

DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
REAL ESTATE BROKERS
4 CCR 725-1
NOTICE OF PROPOSED RULEMAKING HEARING
December 6, 2011
F-1 Permitted and Prohibited Form Modifications

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 Colorado Real Estate Commission (the "Commission") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Commission.

- Section 1. Authority
- Section 2. Scope and Purpose
- Section 3. Applicability
- Section 4. F-1 Permitted and Prohibited Form Modifications

Section 1. Authority

The statutory basis for the adoption of these rules regarding real estate brokers and salespersons is Parts 1 and 8 of Title 12, Article 61 C.R.S. The specific rulemaking provisions contained therein are sections 12-61-114.5 and 12-61-803(4), C.R.S.

Section 2. Scope and Purpose

The purpose of this rule is to amend rule F-1 regarding permitted and prohibited form modification of standard and approved forms.

Section 3. Applicability

The provisions of this section shall be applicable to real estate brokers.

Section 4. F-1 Permitted and Prohibited Form Modifications

F-1 Permitted and Prohibited Form Modifications

- (a) No modifications shall be made to a Commission-approved form by a broker except as provided in rules promulgated by the Commission and as set forth in this Rule F-1 through F-7. For purposes of Rule F-1 through F-7, the term "Commission-approved form" means any form promulgated by the Commission; the term "broker" shall also include brokerage firm.
- (b) A broker may add its firm name, address, telephone, e-mail, trademark or other identifying information on a Commission-approved form.
- (c) A broker may add initial lines at the bottom of a page of any Commission-approved form.
- (d) Any deletion to the printed body of a Commission-approved form, or any "Additional Provision" or "Addenda" which by its terms serves to amend or delete portions of the approved language, must result from negotiations or the instruction(s) of a party to the transaction and must be made directly on the printed body of the form by striking through the amended or deleted portion in a legible manner that does not obscure the deletion that has been made.

- (e) Blank spaces on a Commission-approved form may be lengthened or shortened to accommodate the applicable data or information.
- (f) Provisions that are inserted into blank spaces must be printed in a style or type that clearly differentiates such insertions from the style or type used for the Commission-approved form language.
- (g) A broker may omit part or all of the following provisions of a Commission-approved (*changed font*) "Contract to Buy and Sell Real Estate" (even if the provision is identified by a different Section number), or corresponding provisions in other Commission-approved forms, if such provisions do not apply to the transaction. In the event any provision is omitted, the provision's caption or heading must remain unaltered on the form followed by the word "OMITTED".

1. Section ~~2.42.5~~ Inclusions in its entirety or any of its subsections
2. Section ~~2.52.6~~ Exclusions
3. Section 4.4 Seller Concessions
4. Section 4.5 New Loan in its entirety or any of its subsections
5. Section 4.6 Assumption
6. Section 4.7 Seller or Private Financing
7. Section 5 Financing Conditions and Obligations in its entirety or any of its sections
8. Section 6 Appraisal Provisions in its entirety or any of its subsections
9. Section ~~7.47.3 Homeowners' Association~~~~Common Interest Community~~ Documents in its entirety or any of its subsections
10. Section 8.4 Special Taxing Districts
11. Section ~~8.68.5~~ Right of First Refusal or Contract Approval
12. Section 10.6 Due Diligence ~~Documents~~ ~~—Physical Inspection~~
13. Section 10.7 Due Diligence ~~Documents~~ ~~Conditions~~ ~~—Documents in its entirety or any of its subsections~~
14. Section 10.8 Due Diligence ~~—Environmental, ADA Conditions~~ ~~(CBS2, CBS3, CBS4)~~
- ~~15. Section 10.10 Source of Potable Water~~
- ~~Section 10.7.3 Source of Potable Water (CBS4)~~
- ~~16. Section 10.9 Existing Leases; Modification of Existing Leases; New Leases (CBS3, CBS4)~~
- ~~16. Section 10.11 Carbon Monoxide Alarms~~
- ~~17. Section 10.12 Lead-Based Paint~~
- ~~18. Section 10.13 Methamphetamine Disclosure~~
- ~~19. Section 10.14 COLORADO FORECLOSURE PROTECTION ACT~~
20. Section 10.15 Existing Leases; Modification of Existing Leases; New Leases (CBS2)
21. Section 11 Tenant Estoppel Statements in its entirety or any of its subsections (CBS2, CBS3, CBS4)
22. Section 15.3 Status and Transfer Letter Fees
23. Section 15.4 Local Transfer Tax
24. Section ~~15.5~~15.6 Sales and Use Tax
25. Section 16.2 Rents
26. Section 16.3 Association Assessments

(h) A broker may add an additional page to the "Contract to Buy and Sell Real Estate", "Counterproposal" and the "Agreement to Amend/Extend Contract", following such document, that contains the dates and deadlines information set forth in § 3, arranged in chronological date sequence.

(i) A broker may omit part or all of the following provisions of the "Counterproposal" and the "Agreement to Amend/Extend Contract" if such provisions do not apply to the transaction. In the event any provision is omitted, the provision's caption or heading must remain unaltered on the form followed by the words "OMITTED".

1. Section 3 Dates and Deadlines table

2. Section 4 Purchase Price and Terms [in the Counterproposal only]

- (j) A broker may substitute the term “Landlord” for the term “Seller” and the term “Tenant” for the term “Buyer” in the Brokerage Disclosure to Buyer form, in the Brokerage Disclosure to Seller and Definitions of Working Relationships form when making disclosures in a lease transaction (or use the separate Brokerage Disclosure To Tenant form) .
- (k) A broker may add signature lines and identifying labels for the parties signatures on a Commission-approved form.
- (l) A broker may modify, strike or delete such language on a Commission-approved form as the Commission may from time to time authorize to be modified, stricken or deleted.

A hearing on the above subject matter will be held on Tuesday, December 6, 2011, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, 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 rule being considered is subject to further changes and modifications after public comment and formal hearing.