

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

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
July 30, 2019

G RULES – DECLARATORY ORDERS

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 As a result, the existing rules need to be repealed to be in compliance with the veto of House Bill 19-1212.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PROPOSED NEW, AMENDED AND REPEALED RULES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 showed 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.

~~**G RULES – DECLARATORY ORDERS**~~

~~G-1) Any person may petition for a declaratory order.~~ Repealed (Effective September 30, 2019)

~~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~~G-2) Director determines whether to rule.~~ Repealed (Effective September 30, 2019)

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 [Repealed \(Effective September 30, 2019\)](#)~~

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 [Repealed \(Effective September 30, 2019\)](#)~~

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 [Repealed \(Effective September 30, 2019\)](#)~~

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 [Repealed \(Effective September 30, 2019\)](#)~~

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 [Repealed \(Effective September 30, 2019\)](#)~~

~~— 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.~~

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.