

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
REAL ESTATE COMMISSION
4 CCR 725-1**

**NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
February 7, 2012**

RULE G. BROKERS ACTING UNDER 12-61-101(2)(X), C.R.S. (RENTAL REFERRALS)

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.

STATEMENT OF BASIS

The statutory basis for the rules titled Rules of the Colorado Real Estate Commission is Part 1 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the state statutes of the real estate practice act.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rule is to amend or repeal existing rules with respect to brokers who provide rental referrals.

PROPOSED NEW, AMENDED AND REPEALED RULES

Deleted material shown ~~struck through~~, new material shown in blue text. Rules, or portions of rules, which are unaffected are reproduced.

Proposed New, Amended and Repealed Rules

Rule G. Brokers Acting Under 12-61-101(2)(X), C.R.S. (Rental Referrals)

G-2. Receipt for advance fees

Pursuant to 12-61-113(1.5), C.R.S., every person licensed acting under 12-61-101(2)(X), C.R.S. shall give a prospective tenant a contract or receipt. At the time of acceptance of an advance fee from a prospective tenant, a broker shall provide the prospective tenant with a written contract or receipt which shall include at least the following:

- (a) Name, business address and telephone number of the brokerage company.
- (b) Acknowledgment of receipt of advance fee.
- (c) A description of the services to be performed by the broker, including significant conditions, restrictions and limitations where applicable, and hours of operation.
- (d) The prospective tenant's specifications for the rental property, including but not limited to:
 - (1) Type of structure, e.g., detached single family, apartment, duplex, condominium, mobile home, et cetera.
 - (2) Location by commonly accepted residential area name, by designation of boundary streets and municipality or in any other manner affording a reasonable means of identifying acceptable locations.

- (3) Furnished or unfurnished.
 - (4) Number of bedrooms.
 - (5) Earliest occupancy date desired.
 - (6) Maximum acceptable monthly rental.
 - (7) Pets.
 - (8) Garage, carport or off-street parking.
- (e) Contract expiration date.
 - (f) Date of execution.
 - (g) Signatures of the prospective tenant, the broker, and if negotiated by a licensee in the employ of a broker, then the employed licensee shall sign on behalf of the employing broker.
 - (h) The address and the phone number of the Real Estate Commission in prominent letters.
 - (i) A statement that the regulation of rental location services is under the jurisdiction of the Real Estate Commission.
 - (j) Recital in bold face and capitals that:

IF THE INFORMATION CONCERNING RENTALS FURNISHED BY THE BROKER IS SHOWN TO BE NOT CURRENT OR ACCURATE IN REGARD TO THE TYPE OF RENTAL DESIRED, THE FULL FEE SHALL BE REPAID OR REFUNDED TO THE PROSPECTIVE TENANT UPON WRITTEN DEMAND. CURRENT RENTALS HAVE BEEN VERIFIED AS TO AVAILABILITY WITHIN THE PAST FOUR BUSINESS DAYS.

G-6. Advertising

Each broker engaged in locating or assisting in locating rental properties for an advance fee shall abide by the following regulations regarding advertising practices:

- (a) Licensee shall make written registries, posted in a conspicuous place or otherwise disclosed to fee payers, of all advertisements or other publications published or caused to be published by the broker, together with address of each property advertised, the name of the party who offered the property for rent and his or her telephone, if any.
- (b) No property shall be advertised which has not been verified for availability four business days or less before said advertisement shall be printed.
- (c) Each property advertised for rent or lease through the use of any media form shall be assigned a code (and one code only) in accordance with a uniform coding system adopted by the broker, which code shall also appear in any media advertising placed by said broker. Coding of municipalities shall be included within the uniform system so as to be accurately reflected in media advertising.
- (d) A copy of all advertising submitted to any media group for publication (including television, radio, newspaper and mimeographed sheets), together with the name of the person submitting the same, shall be maintained by a broker for a period of one year after publication.
- (e) No licensee acting under 12-61-101(2)(~~g~~)(X), C.R.S. shall advertise or furnish a prospective tenant with the address of a prospective rental unless such licensee has received specific authorization to list said property from the owner or owner's authorized agent. Specific authorization may be by writing, signed by the owner or owner's agent, or orally, if the broker notes the name of the owner or owner's agent, the date of authorization, and the telephone number of the person so authorizing.

G-7. Grounds for finding unworthiness or incompetence

Pursuant to 12-61-113(l)(n), C.R.S., a licensee acting under 12-16-101(2)(~~g~~)(X), C.R.S. shall be considered unworthy or incompetent in the conduct of their business where:

- (a) The licensee violates Rule G-6.
- (b) With particular respect to media advertising:
 - (1) The property is not actually located in the area represented.
 - (2) The rental price shown is less than that asked by the owner of the available property.
 - (3) The property is non-existent or cannot be verified as currently for rent by the

licensee.

(4) The specifics of the property advertised differ materially from the property as it exists.

(5) A property is advertised in such a way or under such a heading as to indicate the property is of a different type than it actually is. The word "type" refers to such designations as: single family detached residence, duplex, apartment, condominium, townhouse, or mobile home.

(c) The licensee fails or refuses to abide by the terms of the contract or receipt between himself and a prospective purchaser.

(d) The broker fails or refuses to refund money pursuant to the terms of the contract or receipt.

(e) The broker has failed to keep accurate records as specified in these rules or has failed to retain said records for the prescribed time periods.

A hearing on the above subject matter will be held on Tuesday, February 7, 2012, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250C, 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.