

DEPARTMENT OF REGULATORY AGENCIES

Division of Real Estate

COMMUNITY ASSOCIATION MANAGERS

4 CCR 725-7

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

A RULES – LICENSE QUALIFICATIONS, APPLICATIONS AND EXAMINATIONS

A-1) Definitions.

The following definitions are applicable to all rules in these Director rules:

- 1) The “Act” or the “Community Association Managers Practice Act” means §§ 12-61-1001, et seq., C.R.S.
- 2) “Community Association Manager” or “CAM” or “Manager” has the meaning set forth in § 12-61-1001(5), C.R.S.
- 3) “Licensee” means any person or entity licensed as a Community Association Manager or an Apprentice pursuant to the Act.
- 4) “CAM company” means any entity, including but not limited to a firm, partnership, limited liability company, association, or corporation, that meets the definition of a Community Association Manager in § 12-61-1001(5), C.R.S., or applies to the Division to become a Community Association Manager.
- 5) “Designated Manager” has the meaning set forth in § 12-61-1001(5.5), C.R.S.
- 6) “Applicant” means any person or entity applying for licensure as a Community Association Manager under the Act.
- 7) “License” means any license issued by the Director or the Division pursuant to the Act.
- 8) “Director rules” means any and all rules issued by the Director pursuant to the Act, including but not limited to Community Association Manager Rules A, B, C, D, E, F, G, and H.
- 9) “Apprentice” has the meaning set forth in § 12-61-1001(1), C.R.S.

A-2) Requirements that must precede examination and application.

An applicant must hold one or more of the credentials set forth in § 12-61-1003(5)(a)(I)(A), (B), (C), or (D), or § 12-61-1003(5)(d), C.R.S., and provide proof of completion in a manner prescribed by the Director prior to applying for a CAM license.

A-3) Qualifying education credential requirements.

An applicant must hold a credential pursuant to § 12-61-1003(5)(a)(I)(A), (B), (C), (D), or § 12-61-1003(5)(d), C.R.S. or complete 24 hours of classroom instruction, or equivalent distance learning hours, and must successfully complete the following courses of study approved by the Director:

- 1) A minimum of 8 hours of Colorado Common Interest Ownership Act, Colorado Revised Nonprofit Act and other applicable provisions of Colorado law;
- 2) A minimum of 7 hours of financial, risk and facilities management;
- 3) A minimum of 5 hours of governance and legal documents of an association; and
- 4) A minimum of 4 hours of ethics, bid requests and contract provisions.

A-4) Examinations only given to those qualified.

Only an applicant holding a qualified education credential as prescribed in Rule A-3 may sit for the CAM licensing examination. However, one instructor from each approved educational provider offering a recognized credential pursuant to § 12-61-1003(5)(a)(I)(A),(B),(C), or (D), C.R.S., may sit for the examination one time during any 12 month period.

A-5) Community Association Manager license examination expiration and application requirements.

The CAM license examination is made up of two parts, a general portion and a Colorado law portion. An applicant holding a credential pursuant to § 12-61-1003(5)(a)(I)(D), C.R.S., must sit for and successfully pass both portions of the examination. If the applicant fails one or both parts of the examination, the applicant may retake the failed portion(s). A passing score for either part of the examination is valid for one year only. If an applicant holds a credential pursuant to § 12-61-1003(5)(a)(I)(A),(B), OR (C), C.R.S., and has maintained said credential in good standing, such applicant need only sit for and successfully pass the Colorado law portion of the examination. If the applicant fails the Colorado law portion, the applicant may retake the failed portion. An application received by the Division must be accompanied by the statutory fee, proof of completion of the required credential and proof of successful completion of the required portion(s) of the examination within the year prior to the application being received by the Division. No examination score for either portion of the examination will be considered valid after one year.

A-6) Examination results certified only if licensed.

The Director will not certify any information concerning the results of any examination as it pertains to any person who has taken the examination unless such person is or has been licensed as a Colorado CAM.

A-7) License processing time frames.

Provided that an applicant has submitted a complete and satisfactory application in compliance with §§ 12-61-1002, - 1003, C.R.S., and the Director rules, the Director will issue a license within 10 business days after receipt by the Director of satisfactory results from the fingerprint-based criminal history record check. If the application or record check is not complete or satisfactory, the applicant will be notified that their license application has been deferred pending receipt of required compliance item(s). The application for a license that has been approved by the Director subject to the receipt of certain compliance items will be issued on an inactive status until all compliance items have been received by the Director. No activities requiring a license may be performed while the license is on inactive status.

A-8) Applicants who have held a community association manager license in another jurisdiction.

In lieu of the qualifying education credential requirements found in Rule A-3, an applicant who has held a community association manager license in another jurisdiction, as set forth in § 12-61-1003(5)(d), C.R.S., may submit a “certification of licensing history” issued by each jurisdiction where the applicant is currently or was previously licensed as a community association manager. The license history must be submitted prior to sitting for the examination, along with a complete and satisfactory application in accordance with the Director rules. The Director will issue a license within 10 business days after receipt by the Director of satisfactory results from the fingerprint-based criminal history record check, and a determination by the Director that the applicant has established they possess the credentials and qualifications substantively equivalent to the requirements for Colorado licensure. Within 30 calendar days after issuance of the CAM license, the applicant must complete successfully, and provide the Director proof of successful completion, of the state portion of the examination. Failure to provide the Director with proof of successful completion of the Colorado law portion of the examination in the prescribed timeframe will result in the license being placed on inactive status and no activities requiring a license may be performed.

A-9) Applicant with previous suspension or revocation of a community association manager license or certification.

Pursuant to § 12-61-1003(3)(b), C.R.S., an applicant who has held a community association manager license, apprentice license, provisional license or certification that has been suspended or revoked in Colorado or in any other jurisdiction that regulates community association managers within the last 10 years, with at least 2 years having elapsed since the date of that suspension or revocation, must file prior to or with their application for licensing the following information and documents:

- 1) A written and signed personal explanation and detailed account of the facts and circumstances surrounding each suspension or revocation;
- 2) The completed Community Association Manager application addendum form found on the Division’s website;
- 3) Results of any hearing(s), and copies of the official reports of the suspension and revocation from the jurisdiction where any such suspension or revocation took place;
- 4) If the applicant is to be employed under a designated manager licensee, then that designated manager must submit a letter stating that he or she is aware of the specific suspension(s) or revocation(s) and has agreed to employ the applicant; and
- 5) Any other documentation requested by the Director.

A-10) Applicant with prior legal involvement.

Pursuant to § 12-61-1003(3)(c), C.R.S., an applicant who has been convicted of or pled guilty or nolo contendere to a misdemeanor or a felony, has misdemeanor or felony charges pending against him or her, or has agreed to a deferred prosecution, deferred judgment, or deferred sentence that is not yet completed, excluding all misdemeanor traffic violations (collectively referred to as a “violation”), must file prior to or with his or her application for licensing the following information and documents:

- 1) A written and signed personal explanation and detailed account of the facts and circumstances surrounding each violation;
- 2) The completed Community Association Manager application addendum form found on the Division’s website;

- 3) Results of all court hearing(s) related to each violation, in the form of copies of charges, disposition, pre-sentencing report and most recent probation or parole report;
- 4) If the applicant is to be employed under a designated manager licensee, then that designated manager must submit a letter stating that he or she is aware of each violation and has agreed to employ the applicant; and
- 5) Any other documentation requested by the Director.

A-11) Preliminary advisory opinion.

At any time prior to submission of a formal application for licensure, a person may request that the Director issue a preliminary advisory opinion regarding the potential effect that previous conduct, license and certification suspension(s) or revocation(s), criminal conviction(s), or violation(s) of community association law, may have on a formal application for licensure ("PAO"). A PAO may be issued by the Director in his or her sole discretion, in order to provide preliminary advisory guidance.

- 1) Potential applicants may request a PAO for any of the following reasons:
 - a) If the individual has been convicted of, plead guilty or nolo contendere to any crime in a domestic, foreign or military court;
 - b) If the individual has held a Community Association Manager license, apprentice license, provisional license or certification that has been suspended or revoked within the last 10 years;
 - c) If the individual has had other professional licenses, certifications or registrations issued by Colorado, the District of Columbia, any other states or foreign countries, revoked or suspended for fraud, theft, deceit, material misrepresentations or the breach of a fiduciary duty and such suspension or revocation denied authorization to practice as: a mortgage loan originator or similar license; real estate broker; real estate appraiser; an insurance producer; an attorney; a securities broker-dealer; a securities sales representative; an investment advisor; or an investment advisor representative; or
 - d) Any other conduct that would impact the public trust.
- 2) Individuals requesting a PAO must complete the preliminary advisory opinion application located on the Division of Real Estate's website.
- 3) Individuals requesting a PAO must submit all relevant documents related to any conduct or actions as set forth herein. Incomplete requests will not be processed. The Director may, at any time, request additional information regarding the PAO request. Such relevant or related documents may include, but are not limited to:
 - a) Police officer reports;
 - b) Dispositions documents;
 - c) Court documents;
 - d) Original charges documents;
 - e) Stipulated agreements; or

- f) Final agency orders.
- 4) Individuals requesting a PAO must submit a written and signed personal explanation and detailed account of the facts and circumstances.
- 5) Any PAO will not be binding on the Director or limit the Director's authority to investigate a future formal application for licensure.
- 6) An individual seeking a PAO is not an applicant for licensure and the issuance of an unfavorable opinion will not prevent such individual from making application for licensure pursuant to the Act and the Director rules.
- 7) No PAO will be considered final agency action. PAO's are not subject to appeal or judicial review.

A-12) Criminal history check required prior to application.

An applicant for an initial license must submit a set of fingerprints to the Colorado Bureau of Investigation and the Federal Bureau of Investigation for the purpose of conducting a state and national criminal history record check prior to submitting an application for a license. Fingerprints must be submitted to the Colorado Bureau of Investigation for processing in a manner acceptable to the Colorado Bureau of Investigation. Fingerprints must be readable and all personal identification data completed in a manner satisfactory to the Colorado Bureau of Investigation. The Director may acquire a name-based criminal history record check for an applicant who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable.

A-13) Denied license notice required.

If an applicant for licensure is denied by the Director for any reason, the applicant will be informed in writing of the denial and the reason(s) therefore. As set forth in § 12-61-1011, C.R.S., an applicant whose license application was denied for any reason has a right to a proceeding on the denial to be conducted by an authorized representative of the Director or by an administrative law judge pursuant to §§ 24-4-104 and -105, C.R.S.

A-14) Director has course audit authority.

The Director or his or her designee may audit any course of study and may request from each educational provider of any course under § 12-61-1003(5)(a)(I) through (III), C.R.S., all instructional material related thereto and student attendance records as may be necessary for an investigation in the enforcement of the Act and the Director rules. The purpose of such audit is to ensure that educational providers and credential providing entities adhere to the approved course of study and credential designations, offer course material and instruction consistent with acceptable education standards and instruct in such a manner that the desired learning objectives are met. Failure to comply with the provisions of this Rule A-14 may result in the withdrawal of Director course and designated credential approval.

A-15) Invalid payment voids application.

If the fees accompanying any application or registration made to the Director (including fees for renewals, transfers, etc.) are paid for by check and the check is not immediately paid upon presentment to the bank upon which the check was drawn, or if payment is submitted in any other manner, and payment is denied, rescinded or returned as invalid, the application will be deemed incomplete. The application will only be deemed complete if the Director has received payment of all application or registration fees together with any fees incurred by the Division including the fee required by state fiscal rules for the clerical services necessary for reinstatement within 60 days of the Division mailing notification of an incomplete application.

A-16) Apprentice application and license requirements.

An applicant for an apprentice license must submit a set of fingerprints for the purpose of a criminal history check as prescribed in Rule A-12 and submit a complete license application as prescribed in these Director rules.

A-17) Provisional application and license requirements.

An applicant for a provisional license must submit a set of fingerprints for the purpose of a criminal history check as prescribed in Rule A-12, must hold a qualifying educational credential as prescribed in Rule A-3, must have sat for and not successfully passed the required portion(s) of the Community Association Manager examination as prescribed in Rule A-5 and submit a complete license application as prescribed in these Director rules.

B RULES – CONTINUING EDUCATION

B-1) When continuing education is required.

The continuing education requirements for a licensed CAM will begin after issuance of the initial license. Individuals must complete continuing education requirements prior to applying to renew an active license, to activate an inactive license or to reinstate an expired license to active status. As prescribed in Rule A-3, completion of the pre-licensing credentials in the same initial licensing period in which the license was approved will satisfy the continuing education requirements in that initial licensing period.

B-2) Methods of completing continuing education.

A licensed CAM may satisfy the entire continuing education requirement through one of the following options:

- 1) Complete 8 hours of continuing education courses in approved subjects as prescribed in Rule B-3; or
- 2) Successfully pass the Colorado law portion of the CAM examination.

B-3) Approved continuing education subjects.

All continuing education courses must contribute directly to the professional competence of a licensee. Credit for continuing education courses must be acquired through successful completion of instruction in one or more of the following subjects:

- 1) Legal documents of a common interest community;
- 2) Colorado Common Interest Ownership Act;

- 3) Colorado and Federal Fair Housing Law;
- 4) Colorado Non-Profit and Corporation Acts;
- 5) Roles and responsibilities of managers, owners, committees and the executive board of a common interest community;
- 6) Management ethics for professional community association managers;
- 7) Developing and enforcing common interest community rules;
- 8) Manager's role in organizing, assisting, and conducting board meetings;
- 9) Preparing budgets and funding reserves;
- 10) Assessment collection policies and procedures;
- 11) Remedies available for collecting delinquent payments from owners in a common interest community;
- 12) Overview of financial statements, reporting methods, and operations;
- 13) Effective risk management and insurance programs;
- 14) Implementing and evaluating maintenance programs;
- 15) How to prepare a bid request and key contract provisions;
- 16) Basic areas of employment addressed by federal, state, and local law; and
- 17) Any other subject matter as approved by the Director.

B-4) Distance learning permitted, defined.

All continuing education courses may be offered and completed by distance learning. Distance learning means courses offered outside the traditional classroom setting in which the instructor and learner are separated by distance and/or time.

B-5) Courses excluded from continuing education credit.

The following types of continuing education courses will not qualify for continuing education credit:

- 1) Sales or marketing meetings conducted in the general course of a manager's practice.
- 2) Orientation, personal growth, self-improvement, self-promotion or marketing sessions.
- 3) Motivational meetings or seminars.
- 4) Examination preparation or exam technique courses.

B-6) Courses automatically accepted for continuing education credit.

The following continuing education courses may be accepted for continuing education credit without Director pre-approval so long as they comply with all provisions of this Rule B except Rule B-7.

- 1) Courses offered by accredited colleges, universities, community or junior colleges, public or parochial schools or government agencies.
- 2) Courses developed and offered by quasi-governmental agencies.
- 3) Courses approved by and taken in satisfaction of another occupational licensing authority's education requirements.
- 4) Courses in the subject matters listed in Rule B-3 offered by a provider approved by the Colorado Board of Continuing Legal and Judicial Education.

B-7) Courses requiring Director approval for continuing education credit.

The following continuing education courses must receive Director approval prior to offering:

- 1) Courses offered by proprietary real estate schools approved by the Colorado Division of Private Occupational Schools.
- 2) Currently approved courses that are changed in any substantive way.
- 3) Courses offered by any provider proposing to offer course(s) on subjects not listed in Rule B-3.
- 4) Courses offered by proprietary real estate schools approved as out of state providers by the Colorado Department of Private Occupational Schools, and are not approved pursuant to Rule B-6.
- 5) Courses offered by a designated manager to their employed managers.
- 6) Courses offered by providers exempt under the provisions of § 12-59-104, C.R.S.
- 7) Courses offered by local, state or national community manager, homeowner or business associations.

B-8) Administrative rules for continuing education courses.

The following course format and administrative requirements apply to all continuing education courses for a licensed CAM.

- 1) Courses must be at least 1 hour in length, containing at least 50 instructional minutes.
- 2) A maximum of 8 hours of credit may be earned per day.
- 3) No course may be repeated for credit in the same calendar year.
- 4) Instructors may receive credit for classroom teaching hours once per year, per course taught.
- 5) Hours in excess of 8 may not be carried forward to satisfy a subsequent year's education requirement.
- 6) No provider may waive, excuse completion of, or award partial credit for the full number of course hours.

- 7) No examination or other equivalency may substitute for the completion of the entire continuing education course.
- 8) No credit may be earned for remedial education completed as part of a disciplinary action, or alternative to disciplinary action.
- 9) No course offering by a provider will be accepted unless the provider has either been granted a certificate of approval by the Colorado Department of Higher Education, Division of Private Occupational Schools, or is exempt from such requirement pursuant to § 12-59-104, C.R.S.
- 10) Continuing education courses must maintain and improve a CAM's skill, knowledge, and competency in community association management practice.

B-9) Term of course approval.

Course approval certification will be for a period of 3 years, except that an annual or one-time seminar or conference offering may be approved for a specific date or dates.

B-10) Proof of course completion.

Each Colorado licensed CAM is responsible for securing evidence of course completion in the form of an affidavit, certificate or official transcript of the course. Said documentation must be in sufficient detail to show the name of the licensee, course subject, content, duration, date(s) and contain the authentication of the provider. Licensees must retain proof of continuing education completion for 4 years, and provide said proof to the Director upon request.

B-11) Provider must retain records.

Each approved provider must retain copies of course outlines or syllabi, complete records of attendance for a period of 4 years, and provide the records to the Director upon request.

B-12) Course approval application process.

Continuing education providers required to have Director course approval must, in accordance with all of the provisions of the B Rules, submit an application form prescribed by the Director, along with the following information at least 30 days prior to the proposed class dates:

- 1) Detailed course outline or syllabus, including the intended learning outcomes, the course objectives and the approximate time allocated for each topic.
- 2) A copy of the course exam(s) and instructor answer sheet if applicable. In the absence of an exam, the criteria used in evaluating a person's successful completion of the course objectives.
- 3) A copy of instructor teaching credentials. If none, a résumé showing education and experience which evidence mastery of the material to be presented.
- 4) A copy of advertising or promotional material used to announce the offering.
- 5) Upon Director request, a copy of any textbook(s), manual(s), audio(s), videotapes, or other instructional material.

- 6) For courses offered through distance learning, evidence, in a form prescribed by the Director, that the method of delivery and course structure is consistent with acceptable education standards, and that the desired learning objectives will be met. The Director will approve methods of delivery certified by the Association of Real Estate License Law Officials (ARELLO), or by a substantially equivalent authority and method.

B-13) Providers subject to statute, rule and course audit.

By offering community association manager continuing education in Colorado, each provider agrees to comply with all relevant statutes and the Director rules, and to permit the Director or his or her designee to audit said courses at any time and at no cost.

B-14) Licensee attests to compliance by submitting application.

The act of submitting an application for renewal, activation or reinstatement of a CAM license will mean that the licensee attests to compliance with all continuing education requirements found in the Director rules.

C RULES – LICENSING - OFFICE

C-1) Individual proprietor must be sole owner.

A CAM licensed as an individual doing business under a trade name must be the sole owner of that trade name.

C-2) Individual proprietor may not appear to be corporate.

A CAM licensed as a sole proprietorship may not adopt a trade name which includes the following words: corporation, partnership, limited liability company, limited, incorporated, or the abbreviations thereof.

C-3) Qualifications for community association management companies.

As set forth in § 12-61-1003(6), C.R.S., when a CAM company submits a license application to qualify as a CAM, it must comply with the following:

- 1) Designate, and thereafter maintain, a qualified active CAM for the CAM company who is responsible for management and supervision of the licensed actions of the CAM company and all persons employed by, or acting at any time on behalf of, the CAM company; who is personally responsible for the handling of any and all common interest community funds received or disbursed by the CAM company pursuant to § 12-61-1003(6)(b) and (7); who has passed the examination for licensees set forth in the Act and the Director rules; and who is qualified to act as a CAM under the Act and the Director rules.
- 2) If the CAM company is a corporation, it must certify that:
 - a) The corporation has been properly incorporated with the Colorado Secretary of State or is authorized to do business in Colorado, and is in good standing, proof of which must be included with the application;
 - b) If an assumed or trade name is to be used, it has been properly filed with and accepted by the Colorado Secretary of State, proof of which must be included with the application; and

- c) The applicant has designated a qualified active manager who has been appointed by the corporation's board of directors or the board's duly appointed designee to act as the designated manager for the corporation.
- 3) If the CAM company is a partnership, it must certify that:
 - a) The partnership has been properly registered with the Colorado Secretary of State and is in good standing, proof of which must be included with the application;
 - b) If an assumed or trade name is to be used, it has been properly filed with the Colorado Secretary of State, proof of which must be included with the application; and
 - c) The applicant has designated a qualified active manager who has been appointed the designated manager for the partnership by all general partners or managers/officers of the partnership.
- 4) If the CAM company is a limited liability company, it must certify that:
 - a) The limited liability company has been properly registered with the Colorado Secretary of State and is in good standing, proof of which must be included with the application;
 - b) If an assumed or trade name is to be used, it has been properly filed with the Colorado Secretary of State, proof of which must be included with the application; and
 - c) The applicant has designated a qualified active manager who has been appointed the designated manager for the limited liability company by all managers, or if management has been reserved to the members in the articles of organization, by all members of the limited liability company.

C-4) Individuals employed by a community association management company or sole proprietorship.

Any CAM company or licensed sole proprietorship that employs individuals who perform activities requiring a CAM license pursuant to § 12-61-1001(5), C.R.S., must designate and maintain a designated manager. No individual holding an apprentice or a provisional license may be designated as the designated manager.

C-5) Resident community association managers required to have office; exceptions.

Every resident Colorado CAM must maintain and supervise a community association management practice with an office that is available to the consumer, except a CAM registered in the Division as in the employ of a designated manager or a CAM registered as inactive.

C-6) Manager availability.

Any CAM licensed as a sole proprietorship or as a designated manager for a CAM company must be reasonably available to manage and supervise each community association management practice.

C-7) Community association manager license non-transferable.

No agreement will be entered into by any licensee whereby the licensee transfers or lends their name or license to another to avoid or evade any provision of the Act or the Director rules.

C-8) Corporate license name may not duplicate suspended/revoked license.

The Director may refuse to issue a CAM license to a CAM company if the name of the CAM company is the same as that of any other CAM company whose license has been suspended or revoked, or is so similar as to be easily confused with that of the suspended or revoked CAM company by members of the general public.

C-9) No license name identical to one previously issued.

No CAM license will be issued to a CAM under a trade name, corporate, partnership or limited liability company name which is identical to another licensed CAM's trade name, corporate, partnership or limited liability company name.

C-10) Community association manager activity only in trade name or full licensed name.

A CAM may adopt a trade name according to Colorado law and such trade name will appear on the face of the license. However, pursuant to § 12-61-1003(8), C.R.S., such CAM must conduct business only under such trade name, or conduct business under the entire name appearing on the face of the license. A CAM who is licensed under a designated manager that is doing business under a trade name must be licensed under the entire name appearing on the face of the license.

C-11) Name rules.

Pursuant to § 12-61-1003(8), C.R.S., a person will not be licensed as a CAM under more than one name, or conduct or promote business as a CAM except under the name under which the person is licensed. However, the use of a trade name, with the permission of the owner of such trade, name may be used concurrently with the licensed name of the CAM company in the promotion or conduct of the licensed community association management business.

- 1) No licensee or CAM company will advertise or promote its business in such a manner as to mislead the public as to the identity of the licensed CAM or CAM company; nor may a portion of the licensed name of any CAM or CAM company be advertised or promoted in a manner which would mislead the public as to the identity of the licensed CAM or CAM company.
- 2) Any licensee or CAM company using a trade name, the use of which requires obtaining permission from another who has an existing and continuing right in that trade name by virtue of any state or federal law, will clearly and unmistakably include the licensee CAM company name as registered with the Director in addition to the trade name in a conspicuous and reasonable manner in any of the following:
 - a) Advertising;
 - b) Business cards;
 - c) Letterhead;
 - d) Contracts or all other documents relating to community association management business; and

- e) Signs displayed at a place of business.

C-12) Notice of termination; designated manager.

A CAM company and its designated manager both must immediately notify the Director in writing of the termination of the designated manager's status as designated manager for the CAM company, or upon the designated manager's failure to comply with the Act or the Director rules. Unless a temporary designated manager license is obtained in compliance with the provisions of Rule C-13, upon such notification the designated manager, entity and all employed licensees will be placed on inactive status.

C-13) Temporary designated manager license.

Pursuant to § 12-61-1003(6)(c), C.R.S., a temporary designated manager's license may be issued to a CAM company to prevent hardship for a period not to exceed 90 days to the person so designated. No designated manager license will be approved unless the individual designated holds a CAM license and meets all additional requirements pursuant to § 12-61-1003(6), C.R.S. and the Director rules.

C-14) Inactive license.

A license may be issued while on inactive status. No activities requiring a license may be performed while a license is on inactive status.

D RULES – RENEWAL, TRANSFER, INACTIVE LICENSE, REINSTATEMENT AND INSURANCE

D-1) Initial license renewal.

- 1) An initial CAM license will be issued for a period commencing on the issuance date and expiring on June 30th following the date of issuance.
- 2) An apprentice license will be issued only for a period commencing on the issuance date and expiring one (1) year following the date of issuance. An apprentice license is non-renewable.
- 3) A provisional license will be issued only for a period commencing on the issuance date and expiring on December 31, 2015. No provisional license will be issued after December 31, 2015.

D-2) Annual renewal.

The license renewal period begins May 1st of each calendar year and ends June 30th of each calendar year. Licensees who renew their license may only do so if they are compliant with all provisions of the Act and the Director rules.

D-3) Inactive license request.

A licensee may request that the Division's records show their license inactive until proper request for reactivation has been made, or until their license has expired.

D-4) Inactive license must be renewed.

A CAM whose license is on inactive status must apply for renewal of such inactive license and pay the regular renewal fees.

D-5) Reinstatement.

A licensee with an expired license may choose to reinstate his or her license. The reinstatement period begins July 1st of each calendar year immediately following the expiration and ends on June 30th of each calendar year. Individuals who reinstate their expired license may only do so if they are compliant with all provisions of the Act and the Director rules. The fee to reinstate will be by payment of the reinstatement fee equal to one and one-half the regular renewal fee. Any person who fails to apply for reinstatement within one year after expiration of a license will be treated as a new applicant for licensure.

D-6) Renewal or reinstatement using method approved by Director.

A CAM may renew or reinstate their license online or by submitting a renewal or reinstatement application form provided by the Division or by other methods acceptable to the Director.

D-7) Renewal and Reinstatement fees are non-refundable.

All fees paid for the renewal or reinstatement of a license are non-refundable.

D-8) Form and fees required to change license.

No change in license status will be made except in a manner acceptable to the Director to effect such change and upon payment of the statutory fees for such changes.

D-9) Errors and omissions (E&O) insurance requirements.

Every active licensed CAM company and licensed sole proprietorship must have in effect a group policy of errors and omissions insurance to cover all acts requiring a license.

- 1) CAM companies and licensed sole proprietorships must obtain errors and omissions group coverage from an insurance carrier subject to the following terms and conditions:
 - a) The insurance carrier is licensed and authorized by the Colorado Division of Insurance to write policies of errors and omissions insurance in this state and is in conformance with all Colorado statutes.
 - b) The insurance carrier maintains an A.M. best rating of "A-" or better.
- 2) The group policy, at a minimum, must comply with all relevant conditions set forth in this Rule D-9 and the insurance carrier so certifies in an affidavit issued to the insured in a form specified by the Director and agrees to immediately notify the Director of any cancellation or lapse in coverage. Coverage must provide, at a minimum, the following:
 - a) The contract and policy are in conformance with this Rule D-9 and all relevant Colorado statutory requirements.
 - b) Coverage for all acts for which a Community Association Manager license is required, except those illegal, fraudulent or other acts which are normally excluded from such coverage.
 - c) Coverage is for not less than \$1,000,000 per covered claim, with an annual aggregate limit of not less than \$1,000,000. Costs of investigations and defense must be outside of these limits and are subject to their own per claim and aggregate limits.

- d) Payment of claims by the provider will be on a first dollar basis and the provider will look to the insured for payment of any deductible.
 - e) Coverage contains a deductible no greater than \$5,000. If however, a deductible of greater than \$5,000 is requested by the CAM company or licensed sole proprietorship, any such deductible sum exceeding \$5,000 may be satisfied by the CAM company or licensed sole proprietorship by depositing such sums in an insured savings account or a certificate of deposit issued by a state or national bank, credit union or savings and loan association doing business in this state. Any such savings account, deposit, or certificate of deposit must be in the amount specified by the Director and must be assigned to the Colorado Division of Real Estate, Department of Regulatory Agencies for the use of the people of the State of Colorado. The CAM company or sole proprietorship will provide proof of any such account or deposit in or certificate of deposit to the Director upon request.
 - f) That the provider of the policy has executed an affidavit in a form or manner specified by the Director attesting that the policy is in force and, at a minimum, complies with all relevant conditions set forth herein and that the provider will immediately notify the Director in writing of any cancellation or lapse in coverage of any policy.
- 3) Each CAM company and sole proprietorship applying for licensure, activation, renewal or reinstatement must certify compliance with this Rule D-9 and § 12-61-1004, C.R.S., on forms or in a manner prescribed by the Director. Any CAM company or sole proprietorship who so certifies and fails to obtain errors and omissions group coverage or who fails to provide proof of continuous coverage directly to the Director, will be placed on inactive status and all licensees operating under such policy will placed on inactive status:
- a) Immediately, if certification of current insurance coverage is not provided to the Director; or
 - b) Immediately upon the expiration of any current insurance when certification of continued coverage is not provided.

D-10) Crime fidelity insurance requirements.

Every active licensed CAM company and licensed sole proprietorship must have in effect a crime fidelity insurance policy covering the dishonest acts of all employees in the CAM company or sole proprietorship.

- 1) CAM companies and licensed sole proprietorships must obtain crime fidelity coverage from an insurance carrier or be named as an additional insured on the common interest community's fidelity insurance policy, subject to the following terms and conditions:
 - a) The insurance carrier is licensed and authorized by the Colorado Division of Insurance to write policies of crime fidelity insurance in this state and is in conformance with all Colorado statutes.
 - b) The insurance carrier maintains an A.M. best rating of "A-" or better.
- 2) The policy, at a minimum, must comply with all relevant conditions set forth in this Rule D-10 and coverage must provide, at a minimum, the following:

- a) The contract and policy are in conformance with this Rule D-10 and all relevant Colorado statutory requirements.
 - b) Coverage is exclusive to covering acts contemplated under the current Act and the Director rules.
 - c) Coverage for each common interest community managed, must not be less in aggregate than two months of current assessments plus reserves, as calculated from the current budget of the common interest community, or such higher amount as the common interest community may require in its bylaws or management contract with the CAM company or licensed sole proprietorship. This coverage includes, but is not limited to, any CAM company, sole proprietorship, or designated manager that controls or disburses funds of the common interest community, or that is authorized to sign checks on behalf of the common interest community. Costs of investigations must be outside of these limits and are subject to their own per claim and aggregate limits.
 - d) Payment of claims by the provider will be on a first dollar basis and the provider will look to the insured for payment of any deductible.
 - e) Coverage contains a deductible no greater than one (1) percentage point of the total face amount of the policy.
 - f) That the provider of the policy or its designated agent has executed an affidavit in a form or manner specified by the Director attesting that the policy is in force and, at a minimum, complies with all relevant conditions set forth in these Director rules.
- 3) Each CAM company and sole proprietorship applying for licensure, activation, renewal or reinstatement must certify compliance with this Rule D-10 and § 12-61-1004, C.R.S., on forms or in a manner prescribed by the Director. Any CAM company or sole proprietorship who so certifies and fails to obtain fidelity coverage or to provide proof of continuous coverage directly to the Director, will be placed on inactive status and all licensees operating under such policy will be placed on inactive status:
- a) Immediately, if certification of current insurance coverage is not provided to the Director; or
 - b) Immediately upon the expiration of any current insurance when certification of continued coverage is not provided.

E RULES – SEPARATE ACCOUNTS – RECORDS - ACCOUNTINGS

E-1) Establishment of internal accounting controls.

Every CAM and CAM company must establish written internal accounting control policies, which must include adequate checks and balances over the financial activities of the CAM, CAM company, and common interest community, as well as manage the risk and fraud of illegal acts. Policies and procedures must be designed to provide reasonable assurances in the reliability of financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in making business decisions, facilitation of fraud detection and prevention, and compliance with all applicable laws and regulations governing financial records.

E-2) Accounting methods.

In the absence of a written agreement to the contrary, the accrual basis of accounting will be used for maintaining all required accounts and records. If any other accounting method is requested by the common interest community to the CAM or CAM company, any such request must be in writing and available for inspection by an authorized representative of the Director.

E-3) Generally accepted accounting principles.

All accounting records must be in accordance with Generally Accepted Accounting Principles (GAAP), which are established by the American Institute of Certified Public Accountants (AICPA). Accounting records for the purposes of this rule means all books and records that identify, measure, record or communicate financial information.

E-4) Money belonging to others defined.

Money belonging to others which is collected by the CAM or CAM company includes, but is not limited to, any money collected in connection with: assessments, working capital, fines, reserves, miscellaneous deposits (e.g. amenity rentals), or money belonging to others collected for any other purpose.

E-5) Common interest community funds.

All money belonging to others collected by a CAM or CAM company on behalf of a common interest community doing business in this state, must be deposited in one or more accounts belonging to the common interest community. If the CAM or CAM company has access to common interest community funds, written authorization to collect or disperse money belonging to others must be obtained and an accounting of the funds must be maintained. The CAM or CAM company must retain a copy of each such authorization executed for inspection by an authorized representative of the Director.

E-6) Commingling prohibited.

All money belonging to others received by a CAM or CAM company must be segregated into each respective common interest community's bank account. All money belonging to others must be deposited within 5 business days upon receipt unless otherwise agreed to in writing by the common interest community's executive board. Money belonging to one common interest community must be used only for the benefit of that common interest community. It must not be used for the benefit of any other person or entity, including but not limited to another common interest community, CAM, or CAM company.

E-7) Recordkeeping requirements.

A CAM and CAM company must supervise and maintain, at their place of business, a record keeping system consisting of at least the following elements for each common interest community account for which the CAM or CAM company has access to, or deposits, money belonging to others:

- 1) General ledger.

A general ledger must be maintained for each common interest community account, which includes sub-ledgers of individual accounting of assets, liabilities, fund balances, income and expenses. The general ledger must show the chronological sequence in which funds are received into and disbursed from each account.

-
- 2) Recording of transactions.
 - a) Funds received. A journal must be maintained for all funds received, which includes the date the funds were received, the name of the person or entity on whose behalf the funds were delivered, the check number, the general ledger accounts within which the transactions are to be recorded and the amount delivered.
 - b) Funds disbursed. A journal must be maintained for all funds disbursed, which includes the date the funds were disbursed, the payee, the check number, the general ledger accounts within which the transaction are to be recorded and the amount disbursed.
 - c) Assessments to members. A journal must be maintained for all assessments to members, which includes the date the assessment is billed, the name of the person or entity to which the assessment is responsible and the general ledger accounts within which the transactions are to be recorded.
 - d) General journal. A journal must be maintained of all invoices for services and/or products and other transaction of the common interest community, which includes the date the invoice is issued, the name of the person or entity to which the invoice is due, the general ledger accounts within which the transactions are to be recorded, the date of the transaction entry, the general ledger accounts within which the transactions are to be recorded, the amount of the transaction and an explanation of the purpose of the transaction.
 - 3) Monthly reconciliation statements.
 - a) Bank accounts. Every CAM or CAM company must reconcile, in a timely manner after receipt of the monthly bank statement, each common interest community account, except when there has been no transactional activity during the previous month. A reconciliation must include a written work sheet comparing the balances as shown on the bank association statement and the general ledger, respectively, in order to ensure agreement between the common interest community account and the general ledger entries.
 - b) Member receivables. Every CAM or CAM company must reconcile, in a timely manner, the sub-ledger of member receivables to the general ledger.
 - c) Accounts payable. Every CAM or CAM company must reconcile, in a timely manner, the sub-ledger of outstanding invoices to the general ledger.
 - 4) Supporting documentation.
 - a) Every CAM or CAM company must maintain supporting records, which accurately detail all money received and disbursed on behalf of the common interest community. Such summary totals must be reconcilable to the records supporting the summary.

- b) All deposits of funds must be documented (for example, through bank deposits), and must include confirmation of electronic and telephonic transfers, or on detailed schedules attached to the deposit slips or confirmations. The documentation must identify each person tendering funds to the CAM or CAM company for deposit, the amount of funds tendered, types of funds received from each person, and the property address affected. All disbursements of funds must be supported by source documents such as bids, invoices, contracts, etc., that identify the payees, the common interest community affected and amount of funds transferred for each common interest community.

5) Financial reports.

Every CAM or CAM company must furnish, and have available for review by the Director, all financial reports of the common interest community in the manner and time prescribed in the management agreement or, in the absence of a provision in the written management agreement, within 30 calendar days after the end of each month, which includes at a minimum the following:

- a) A balance sheet.
- b) Income and expense statements.
- c) All bank reconciliations and copies of bank statements that support the reconciliation. The reconciled balance must agree with the balance of the account in the balance sheet.
- d) Aging of accounts receivable. The aging must agree with the balance reported on the balance sheet.
- e) Aging of accounts payable. The aging must agree with the balance reported on the balance sheet.
- f) Investment accounts. Copies of bank statements and investment advisor reports reconciled to the balance as reported on the balance sheet.

6) Master common interest community account log.

Every CAM or CAM company must maintain a master association account log ("master association account log") identifying all common interest community account numbers and the name and address of the bank where the common interest community accounts are located. The master association account log must specifically include all bank account numbers opened for a common interest community even if account numbers fall under another umbrella account number.

E-8) Produce records for inspection.

Every CAM or CAM company must produce for inspection, by an authorized representative of the Director, any records necessary to complete audits or investigations.

F RULES – PROFESSIONAL STANDARDS - INVESTIGATIONS

F-1) Maintenance and production of records.

- 1) If a CAM or CAM company agrees to hold and maintain a common interest community's documents and association records, the CAM or CAM company must maintain them in a safe and secure manner. Safe and secure manner means that reasonable measures must be taken to minimize the risk of loss, damage, or theft.
 - a) All such documents and association records are the property of the common interest community. The CAM or CAM company must also maintain copies of such documents and association records for their own files as set forth in Subsection 2 of this Rule F-1.
 - b) If the CAM or CAM company agrees to hold and maintain documents and association records for the common interest community, the terms and conditions of such maintenance and retention must be set forth in a written agreement between the CAM or CAM company and the common interest community.
 - c) While a management agreement is in effect between a common interest community and a CAM or CAM company, the CAM or CAM company acting as a manager for the common interest community must make available to the common interest community, at no cost or expense, all documents and association records related to the management services for the common interest community that are necessary for the common interest community to perform its duties and functions pursuant to Colorado law.
 - d) Within 30 calendar days of the termination of a management agreement with the common interest community, a CAM or CAM company who acted as a manager for the common interest community must produce all documents and association records related to the management services to the common interest community at no cost or expense, unless otherwise agreed to in writing by both the common interest community and the CAM or CAM company.
 - e) Except as otherwise set forth in Subsections (1)(c) and (1)(d) of this Rule F-1, a CAM or CAM company may impose a reasonable charge, which may be collected in advance and may cover the costs of labor and material, for copies of the common interest community's documents and association records being maintained by the CAM or CAM company. The charge may not exceed the estimated cost of production and reproduction of the records.
- 2) For investigation and enforcement purposes, a CAM or CAM company must keep and retain a copy of the common interest community's documents and association records maintained and produced during the management of the common interest community for a minimum period of 3 years following termination of the management agreement. This must be done at no cost or expense to the common interest community, unless otherwise agreed to in writing by both the common interest community and CAM or CAM company. A CAM and CAM company must produce for inspection by an authorized representative of the Director any document or record as may be reasonably necessary for investigation or audit in the enforcement of §§ 12-61-1010 and 12-61-1002(3)(c), C.R.S., and the Director rules. Failure to submit any such documents or records within the time set by the Director in its notification will be grounds for disciplinary action unless the Director has granted an extension of time for such production.

- 3) All required records may be maintained in an electronic format as permitted by §§ 24-71.3-101, et seq., C.R.S. An electronic record means any record generated, communicated, received, or stored by electronic means. Such electronic records must be produced upon request by the Director and must be in a format that has the continued capability to be retrieved and legibly printed. Electronic records must be printed and produced upon request of the Director, or by the common interest community, or their designee.

F-2) Advertising.

A CAM that advertises community association management services for a common interest community must do so in the name of the licensed CAM and the CAM company under which the licensee is licensed.

F-3) Licensee must respond to complaint or audit notice in writing.

When a licensee has received written notification from the Director, or a representative of the Director, that: (1) a complaint has been filed against the licensee, (2) the licensee has been selected for an audit, or (3) that an audit has identified record keeping or trust account deficiencies, such licensee must submit a written response to the Director. Failure to submit a written response within the time set by the Director in its notification will be grounds for disciplinary action unless the Director has granted an extension of time for the response in writing. This is true regardless of whether the underlying complaint warrants further investigation or subsequent action by the Director. The licensee's written response must contain the following:

- 1) A complete and specific response to the factual recitations, allegations or claims made in the complaint filed against the licensee, whether made by a member of the public, on the Director's own motion or by an authorized representative of the Director;
- 2) A complete and specific response to any additional questions, allegations or claims presented in the notification letter;
- 3) Any documents or records requested in the notification letter; and
- 4) Any further information relative to the complaint that the licensee believes to be relevant or material to the matters addressed in the notification letter.

F-4) Immediate notification of conviction, plea or violation required.

A licensee must notify the Director in writing pursuant to § 12-61-1010(1)(j), C.R.S., within 30 calendar days of any of the following:

- 1) A plea of guilty, a plea of nolo contendere or a conviction of any crime identified in § 12-61-1010(1)(i), C.R.S.
- 2) A violation or aiding and abetting in the violation of the Colorado or Federal Fair Housing Laws.
- 3) Any disciplinary action taken against the CAM in any other jurisdiction, if the CAM's action(s) would constitute a violation of the community association manager licensing law in Colorado.
- 4) Any practice restrictions as set forth in § 12-61-1010(1)(o) and (p), C.R.S.

F-5) Community association manager maintaining current contact information and all information required for licensing.

Each licensee must maintain all current contact information and all information required for licensing, in a manner acceptable to the Director, which will be included in the Division of Real Estate database.

- 1) Licensee contact information must include, but is not limited to:
 - a) E-mail address, if applicable;
 - b) Legal first, middle and last names;
 - c) Physical home address;
 - d) Home phone number;
 - e) Physical business address;
 - f) Business phone number; and
 - g) Business name.
- 2) Information required for licensing includes, but is not limited to:
 - a) Errors and omissions insurance provider;
 - b) Errors and omissions policy number;
 - c) Errors and omissions effective and expiration dates;
 - d) Crime fidelity insurance provider;
 - e) Crime fidelity policy number; and
 - f) Crime fidelity insurance effective and expiration dates.
- 3) Within 30 calendar days of any changes, individuals required to be licensed must update the Director with any changes to the information defined in this rule in a manner prescribed by the Director.

F-6) Contracts, agreements, authorizations and disclosures must be in writing.

- 1) All contracts, agreements, authorizations and disclosures between a CAM or CAM company and a common interest community must be in writing and must contain the entire agreement of the parties.
- 2) The written agreement between the parties must be legible and clearly specify the terms and conditions of the management services to be performed by the CAM or CAM company. The agreement must include, but is not limited to, the following:
 - a) Beginning and ending dates of the contract;
 - b) Details of all compensation, fees and charges;
 - c) Cancellation rights of the parties;

- d) Record retention and distribution policy;
 - e) Errors and omissions insurance coverage;
 - f) Crime fidelity insurance coverage;
 - g) A general description of the records to be kept and the accounting or bookkeeping system to be used; and
 - h) The designated manager's license number.
- 3) A CAM or CAM company must disclose in writing and at no charge, within 3 business days after a request by an owner in a common interest community, or by a buyer or seller who is under contract for the purchase of real property or a unit in a common interest community, or their respective agent, all fees and charges that the CAM or CAM company will charge in connection with the sale, transfer and closing of the real estate or unit in a common interest community.

F-7) Designated manager responsibilities.

Designated managers' responsibilities include, but are not limited to, the following:

- 1) Maintaining all bank accounts and accounting records for any managed common interest communities.
- 2) Providing reasonable supervision over the licensed activities of all employees.
- 3) Taking reasonable steps to ensure that violations of statutes and the Director rules do not occur or reoccur.
- 4) Taking reasonable steps to ensure a licensee responds to any notices from the Director or its designee.
- 5) Providing supervision of licensed activities for all offices operated by the CAM company.

F-8) Reasonable supervision.

Pursuant to §§ 12-61-1010(1)(l), and 12-61-1003(2), C.R.S., and in addition to the requirements of Rule F-7, reasonable supervision of licensees includes, but is not limited to, compliance with the following:

- 1) Maintaining a written policy describing the duties and responsibilities of licensees employed by the CAM or CAM company. A copy of the written policy must:
 - a) Be given to, read and signed by each licensee, and
 - b) Be available for inspection, upon request, by any authorized representative of the Director.
- 2) Review of all common interest community contracts, agreements, and authorizations to ensure compliance with all applicable Director rules.
- 3) Ensure all licensed individuals comply with insurance requirements as set forth in Rule D-9 and Rule D-10.

- 4) Nothing in this rule prohibits a designated manager from delegating supervisory authority to other experienced licensees.
 - a) Any CAM who accepts supervisory authority from a designated manager will bear responsibility with the designated manager for ensuring compliance with all statutes and the Director rules by all supervised licensees. A designated manager who delegates supervisory authority to another licensee remains responsible for ensuring compliance with all statutes and the Director rules by all supervised licensees.
 - b) Any such delegation of authority must be in writing and signed by the licensed CAM to whom such authority is delegated. A copy of such delegation must be maintained by the designated manager for inspection, upon request, by any authorized representative of the Director.

F-9) Disclose any conflict of interest.

When acting in a licensed capacity, a licensee has a continuing duty to disclose to a common interest community any actual or potential conflicts of interest that may arise in the course of any activity with regard to the management duties and functions of the common interest community and its executive board. A CAM must avoid any perceived favoritism or impropriety in carrying out all the duties and obligations with regard to the management of the common interest community and its executive board. A licensee acting as a CAM has a duty to immediately disclose, in writing, any known conflict of interest that may arise in the selection or use of a business, third party or vendor that provides services pertaining to the management of a common interest community and its executive board. In addition, the CAM must not accept, directly or indirectly any commission, fee, rebate, discount, any other remuneration, benefit or any other thing of value that could be reasonably perceived as a conflict with the interests of the common interest community and its executive board, unless it is first disclosed to and consented to in writing by the common interest community and its executive board.

F-10) License revoked, expired, suspended or inactivated.

Upon suspension, revocation, expiration or inactivation of a license, the licensee is responsible for immediate compliance with the following:

- 1) Cease any activities requiring a license.
- 2) Return the license to the Director. If the individual is a designated manager, inform all employed licensees of the change in license status and the effect of such change on the license status of those licensees.
- 3) Cease all advertising, including, but not limited to, the use of signage, newspapers, magazines, internet, and direct mailings.
- 4) Inform all common interest communities they are managing that their license has expired, or has been suspended, revoked or inactivated, pursuant to § 38-33.3-402, C.R.S., not later than 5 business days after any such expiration, suspension, revocation or inactivation.
- 5) Inform the common interest community and its executive board of the action taken and the impact that the change in license status will have on the common interest community, if any.

- 6) In the case of a designated manager who is being replaced by a new designated manager, the departing designated manager must properly account for and transfer all entrusted funds to the new designated manager, and provide all records and documents related to management services to the new designated manager.
- 7) In the case of a designated manager who will not be replaced and the licensed CAM company will be dissolved, the designated manager is responsible for an accounting of all funds and for making all final disbursements. The CAM company is responsible for maintaining all records for 3 years.
- 8) Fees earned prior to the suspension, revocation, expiration or inactivation may be retained by the licensee.
- 9) Pursuant to § 38-33.3-402, C.R.S., any agreement by a common interest community to pay a fee for the services of a CAM or to hold harmless or indemnify the CAM for any act or omission in the course of providing those services is void and unenforceable for any period in which the CAM's license is expired, suspended, revoked or inactivated. This would not apply, however, if a CAM company had a licensed designated manager or additional licensed CAM within its company, whose license is in full force and effect, and who is providing the management services for the common interest community pursuant to a management agreement.

G RULES – DECLARATORY ORDERS

G-1) Any person may petition for a declaratory order.

Any person may petition the Director for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any statutory provisions of the Act, the Director rules, or of any order of the Director.

G-2) Director determines whether to rule.

The Director will determine, in his or her discretion and without prior notice to the petitioner, whether to rule upon any such petition. If the Director determines he or she will not rule upon such a petition, the Director will issue a written order disposing of the same, stating therein his or her reasons for such action. A copy of such order will be provided to the petitioner.

G-3) Director considerations.

In determining whether to rule upon a petition filed pursuant to this rule, the Director will consider the following matters, among others:

- 1) Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provision of the Act, the Director rules, or order of the Director;
- 2) Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more of the petitioners which will terminate the controversy or remove the uncertainties as to the applicability to the petitioner of any statutory provision of the Act, the Director rules, or order of the Director, which matter or investigation will be specified by the Director;

- 3) Whether the petition involves any subject, question or issue which is the subject of a formal matter or investigation currently pending before the Director or a court but not involving any petitioner which will terminate the controversy or remove the uncertainties as to the applicability to the petitioner of any statutory provision of the Act, the Director rules, or order of the Director, which matter or investigation will be specified by the Director and in which petitioner may intervene;
- 4) Whether the petition seeks a ruling on a moot or hypothetical question and will result in merely an advisory ruling or opinion; and
- 5) Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statutory provision of the Act, the Director rules, or order of the Director in question.

G-4) Petition contents.

Any petition filed pursuant to this rule will set forth the following:

- 1) The name and address of the petitioner and whether the petitioner holds a license issued pursuant to §§ 12-61-1001, et seq., C.R.S.
- 2) The statute, rule or order to which the petition relates.
- 3) A concise statement of all the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner.
- 4) A concise statement of the legal authorities, if any, and such other reasons upon which the petitioner relies.
- 5) A concise statement of the declaratory order sought by the petitioner.

G-5) Procedures if the Director will rule.

If the Director determines that he or she will rule on the petition, the following procedures will apply:

- 1) The Director may, in his or her discretion, rule upon the petition based solely upon the facts presented in the petition. In such a case:
 - a) Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition;
 - b) The Director may order the petitioner to file a written brief, memorandum or statement of position;
 - c) The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing;
 - d) The Director may dispose of the petition on the sole basis of the matters set forth in the petition;
 - e) The Director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition;

- f) The Director may take administrative notice of facts pursuant to the Administrative Procedure Act, § 24-4-105(8), C.R.S., and utilize his or her experience, technical competence and specialized knowledge in the disposition of the petition;
 - g) If the Director rules upon the petition without a hearing, he or she will issue a written order, stating therein his or her basis for the order. A copy of such order will promptly be transmitted to the petitioner.
- 2) The Director may, in his or her discretion, set the petition for hearing upon due notice to the petitioner for the purpose of obtaining additional facts or information or to determine the truth of any fact set forth in the petition or to hear oral argument on the petition. Notice to the petitioner setting such hearing will set forth, to the extent known, the factual or other matters into which the Director intends to inquire. For the purpose of such a hearing the petitioner will have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to petitioner and any other facts the petitioner desires the Director to consider.

G-6) Parties to proceedings.

The parties to any proceeding pursuant to this rule will be the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene will set forth the same matters as required by Rule G-4. In such a case, any reference to a “petitioner” in this rule also refers to any person who has been granted leave to intervene by the Director.

G-7) Orders subject to judicial review.

Any declaratory order or other order disposing of a petition pursuant to this Rule G will constitute agency action subject to judicial review pursuant to § 24-4-106, C.R.S.

H RULES – EXCEPTIONS AND DIRECTOR REVIEW OF INITIAL DECISIONS

H-1) Written form, service and filing requirements.

- 1) All designations of record, requests, exceptions and responsive pleadings (“pleadings”) must be in written form, mailed with a certificate of mailing to the Director.
- 2) All pleadings must be received by the Director by 5:00 p.m. on the date the filing is due. A pleading is considered filed upon receipt by the Director. These rules do not provide for any additional time for service by mail.
- 3) Any pleadings must be served on the opposing party by mail or by hand delivery on the date which the pleadings are filed with the Director.
- 4) All pleadings must be filed with the Director, and not with the office of administrative courts. Any pleadings filed in error with the office of administrative courts will not be considered. The Director’s address is:

Division of Real Estate
1560 Broadway, Suite 925
Denver, Colorado 80202

H-2) Authority to review.

- 1) The Director hereby preserves the Director's option to initiate a review of an initial decision on his or her own motion pursuant to § 24-4-105(14)(a)(ii) and (b)(iii), C.R.S. outside of the 30 day exceptions filing period after service of the initial decision upon the parties.
- 2) This option to review will apply regardless of whether a party files exceptions to the initial decision.

H-3) Designation of record and transcripts.

- 1) Any party seeking to reverse or modify an initial decision of an administrative law judge must file with the Director a designation of the relevant parts of the record for review ("designation of record"). Designations of record must be filed with the Director within 20 days of the date on which the Director mails the initial decision to the parties' address of record with the Director.
- 2) Within 10 days after a party's designation of record is due, any other party may file a supplemental designation of record requesting inclusion of additional parts of the record.
- 3) Even if no party files a designation of record, the record must include the following:
 - a) All pleadings;
 - b) All applications presented or considered during the hearing;
 - c) All documentary or other exhibits admitted into evidence;
 - d) All documentary or other exhibits presented or considered during the hearing;
 - e) All matters officially noticed;
 - f) Any findings of fact and conclusions of law proposed by any party; and
 - g) Any written brief filed.
- 4) Transcripts. Transcripts will not be part of a designation of record unless specifically identified and ordered. Should a party wish to designate a transcript or portion thereof, the following procedures will apply:
 - a) The designation of record must identify with specificity the transcript or portion thereof to be transcribed. For example, a party may designate the entire transcript, or may identify witness(es) whose testimony is to be transcribed, the legal ruling or argument to be transcribed, or other information necessary to identify a portion of the transcript.
 - b) Any party who includes a transcript or a portion thereof as part of the designation of record must order the transcript or relevant portions by the date on which the designation of record must be filed (within 20 days of the date on which the Director mails the initial decision to the parties).

- c) When ordering the transcript, the party must request a court reporter or transcribing service to prepare the transcript within 30 days. The party must timely pay the necessary fees to obtain and file with the Director an original transcript and one copy within 30 days.
- d) The party ordering the transcript will direct the court reporter or transcribing service to complete and file with the Director the transcript and one copy of the transcript within 30 days.
- e) If a party designates a portion of the transcript, the opposing party may also file a supplemental designation of record, in which the opposing party may designate additional portions of the transcript.
- f) An opposing party filing a supplemental designation of record designating additional portions of the transcript must order and pay for such transcripts or portions thereof within the deadlines set forth above. An opposing party must also cause the court reporter to complete and file with the Director the transcript and one copy of the transcript within 30 days.
- g) Transcripts that are ordered and not filed with the Director in a timely manner by the reporter or the transcription service due to non-payment, insufficient payment or failure to direct as set forth above will not be considered by the Director.

H-4) Filing of exceptions and responsive pleadings.

- 1) Any party wishing to file exceptions must adhere to the following timelines:
 - a) If no transcripts are ordered, exceptions are due within 30 days from the date on which the Director mails the initial decision to the parties. Both parties' exceptions are due on the same date.
 - b) If transcripts are ordered by either party, the following procedure will apply. Upon receipt of all transcripts identified in all designations of record and supplemental designations of record, the Director will mail notification to the parties stating that the transcripts have been received by the Director. Exceptions are due within 30 days from the date on which such notification is mailed. Both parties' exceptions are due on the same date.
- 2) Either party may file a responsive pleading to the other party's exceptions. All responsive pleadings must be filed within 10 days of the date on which the exceptions were filed with the Director. No other pleadings will be considered except for good cause shown.
- 3) The Director may in his or her sole discretion grant an extension of time to file exceptions or responsive pleadings, or may delegate the discretion to grant such an extension of time to the Director's designee.

H-5) Request for oral argument.

- 1) All requests for oral argument must be in writing and filed by the deadline for responsive pleadings.
- 2) It is within the sole discretion of the Director to grant or deny a request for oral argument. If oral argument is granted, both parties will have the opportunity to participate.

-
- 3) If a request for oral argument is granted, each side will be permitted 10 minutes of oral argument unless such time is extended by the Director.
-

Editor's Notes

History

Rules A, C, D emer. rules eff. 01/06/2015.

Entire rule eff. 05/06/2015.

Rules A-1), A-5), A-7), A-8), A-9), A-11), A-16), A-17), B-2), C-4), C-14), D-1), F-3), F-4), F-5), F-7), F-10) emer. rules eff. 05/21/2015.

Rules A-1), A-5), A-7), A-8), A-9), A-11), A-16), A-17), B-2), C-4), C-14), D-1), F-3), F-4), F-5), F-7), F-10) eff. 09/18/2015.