

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

**EMERGENCY RULES
June 19, 2019**

C RULES - LICENSING - OFFICE

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of emergency 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 Real Estate to promulgate rules, or to amend, repeal or repeal and re-enact the present rules related to community association managers.

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Section 1. Statement of Basis and Authority

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.

Section 2. Scope and Purpose

The Director of the Division of Real Estate finds that immediate adoption of these emergency rules is imperatively necessary to comply with state law, including §§ 12-61-1001, et seq., C.R.S. (the "Act") and that compliance with the rulemaking requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

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 As a result, the existing rules need to be repealed effective June 30, 2019 to be in compliance with the veto of House Bill 19-1212.

Without the immediate adoption of these emergency rules, the public's interest is not served. Wherefore, the Director, pursuant to § 24-4-103(6), C.R.S. has an obvious and stated need to adopt these rules.

Section 3. Applicability

The emergency rules govern community association managers who are subject to the requirements of Part 10 of Title 12, Article 61 of the Colorado Revised Statutes.

Section 4. C Rules – Licensing - Office

~~C RULES – LICENSING – OFFICE~~

~~C-1) Individual proprietor must be sole owner. REPEALED (Effective June 30, 2019)~~

~~—— 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. REPEALED (Effective June 30, 2019)~~

~~—— 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. REPEALED (Effective June 30, 2019)~~

~~—— 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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~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. REPEALED (Effective June 30, 2019)~~

~~— 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. REPEALED (Effective June 30, 2019)~~

~~— 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. REPEALED (Effective June 30, 2019)~~

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

Section 5. Effective Date

These emergency rules shall be effective June 30, 2019.