not limited to adverse material facts pertaining to the buyer's or tenant's financial ability to perform the terms of the transaction and the buyer's intent to occupy the property as a principal residence; and
 - (VIII) Informing the parties that as seller and buyer or as landlord and tenant they shall not be vicariously liable for any acts of the transaction-broker;
 - (c) To comply with all requirements of this article 10 and any rules promulgated pursuant to this article 10; and
 - (d) To comply with any applicable federal, state, or local laws, rules, regulations, or ordinances including fair housing and civil rights statutes or regulations.
- (3) The following information shall not be disclosed by a transaction-broker without the informed consent of all parties:
 - (a) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;
 - (b) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;
 - (c) What the motivating factors are for any party buying, selling, or leasing the property;
 - (d) That a seller, buyer, landlord, or tenant will agree to financing terms other than those offered;
 - (e) Any facts or suspicions regarding circumstances that may psychologically impact or stigmatize any real property pursuant to section 38-35.5-101; or
 - (f) Any material information about the other party unless disclosure is required by law or failure to disclose the information would constitute fraud or dishonest dealing.
- (4) A transaction-broker has no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant and has no duty to independently verify the accuracy or completeness of statements made by the seller, landlord, or independent inspectors.
- (5) A transaction-broker has no duty to conduct an independent investigation of the buyer's or tenant's financial condition or to verify the accuracy or completeness of any statement made by the buyer or tenant.
- (6) A transaction-broker may do the following without breaching any obligation or responsibility:

- (a) Show alternative properties not owned by the seller or landlord to a prospective buyer or tenant;
 - (b) List competing properties for sale or lease;
 - (c) Show properties in which the buyer or tenant is interested to other prospective buyers or tenants; and
 - (d) Serve as a single agent or transaction-broker for the same or for different parties in other real estate transactions.
- (7) There shall be no imputation of knowledge or information between any party and the transaction-broker or among persons within an entity engaged as a transaction-broker.
- (8) A transaction-broker may cooperate with other brokers but shall not engage or create any subagents.

§ 12-10-408, C.R.S. Broker disclosures.

Editor's note: This section is similar to former §12-61-808 as it existed prior to 2019.

- (1) (a) Any person, firm, partnership, limited liability company, association, or corporation acting as a broker shall adopt a written office policy that identifies and describes the relationships offered to the public by the broker.
- (b) A broker shall not be required to offer or engage in any one or in all of the brokerage relationships enumerated in section 12-10-404, 12-10-405, or 12-10-407.
- (c) Written disclosures and written agreements required by subsection (2) of this section shall contain a statement to the seller, landlord, buyer, or tenant that different brokerage relationships are available that include buyer agency, seller agency, or status as a transaction-broker. Should the seller, landlord, buyer, or tenant request information or ask questions concerning a brokerage relationship not offered by the broker pursuant to the broker's written office policy enumerated in subsection (1)(a) of this section, the broker shall provide to the party a written definition of that brokerage relationship that has been promulgated by the real estate commission.
- (d) Disclosures made in accordance with this part 4 shall be sufficient to disclose brokerage relationships to the public.
- (2) (a) (I) Prior to engaging in any of the activities enumerated in section 12-10-201 (6), a transaction-broker shall disclose in writing to the party to be assisted that the broker is not acting as agent for the party and that the broker is acting as a transaction-broker.
- (II) As part of each relationship entered into by a broker pursuant to subsection (2)(a)(I) of this section, written disclosure shall be made that shall contain a signature block for the buyer, seller, landlord, or tenant to acknowledge receipt of the disclosure. The disclosure and acknowledgment, by itself, shall not constitute a contract with the broker. If the buyer, seller, landlord, or tenant chooses not to sign the acknowledgment, the broker shall note that fact on a copy of the disclosure and shall retain the copy.
- (III) If the transaction-broker undertakes any obligations or responsibilities in addition to or different from those set forth in section 12-10-407, the obligations or responsibilities shall be disclosed in a writing that shall be signed by the involved parties.
- (b) Prior to engaging in any of the activities enumerated in section 12-10-201 (6), a broker intending to establish a single agency relationship with a seller, landlord, buyer, or tenant shall enter into a written agency agreement with the party to be represented. The agreement shall disclose the duties and responsibilities specified in section 12-10-404 or 12-10-405,

as applicable. Notice of the single agency relationship shall be furnished to any prospective party to the proposed transaction in a timely manner.

- (c) (I) Prior to engaging in any of the activities enumerated in section 12-10-201 (6), a broker intending to work with a buyer or tenant as an agent of the seller or landlord shall provide a written disclosure to the buyer or tenant that shall contain the following:
 - (A) A statement that the broker is an agent for the seller or landlord and is not an agent for the buyer or tenant;
 - (B) A list of the tasks that the agent intends to perform for the seller or landlord with the buyer or tenant; and
 - (C) A statement that the buyer or tenant shall not be vicariously liable for the acts of the agent unless the buyer or tenant approves, directs, or ratifies the acts.
- (II) The written disclosure required pursuant to subsection (2)(c)(I) of this section shall contain a signature block for the buyer or tenant to acknowledge receipt of the disclosure. The disclosure and acknowledgment, by itself, shall not constitute a contract with the broker. If the buyer or tenant does not sign the disclosure, the broker shall note that fact on a copy of the disclosure and retain the copy.
- (d) A broker who has already established a relationship with one party to a proposed transaction shall advise at the earliest reasonable opportunity any other potential parties or their agents of the established relationship.
- (e) (I) Prior to engaging in any of the activities enumerated in section 12-10-201 (6), the seller, buyer, landlord, or tenant shall be advised in any written agreement with a broker that the brokerage relationship exists only with the designated broker, does not extend to the employing broker or to any other brokers employed or engaged by the employing broker who are not so designated, and does not extend to the brokerage company.
- (II) Nothing in this subsection (2)(e) shall be construed to limit the employing broker's or firm's responsibility to supervise licensees employed by the broker or firm nor to shield the broker or firm from vicarious liability.

§ 12-10-409, C.R.S. Duration of relationship.

Editor's note: This section is similar to former §12-61-809 as it existed prior to 2019.

- (1) (a) The relationships set forth in this part 4 shall commence at the time that the broker is engaged by a party and shall continue until performance or completion of the agreement by which the broker was engaged.
- (b) If the agreement by which the broker was engaged is not performed or completed for any reason, the relationship shall end at the earlier of the following:
 - (I) Any date of expiration agreed upon by the parties;
 - (II) Any termination or relinquishment of the relationship by the parties; or
 - (III) One year after the date of the engagement.
- (2) (a) Except as otherwise agreed to in writing and pursuant to subsection (2)(b) of this section, a broker engaged as a seller's agent or buyer's agent owes no further duty or obligation after termination or expiration of the contract or completion of performance.
- (b) Notwithstanding subsection (2)(a) of this section, a broker shall be responsible after termination or expiration of the contract or completion of performance for the following:
 - (I) Accounting for all money and property related to and received during the engagement; and

- (II) Keeping confidential all information received during the course of the engagement that was made confidential by request or instructions from the engaging party unless:
 - (A) The engaging party grants written consent to disclose the information;
 - (B) Disclosure of the information is required by law; or
 - (C) The information is made public or becomes public by the words or conduct of the engaging party or from a source other than the broker.
- (3) Except as otherwise agreed to in writing, a transaction-broker owes no further obligation or responsibility to the engaging party after termination or expiration of the contract for performance or completion of performance; except that the broker shall account for all money and property related to and received during the engagement.

§ 12-10-410, C.R.S. Compensation.

Editor's note: This section is similar to former §12-61-810 as it existed prior to 2019.

- (1) In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, the landlord, the tenant, a third party, or by the sharing or splitting of a commission or compensation between brokers.
- (2) Payment of compensation shall not be construed to establish an agency relationship between the broker and the party who paid the compensation.
- (3) A seller or landlord may agree that a transaction-broker or single agent may share the commission or other compensation paid by the seller or landlord with another broker.
- (4) A buyer or tenant may agree that a single agent or transaction-broker may share the commission or other compensation paid by the buyer or tenant with another broker.
- (5) A buyer's or tenant's agent shall obtain the written approval of the buyer or tenant before the agent may propose to the seller's or landlord's agent that the buyer's or tenant's agent be compensated by sharing compensation paid by the seller or landlord.
- (6) Prior to entering into a brokerage or listing agreement or a contract to buy, sell, or lease, the identity of those parties, persons, or entities paying compensation or commissions to any broker shall be disclosed to the parties to the transaction.
- (7) A broker may be compensated by more than one party for services in a transaction if those parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, or lease.

§ 12-10-411, C.R.S. Violations.

Editor's note: This section is similar to former §12-61-811 as it existed prior to 2019.

The violation of any provision of this part 4 by a broker constitutes an act pursuant to section 12-10-217 (1)(m) for which the real estate commission may investigate and take administrative action against any such broker pursuant to sections 12-10-217 and 12-10-219.