

REDLINE

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
COMMUNITY ASSOCIATION MANAGERS
4 CCR 725-7**

**NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 30, 2019**

H RULES – EXCEPTIONS AND DIRECTOR REVIEW OF INITIAL DECISIONS

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Director of the Division of Real Estate (“Director”) to promulgate rules, or to amend, repeal or repeal and re-enact the present rules related to community association managers.

STATEMENT OF BASIS

The statutory basis for the rules titled Rules Regarding Community Association Managers is Part 10 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

Veto of House Bill 19-1212 repeals the authority of the Division of Real Estate (“Division”) and the Division Director in the oversight and administration of the Community Association Managers Program. As a result, the existing rules need to be repealed to be in compliance with the veto of House Bill 19-1212.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of these rules is to repeal key terms and regulations pertaining to the Community Association Managers Program, pursuant to veto of House Bill 19-1212.

PROPOSED NEW, AMENDED AND REPEALED RULES

Deleted material is shown by ~~struck through~~; new material is indicated by underline. Rules, or portions of rules, which are unaffected are reproduced. Readers are advised to obtain a copy of the complete rules of the Board at www.dora.colorado.gov/dre.

~~H RULES – EXCEPTIONS AND DIRECTOR REVIEW OF INITIAL DECISIONS~~

~~H-1) Written form, service and filing requirements.~~ Repealed (Effective September 30, 2019)

~~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. [Repealed \(Effective September 30, 2019\)](#)~~

- ~~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. [Repealed \(Effective September 30, 2019\)](#)~~

- ~~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.~~ [Repealed \(Effective September 30, 2019\)](#)

- 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.~~ [Repealed \(Effective September 30, 2019\)](#)

- 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.~~

A hearing on the above subject matter will be held on July 30, 2019, at the Colorado Division of Real Estate, 1560 Broadway, Suite 100-A, Denver, Colorado 80202 beginning at 9:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rules being considered are subject to further changes and modifications after public comment and formal hearing.