

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

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
June 2, 2020

CHAPTER 6. Practice Standards

Pursuant to and in compliance with Title 12, Article 10 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 2 of Title 12, Article 10, 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 contracts and clarifies that a seller listing contract or landlord listing contract must be in writing prior to performing real estate brokerage services.

PROPOSED NEW, AMENDED AND REPEALED RULES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.

Proposed New, Amended and Repealed Rules

Chapter 6: Practice Standards

6.14. Contracts

A. Document Preparation and Duplicates

1. Contracting instruments prepared by a Broker performing Real Estate Brokerage Services for all real estate or business opportunity transactions must accurately reflect the financial terms of the transaction by itemizing Things of Value paid or received and identifying the party or parties conveying, receiving and/or ultimately benefitting from such Things of Value. All such terms made subsequent to the original contract must be disclosed in an amendment to the contract.

2. A Broker must deliver Duplicates of all documents prepared by the Broker to all Consumers or their representatives at the time such document was prepared by the Broker as set forth in Rule 6.19.
- B. No Fees to Brokers for Legal Document Preparation
- Brokers are not obligated to prepare any legal documents as part of a real estate transaction. If the Broker or the Broker's designee prepares any legal document, the Broker or the Broker's designee may not charge a separate fee for preparation of such legal documents. The Broker is not responsible for fees charged for the preparation of legal documents where they are prepared by an attorney representing the Consumer. Costs of closing not related to preparation of legal documents may be paid by the Broker or by any other person. A Broker who closes transactions and charges separately for costs of closing not related to the preparation of legal documents must specify the costs and obtain the written consent of the parties to be charged.
- C. Listing must be in Writing
- Regardless of the Brokerage Relationship, all seller Listing Contracts and landlord Listing Contracts ~~for the sale, lease or exchange of real property~~ must be in writing prior to performing any Real Estate Brokerage Services.
- D. Listings must have Termination Date
- All Listing Contracts or other written agreements between a Consumer and a Brokerage Firm or Broker to perform Real Estate Brokerage Services must have a definite date for termination pursuant to section 12-10-409(1)(b), C.R.S.
- E. Holdover Agreement
- When a Listing Contract or other written agreement contains a provision entitling a Brokerage Firm to a commission made after the expiration of the agreement, such provision must refer only to those persons or properties with whom or on which the Broker negotiated during the term of the agreement, and whose names or addresses were submitted in writing to the Consumer during the term of the agreement, including any extension thereof.
- F. Brokers must recommend title exam and legal counsel
- Brokers are not permitted to give advice on exceptions to title as such conduct would constitute the unauthorized practice of law. Brokers must recommend, before the applicable deadlines, that Consumers should examine all title exceptions and encourage Consumers to seek guidance from a licensed attorney.
- G. Review of Deeds
- Brokers should not give advice based on their review of deeds for conveyance of real property unless such deeds are drafted by the Broker.

A hearing on the above subject matter will be held on Tuesday, June 2, 2020 at the Colorado Division of Real Estate, 1560 Broadway, Suite 110-C, Denver, Colorado 80202 beginning at 9:00 a.m. Interested parties can also join via webinar, please register at:

<https://attendee.gotowebinar.com/register/8395856897624207116>

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.