

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

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
August 5, 2019

RULE G. BROKERS ACTING UNDER 12-61-101(2)(a)(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 pursuant to section 24-4-103.3., C.R.S. (SB14-063) and to promulgate necessary and appropriate rules in conformity with the state statutes of the real estate practice act.

SPECIFIC PURPOSE OF RULEMAKING

The Division of Real Estate conducted a review of all of its rules relating to the real estate practice act to assess the continuing need for and the appropriateness and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed. After consultation with stakeholders, the proposed rules have been re-organized, re-indexed, and correctly categorized. As a result, the current rules are being repealed.

PROPOSED NEW, AMENDED AND REPEALED RULES

Deleted material shown ~~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 Commission at www.dora.colorado.gov/dre.

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

~~**G-1. Repealed (1-6-00)**~~

- ~~(a) The funds may be withdrawn from the trust fund account at any time for the purpose of returning the funds to the payor thereof in accordance with the terms of the contract or receipt.~~
- ~~(b) The funds may be withdrawn from the trust or escrow fund account when and if the broker reasonably believes the evidence available that said tenant has obtained a rental through information supplied by or on behalf of the broker.~~

~~**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)(a)(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) — Acknowledgement 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-3. — Whenever the prospective tenant visits the broker's office, a list of all addresses given to the prospective tenant shall be prepared in duplicate. A copy shall be given to the prospective tenant and the original shall be retained by the broker for a period of 90 days and either affixed to the client's contract or receipt or be placed in the client's file if a separate file is kept. The list shall clearly indicate the following:~~

- ~~(a) — The date the addresses were furnished to the prospective tenant.~~

- ~~(b) — The type of unit, e.g., detached single family residence, apartment, duplex, condominium, mobile home, etc.~~
- ~~(c) — Whether the unit is furnished or unfurnished.~~
- ~~(d) — The date when the unit will be available for occupancy.~~
- ~~(e) — The date when the unit was most recently entered on the agency's listing records.~~
- ~~(f) — The date when the housing accommodation was last verified by the agency to be available for rent.~~
- ~~(g) — The address and municipality of the housing accommodation.~~
- ~~(h) — The name and address of the property owner or their authorized agent and the telephone number, if available.~~
- ~~(i) — The monthly rent required by the landlord.~~
- ~~(j) — The number of bedrooms and total number of rooms.~~
- ~~(k) — Whether a written lease is required and, if so, the minimum lease term required by the landlord.~~
- ~~(l) — Any lawful restrictions as to pets, children, furnishings, occupants or activities imposed by the landlord.~~

~~G-4. — Repealed effective 1-1-97~~

~~G-5. — Where addresses are furnished to the prospective tenant by telephone or any other manner not requiring the prospective tenant's presence at the broker's office, the addresses shall be noted on the broker's copy of the list. The list shall indicate by which broker or employee of the broker the addresses were furnished and the broker's copy shall be retained for a period of one year.~~

~~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)(a)(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(1)(n), C.R.S., a licensee acting under 12-61-101(2)(a)(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.~~

~~(Repealed effective January 01, 2020)~~

A hearing on the above subject matter will be held on Monday, August 5, 2019 at the Colorado Division of Real Estate, 1560 Broadway, Suite 110-D, 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.