

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0818.01 Duane Gall x4335

HOUSE BILL 13-1277

HOUSE SPONSORSHIP

Williams,

SENATE SPONSORSHIP

Carroll and Todd,

House Committees

Business, Labor, Economic, & Workforce Development

Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PERSONS WHO MANAGE THE**
102 **AFFAIRS OF COMMON INTEREST COMMUNITIES UNDER THE**
103 **"COLORADO COMMON INTEREST OWNERSHIP ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, common interest communities and their unit owners' associations (HOAs) are not subject to regulation by any state agency. The bill requires any person who manages the affairs of a common interest community on behalf of an HOA for compensation, on

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

or after July 1, 2014, to meet minimum qualifications and obtain a license from the director of the division of real estate in the department of regulatory agencies. Licensees are identified as "community association managers".

The licensing requirement does not apply to persons who perform clerical, ministerial, accounting, or maintenance functions, not requiring substantially specialized knowledge, judgment, or managerial skill, under the supervision of a licensed community manager or directly for an HOA's governing board. Licensing examinations will be developed and administered by the director of the division of real estate or by a person or entity under contract with the director.

The bill grants the director powers and duties similar to, but less detailed than, the powers and duties of the real estate commission under existing statutes governing the licensing and supervision of real estate brokers. The director is to monitor the operation of the licensing program during its first year and make recommendations for improvements to the general assembly on or before January 1, 2016. The regulatory scheme is also subject to review after 5 years under the existing sunset law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 38-33.3-209.4,
3 **amend** (1) (b) as follows:

4 **38-33.3-209.4. Public disclosures required - identity of**
5 **association - agent - manager - contact information.** (1) Within ninety
6 days after assuming control from the declarant pursuant to section
7 38-33.3-303 (5), the association shall make the following information
8 available to unit owners upon reasonable notice in accordance with
9 subsection (3) of this section. In addition, if the association's address,
10 designated agent, or management company changes, the association shall
11 make updated information available within ninety days after the change:

12 (b) The name of the association's designated agent or management
13 company, if any, TOGETHER WITH THE AGENT'S OR MANAGEMENT
14 COMPANY'S LICENSE NUMBER IF THE AGENT OR MANAGEMENT COMPANY
15 IS SUBJECT TO LICENSURE UNDER PART 10 OF ARTICLE 61 OF TITLE 12,

1 C.R.S.;

2 **SECTION 2.** In Colorado Revised Statutes, **add** 38-33.3-402 as
3 follows:

4 **38-33.3-402. Manager licensing - condition precedent for**
5 **enforcement of contract terms.** A PERSON THAT IS SUBJECT TO
6 LICENSURE AS A COMMUNITY ASSOCIATION MANAGER UNDER PART 10 OF
7 ARTICLE 61 OF TITLE 12, C.R.S., SHALL AT ALL TIMES HAVE AND MAINTAIN
8 A VALID LICENSE WHEN ACTING OR PURPORTING TO ACT ON BEHALF OF THE
9 ASSOCIATION. THE ASSOCIATION'S AGREEMENT TO PAY A FEE FOR THE
10 SERVICES OF A COMMUNITY MANAGER OR TO HOLD HARMLESS OR
11 INDEMNIFY THE COMMUNITY MANAGER FOR ANY ACT OR OMISSION IN THE
12 COURSE OF PROVIDING THOSE SERVICES, IS VOID AND UNENFORCEABLE FOR
13 ANY PERIOD IN WHICH THE LICENSE IS EXPIRED, SUSPENDED, OR REVOKED.

14 **SECTION 3.** In Colorado Revised Statutes, **add** part 10 of article
15 61 of title 12 as follows:

16 PART 10

17 COMMUNITY ASSOCIATION MANAGERS

18 **12-61-1001. Definitions.** AS USED IN THIS PART 10, UNLESS THE
19 CONTEXT OTHERWISE REQUIRES:

20 (1) "CCIOA" MEANS THE "COLORADO COMMON INTEREST
21 OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38, C.R.S.

22 (2) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET
23 FORTH IN SECTION 38-33.3-103 (8), C.R.S.

24 (3) "COMMUNITY ASSOCIATION MANAGEMENT" MEANS ANY OF THE
25 FOLLOWING PRACTICES RELATING TO THE MANAGEMENT OF A COMMON
26 INTEREST COMMUNITY, AT THE DIRECTION OF ITS EXECUTIVE BOARD:

27 (a) RECEIVING, DEPOSITING, CONTROLLING, OR DISBURSING FUNDS

- 1 OF THE COMMON INTEREST COMMUNITY;
- 2 (b) PREPARING BUDGETS OR OTHER FINANCIAL DOCUMENTS;
- 3 (c) ASSISTING IN THE CREATION AND IMPLEMENTATION OF A
4 RESERVE PROGRAM FOR THE REPLACEMENT OF CAPITAL ASSETS;
- 5 (d) ASSISTING IN THE PROVISION OF NOTICE OR CONDUCT OF
6 MEETINGS OF BOARD MEMBERS OR UNIT OWNERS;
- 7 (e) CONTRACTING FOR OR COORDINATING MAINTENANCE OF
8 PROPERTY AND FACILITIES OF THE COMMON INTEREST COMMUNITY;
- 9 (f) CONDUCTING PROPERTY INSPECTIONS, ADMINISTERING
10 APPLICATIONS FOR ARCHITECTURAL REVIEW, AND KEEPING RECORDS OF
11 VIOLATIONS OF THE GOVERNING DOCUMENTS OF THE COMMON INTEREST
12 COMMUNITY; AND
- 13 (g) PERFORMING OTHER SERVICES RELATING TO THE DAY-TO-DAY
14 OPERATION OF THE COMMON INTEREST COMMUNITY.

15 (4) (a) "COMMUNITY ASSOCIATION MANAGER" OR "MANAGER"
16 MEANS ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
17 ASSOCIATION, OR CORPORATION THAT, IN CONSIDERATION OF
18 COMPENSATION BY FEE, COMMISSION, SALARY, OR ANYTHING ELSE OF
19 VALUE OR WITH THE INTENTION OF RECEIVING OR COLLECTING SUCH
20 COMPENSATION, ENGAGES IN OR OFFERS OR ATTEMPTS TO ENGAGE IN
21 COMMUNITY MANAGEMENT IN COLORADO. THE TERM INCLUDES:

22 (I) THE CHIEF EXECUTIVE OFFICER OF A BUSINESS ENTITY THAT
23 EMPLOYS INDIVIDUALS OR CONTRACTS WITH OTHER BUSINESS ENTITIES TO
24 PERFORM COMMUNITY ASSOCIATION MANAGEMENT SERVICES; AND

25 (II) ANY EXECUTIVE OF A BUSINESS ENTITY WHO HAS DIRECT
26 SUPERVISION OR OVERSIGHT OF AN INDIVIDUAL WHO PERFORMS
27 COMMUNITY ASSOCIATION MANAGEMENT SERVICES.

1 (b) "COMMUNITY ASSOCIATION MANAGER" OR "MANAGER" DOES
2 NOT INCLUDE:

3 (I) A PERSON WHO PERFORMS CLERICAL, MINISTERIAL,
4 ACCOUNTING, OR MAINTENANCE FUNCTIONS, NOT REQUIRING
5 SUBSTANTIALLY SPECIALIZED KNOWLEDGE, JUDGMENT, OR MANAGERIAL
6 SKILL, UNDER THE DIRECT SUPERVISION AND CONTROL OF A LICENSED
7 COMMUNITY ASSOCIATION MANAGER OR OF A CONTRACTOR EMPLOYED BY
8 A LICENSED COMMUNITY ASSOCIATION MANAGER OR BY THE COMMON
9 INTEREST COMMUNITY'S EXECUTIVE BOARD;

10 (II) ANY PUBLIC OFFICIAL IN THE CONDUCT OF HIS OR HER OFFICIAL
11 DUTIES;

12 (III) A RECEIVER, TRUSTEE, ADMINISTRATOR, CONSERVATOR,
13 EXECUTOR, OR GUARDIAN ACTING UNDER PROPER AUTHORIZATION;

14 (IV) A PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
15 OR ASSOCIATION ACTING PERSONALLY OR A CORPORATION ACTING
16 THROUGH ITS OFFICERS OR REGULAR SALARIED EMPLOYEES, ON BEHALF OF
17 THAT PERSON OR ON ITS OWN BEHALF AS PRINCIPAL IN ACQUIRING OR IN
18 NEGOTIATING TO ACQUIRE ANY INTEREST IN REAL ESTATE;

19 (V) AN ATTORNEY-AT-LAW IN CONNECTION WITH HIS OR HER
20 REPRESENTATION OF CLIENTS IN THE PRACTICE OF LAW;

21 (VI) A CORPORATION WITH RESPECT TO PROPERTY OWNED OR
22 LEASED BY IT, ACTING THROUGH ITS OFFICERS OR REGULAR SALARIED
23 EMPLOYEES, WHEN SUCH ACTS ARE INCIDENTAL AND NECESSARY IN THE
24 ORDINARY COURSE OF THE CORPORATION'S BUSINESS ACTIVITIES OF A
25 NON-PROPERTY MANAGEMENT NATURE. FOR THE PURPOSES OF THIS
26 PARAGRAPH (b), THE TERM "OFFICERS OR REGULAR SALARIED EMPLOYEES"
27 MEANS PERSONS REGULARLY EMPLOYED WHO DERIVE NOT LESS THAN

1 SEVENTY-FIVE PERCENT OF THEIR COMPENSATION FROM THE
2 CORPORATION IN THE FORM OF SALARIES.

3 (5) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

4 (6) "DIVISION" MEANS THE DIVISION OF REAL ESTATE IN THE
5 DEPARTMENT OF REGULATORY AGENCIES.

6 (7) "EXECUTIVE BOARD" HAS THE MEANING SET FORTH IN SECTION
7 38-33.3-103 (16), C.R.S.

8 (8) "HOA" OR "HOMEOWNERS' ASSOCIATION" MEANS AN
9 ASSOCIATION OR UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION
10 38-33.3-103 (3), WHETHER ORGANIZED BEFORE, ON, OR AFTER JULY 1,
11 1992.

12 (9) "LIMITED LIABILITY COMPANY" HAS THE MEANING SET FORTH
13 IN SECTION 7-80-102 (7), C.R.S.

14 **12-61-1002. License required - rule-making authority -**
15 **violations - administrative and legal remedies.** (1) EFFECTIVE JULY 1,
16 2015, IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN, OR TO HOLD OUT
17 HIMSELF, HERSELF, OR ITSELF AS QUALIFIED TO ENGAGE IN, THE BUSINESS
18 OF COMMUNITY ASSOCIATION MANAGEMENT WITHOUT FIRST HAVING
19 OBTAINED A LICENSE FROM THE DIRECTOR IN ACCORDANCE WITH SECTION
20 12-61-1003 OR DURING ANY PERIOD IN WHICH THE MANAGER'S LICENSE IS
21 REVOKED OR SUSPENDED.

22 (2) THE DIRECTOR MAY PROMULGATE RULES AS NECESSARY TO
23 ENABLE THE DIRECTOR TO CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS
24 PART 10.

25 (3) IN ADDITION TO CONDUCTING HEARINGS AS PROVIDED IN
26 SECTION 12-61-1011, THE DIRECTOR MAY ENFORCE THIS PART 10 AND
27 RULES ADOPTED UNDER THIS PART 10 BY TAKING ONE OR MORE OF THE

1 FOLLOWING ACTIONS:

2 (a) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
3 PERSON IS VIOLATING PART 10 OF THIS ARTICLE OR OF A RULE ADOPTED
4 UNDER THIS PART 10, THE DIRECTOR MAY ENTER AN ORDER REQUIRING
5 THE PERSON TO CEASE AND DESIST THE VIOLATIONS.

6 (b) THE DIRECTOR MAY APPLY TO A COURT OF COMPETENT
7 JURISDICTION FOR AN ORDER ENJOINING ANY ACT OR PRACTICE THAT
8 CONSTITUTES A VIOLATION OF THIS PART 10 OR OF A RULE ADOPTED
9 UNDER THIS PART 10, AND, UPON A SHOWING THAT A PERSON IS ENGAGING
10 OR INTENDS TO ENGAGE IN ANY SUCH ACT OR PRACTICE, THE COURT SHALL
11 GRANT AN INJUNCTION, RESTRAINING ORDER, OR OTHER APPROPRIATE
12 ORDER REGARDLESS OF THE EXISTENCE OF ANOTHER REMEDY THEREFOR.
13 ANY NOTICE, HEARING, OR DURATION OF ANY INJUNCTION OR
14 RESTRAINING ORDER SHALL BE MADE IN ACCORDANCE WITH THE
15 COLORADO RULES OF CIVIL PROCEDURE.

16 (c) THE DIRECTOR MAY CONDUCT AUDITS OF BUSINESS RECORDS
17 AND ACCOUNTS OF LICENSEES.

18 **12-61-1003. Application for license - criminal history record**
19 **check - examination - rules.** (1) (a) A PERSON DESIRING TO BECOME A
20 COMMUNITY ASSOCIATION MANAGER MUST APPLY TO THE DIRECTOR FOR
21 A LICENSE IN THE FORM AND MANNER PRESCRIBED BY THE DIRECTOR.

22 (b) (I) BEFORE SUBMITTING AN APPLICATION FOR A LICENSE
23 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), EACH APPLICANT
24 MUST SUBMIT A SET OF FINGERPRINTS TO THE COLORADO BUREAU OF
25 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL
26 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
27 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE

1 FEDERAL BUREAU OF INVESTIGATION. THE APPLICANT SHALL PAY THE FEE
2 ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR
3 CONDUCTING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
4 TO THE BUREAU. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD
5 CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE DIRECTOR.
6 THE DIRECTOR MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD
7 CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A
8 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE
9 FINGERPRINTS ARE UNCLASSIFIABLE.

10 (II) IF A PERSON HAS COMPLIED WITH THIS PARAGRAPH (b) AND
11 HAS SUBMITTED AN OTHERWISE COMPLETE APPLICATION FOR A LICENSE
12 BEFORE JULY 1, 2014, BUT, AS OF JULY 1, 2015, THE RESULTS OF THE
13 PERSON'S FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK HAVE
14 NOT BEEN FORWARDED TO THE DIRECTOR, THE DIRECTOR MAY ISSUE A
15 TEMPORARY LICENSE PENDING THE RECEIPT OF THE RESULTS. THE
16 DIRECTOR MAY ADOPT RULES TO IMPLEMENT THIS SUBPARAGRAPH (II),
17 BUT MAY NOT IMPOSE A FIXED EXPIRATION DATE FOR THE TEMPORARY
18 LICENSE.

19 (2) EVERY COMMUNITY ASSOCIATION MANAGER LICENSED UNDER
20 THIS PART 10 SHALL MAINTAIN A PLACE OF BUSINESS WITHIN THIS STATE,
21 EXCEPT AS PROVIDED IN SECTION 12-61-1006. IF A COMMUNITY
22 ASSOCIATION MANAGER MAINTAINS MORE THAN ONE PLACE OF BUSINESS
23 WITHIN THE STATE, THE MANAGER IS RESPONSIBLE FOR SUPERVISING ALL
24 LICENSED ACTIVITIES ORIGINATING IN THOSE OFFICES.

25 (3) (a) THE DIRECTOR MAY REQUIRE AND PROCURE ANY PROOF
26 NECESSARY IN REFERENCE TO THE TRUTHFULNESS, HONESTY, AND GOOD
27 MORAL CHARACTER OF ANY APPLICANT FOR A COMMUNITY ASSOCIATION

1 MANAGER'S LICENSE OR, IF THE APPLICANT IS A PARTNERSHIP, LIMITED
2 LIABILITY COMPANY, OR CORPORATION, OF ANY PARTNER, MANAGER,
3 DIRECTOR, OFFICER, MEMBER, OR STOCKHOLDER IF SUCH PERSON HAS,
4 EITHER DIRECTLY OR INDIRECTLY, A SUBSTANTIAL INTEREST IN THE
5 APPLICANT PRIOR TO THE ISSUANCE OF THE LICENSE.

6 (b) AN APPLICANT IS INELIGIBLE FOR A LICENSE IF THE PERSON
7 HAS, WITHIN THE IMMEDIATELY PRECEDING TEN YEARS:

8 (I) BEEN CONVICTED OF OR PLED GUILTY TO:

9 (A) ANY FELONY; OR

10 (B) ANY CRIME INVOLVING DISHONESTY, BREACH OF FIDUCIARY
11 DUTY, NEGLIGENCE OR MALFEASANCE IN FINANCIAL MATTERS, OR MORAL
12 TURPITUDE; OR

13 (II) HAD A LICENSE OR CERTIFICATION AS A COMMUNITY
14 ASSOCIATION MANAGER REVOKED OR SUSPENDED IN ANY JURISDICTION
15 THAT REGULATES COMMUNITY ASSOCIATION MANAGERS; EXCEPT THAT, IF
16 THE REVOCATION OR SUSPENSION OCCURRED IN COLORADO, THE
17 DIRECTOR MAY ACCEPT THE PERSON'S APPLICATION IF AT LEAST TWO
18 YEARS HAVE ELAPSED SINCE THE DATE OF THE REVOCATION OR
19 SUSPENSION.

20 (4) AN APPLICANT FOR A MANAGER'S LICENSE MUST BE AT LEAST
21 EIGHTEEN YEARS OF AGE AND MUST FURNISH PROOF SATISFACTORY TO THE
22 DIRECTOR THAT THE APPLICANT HAS RECEIVED EITHER A HIGH SCHOOL
23 DIPLOMA OR THE EQUIVALENT GENERAL EDUCATION DEVELOPMENT
24 CERTIFICATION.

25 (5) (a) AN APPLICANT FOR A MANAGER'S LICENSE MUST:

26 (I) HOLD ONE OR MORE OF THE FOLLOWING CREDENTIALS:

27 (A) THE "CERTIFIED MANAGER OF COMMUNITY ASSOCIATIONS" OR

1 "CMCA" DESIGNATION AWARDED BY THE NATIONAL BOARD OF
2 CERTIFICATION FOR COMMUNITY ASSOCIATION MANAGERS;

3 (B) THE "ASSOCIATION MANAGEMENT SPECIALIST" OR "AMS"
4 DESIGNATION AWARDED BY THE COMMUNITY ASSOCIATIONS INSTITUTE;

5 (C) THE "PROFESSIONAL COMMUNITY ASSOCIATION MANAGER" OR
6 "PCAM" DESIGNATION AWARDED BY THE COMMUNITY ASSOCIATIONS
7 INSTITUTE; OR

8 (D) ANOTHER CREDENTIAL IDENTIFIED BY THE DIRECTOR IN RULES;
9 AND

10 (II) SUBMIT TO AND PASS AN EXAMINATION DESIGNED TO
11 DETERMINE THE COMPETENCY OF THE APPLICANT AND PREPARED BY OR
12 UNDER THE SUPERVISION OF THE DIRECTOR OR THE DIRECTOR'S
13 DESIGNATED CONTRACTOR. THE DIRECTOR MAY CONTRACT WITH AN
14 INDEPENDENT TESTING SERVICE TO DEVELOP, ADMINISTER, OR GRADE
15 EXAMINATIONS OR TO ADMINISTER LICENSEE RECORDS. THE CONTRACT
16 MAY ALLOW THE TESTING SERVICE TO RECOVER FROM THE APPLICANT THE
17 COSTS OF THE EXAMINATION AND THE COSTS OF ADMINISTERING THE
18 EXAMINATION AND LICENSE RECORDS. THE DIRECTOR MAY CONTRACT
19 SEPARATELY FOR THESE FUNCTIONS AND ALLOW RECOVERED COSTS TO BE
20 COLLECTED AND RETAINED BY A SINGLE CONTRACTOR FOR DISTRIBUTION
21 TO OTHER CONTRACTORS. THE DIRECTOR SHALL HAVE THE AUTHORITY TO
22 SET THE MINIMUM PASSING SCORE THAT AN APPLICANT MUST RECEIVE ON
23 THE EXAMINATION, WHICH SCORE MUST REFLECT THE MINIMUM LEVEL OF
24 COMPETENCY REQUIRED TO BE A COMMUNITY ASSOCIATION MANAGER.
25 THE DIRECTOR SHALL PRESCRIBE THE TIMES AND PLACES AT WHICH THE
26 EXAMINATION IS GIVEN.

27 (b) THE EXAMINATION DEVELOPED UNDER SUBPARAGRAPH (II) OF

1 PARAGRAPH (a) OF THIS SUBSECTION (5) MUST ASSESS AN APPLICANT'S
2 COMPETENCY IN THE FOLLOWING SUBJECT MATTER AREAS:

3 (I) THE LEGAL DOCUMENTS AND STATUTES THAT ENABLE A
4 COMMUNITY ASSOCIATION TO OPERATE, INCLUDING THE "COLORADO
5 COMMON INTEREST OWNERSHIP ACT" AND OTHER APPLICABLE
6 PROVISIONS OF COLORADO LAW; AND

7 [REDACTED]
8 (II) OTHER CORE COMPETENCIES AS SPECIFIED BY THE DIRECTOR.

9 (c) EXAMINATION RESULTS MEASURING AN APPLICANT'S
10 KNOWLEDGE OF THE MATTERS DESCRIBED IN SUBPARAGRAPH (I) OF
11 PARAGRAPH (b) OF THIS SUBSECTION (5) ARE VALID FOR ONE YEAR. A
12 PERSON WHO TAKES THE EXAMINATION AND DOES NOT APPLY FOR A
13 LICENSE WITHIN ONE YEAR THEREAFTER MUST RETAKE THAT PORTION OF
14 THE EXAMINATION BEFORE APPLYING.

15 (d) THE DIVISION MAY ISSUE A LICENSE TO AN APPLICANT WHO HAS
16 HELD A COMMUNITY ASSOCIATION MANAGER LICENSE IN ANOTHER
17 JURISDICTION THAT REGULATES COMMUNITY ASSOCIATION MANAGERS
18 AND WHO HAS BEEN LICENSED FOR TWO OR MORE YEARS PRIOR TO
19 APPLYING FOR A COLORADO LICENSE IF THE APPLICANT ESTABLISHES THAT
20 HE OR SHE POSSESSES CREDENTIALS AND QUALIFICATIONS THAT ARE
21 SUBSTANTIVELY EQUIVALENT TO THE REQUIREMENTS IN COLORADO FOR
22 LICENSURE BY EXAMINATION, AS DETERMINED BY THE DIRECTOR BY RULE.
23 THE DIRECTOR MAY REQUIRE A PERSON SO LICENSED TO TAKE THE
24 PORTION OF THE EXAMINATION PERTAINING TO THE MATTERS DESCRIBED
25 IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (5) WITHIN
26 A SPECIFIED TIME AFTER FIRST RECEIVING A COLORADO LICENSE.

27 (6) (a) COMMUNITY ASSOCIATION MANAGERS' LICENSES MAY BE

1 GRANTED TO INDIVIDUALS, PARTNERSHIPS, LIMITED LIABILITY COMPANIES,
2 OR CORPORATIONS.

3 (b) A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
4 CORPORATION, IN ITS APPLICATION FOR A LICENSE, SHALL DESIGNATE A
5 QUALIFIED, ACTIVE MANAGER TO BE RESPONSIBLE FOR MANAGEMENT AND
6 SUPERVISION OF THE LICENSED ACTIONS OF THE ENTITY AND ALL PERSONS
7 EMPLOYED BY, OR ACTING AT ANY TIME ON BEHALF OF, THE ENTITY. A
8 LICENSE MAY NOT BE ISSUED TO THE ENTITY UNLESS THE MANAGER SO
9 DESIGNATED, AND ALL PERSONS THAT THE ENTITY EMPLOYS TO PERFORM
10 COMMUNITY ASSOCIATION MANAGEMENT DUTIES ON BEHALF OF THE
11 ENTITY, TAKE AND PASS THE EXAMINATION REQUIRED BY THIS PART 10.
12 UPON THESE PERSONS' SUCCESSFULLY PASSING THE EXAMINATION AND
13 UPON COMPLIANCE WITH ALL OTHER REQUIREMENTS OF LAW BY THE
14 ENTITY AS WELL AS BY THE DESIGNATED MANAGER, THE DIRECTOR SHALL
15 ISSUE A DESIGNATED MANAGER'S LICENSE TO THE DESIGNATED MANAGER.

16 (c) IF THE DESIGNATED MANAGER IS REFUSED A LICENSE BY THE
17 DIRECTOR OR CEASES TO BE THE DESIGNATED MANAGER OF THE ENTITY,
18 THE ENTITY MAY DESIGNATE ANOTHER PERSON TO APPLY FOR A LICENSE
19 AND THE DIRECTOR MAY ISSUE A TEMPORARY LICENSE TO PREVENT
20 HARDSHIP FOR A PERIOD NOT TO EXCEED NINETY DAYS TO THE PERSON SO
21 DESIGNATED.

22 (7) THE DESIGNATED MANAGER FOR ANY PARTNERSHIP, LIMITED
23 LIABILITY COMPANY, OR CORPORATION IS PERSONALLY RESPONSIBLE FOR
24 THE HANDLING OF ANY AND ALL COMMON INTEREST COMMUNITY FUNDS
25 RECEIVED OR DISBURSED BY THE ENTITY. IN THE EVENT OF ANY BREACH
26 OF DUTY BY THE ENTITY, ANY PERSON AGGRIEVED OR DAMAGED BY THE
27 BREACH MAY MAKE A CLAIM FOR RELIEF AGAINST THE ENTITY. ■■■

1 (8) A PERSON SHALL NOT:

2 (a) BE LICENSED AS A COMMUNITY ASSOCIATION MANAGER UNDER
3 MORE THAN ONE NAME; OR

4 (b) CONDUCT OR PROMOTE BUSINESS AS A COMMUNITY
5 ASSOCIATION MANAGER EXCEPT UNDER THE NAME UNDER WHICH THE
6 PERSON IS LICENSED.

7 **12-61-1004. Insurance required - rules.** EVERY LICENSEE UNDER
8 THIS PART 10, EXCEPT AN INACTIVE MANAGER OR AN ATTORNEY LICENSEE
9 WHO MAINTAINS A POLICY OF PROFESSIONAL MALPRACTICE INSURANCE
10 THAT PROVIDES COVERAGE FOR HIS OR HER ACTIVITIES UNDER THIS PART
11 10, SHALL MAINTAIN INSURANCE NECESSARY TO COVER ALL ACTIVITIES
12 CONTEMPLATED UNDER THIS PART 10 IN AN AMOUNT AND UNDER TERMS
13 AND CONDITIONS SPECIFIED BY THE DIRECTOR BY RULE. IN PROMULGATING
14 RULES UNDER THIS SECTION, THE DIRECTOR SHALL SOLICIT AND CONSIDER
15 INFORMATION AND COMMENTS FROM INTERESTED PERSONS.

16 **12-61-1005. Licenses - issuance - contents - display.** THE
17 DIRECTOR SHALL MAKE AVAILABLE FOR EACH LICENSEE A LICENSE IN SUCH
18 FORM AND SIZE AS THE DIRECTOR MAY PRESCRIBE. THE LICENSE MUST
19 SHOW THE NAME OF THE LICENSEE AND MAY CONTAIN SUCH OTHER
20 MATTER AS THE DIRECTOR PRESCRIBES.

21 **12-61-1006. Resident licensee - nonresident licensee - consent**
22 **to service.** (1) A NONRESIDENT OF THE STATE MAY BECOME A
23 COMMUNITY ASSOCIATION MANAGER IN THIS STATE BY CONFORMING TO
24 ALL THE CONDITIONS OF THIS PART 10; EXCEPT THAT THE NONRESIDENT
25 MANAGER SHALL NOT BE REQUIRED TO MAINTAIN A PLACE OF BUSINESS
26 WITHIN THIS STATE IF THAT MANAGER MAINTAINS A DEFINITE PLACE OF
27 BUSINESS IN ANOTHER STATE.

1 (2) IF A MANAGER HAS NO REGISTERED AGENT REGISTERED IN THIS
2 STATE AS CONTEMPLATED BY SECTION 7-90-701, C.R.S., THE REGISTERED
3 AGENT IS NOT LOCATED UNDER ITS REGISTERED AGENT NAME AT ITS
4 REGISTERED AGENT ADDRESS, OR THE REGISTERED AGENT CANNOT WITH
5 REASONABLE DILIGENCE BE SERVED, NOTWITHSTANDING SECTION
6 7-90-704, C.R.S., THE MANAGER MAY BE SERVED BY REGISTERED MAIL OR
7 BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE
8 MANAGER AT THE MANAGER'S LAST-KNOWN ADDRESS. SERVICE IS
9 PERFECTED UNDER THIS SUBSECTION (2) AT THE EARLIEST OF:

10 (a) THE DATE THE MANAGER RECEIVES THE PROCESS, NOTICE, OR
11 DEMAND;

12 (b) THE DATE SHOWN ON THE RETURN RECEIPT, IF SIGNED BY OR
13 ON BEHALF OF THE MANAGER; OR

14 (c) FIVE DAYS AFTER MAILING.

15 (3) ALL APPLICATIONS MADE BY A DESIGNATED MANAGER ON
16 BEHALF OF A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
17 CORPORATION MUST CONTAIN A CERTIFICATION THAT THE MANAGER IS
18 AUTHORIZED TO ACT FOR THE ENTITY.

19 **12-61-1007. Record of licensees - publications.** THE DIRECTOR
20 SHALL MAINTAIN A RECORD OF THE NAMES AND ADDRESSES OF ALL
21 COMMUNITY ASSOCIATION MANAGERS LICENSED UNDER THIS PART 10,
22 TOGETHER WITH SUCH OTHER INFORMATION RELATIVE TO THE
23 ENFORCEMENT OF THIS PART 10 AS THE DIRECTOR DEEMS NECESSARY. THE
24 DIRECTOR SHALL PUBLISH THE NAME AND ADDRESS RECORD AND OTHER
25 NONPROPRIETARY INFORMATION THE DIRECTOR DEEMS USEFUL TO THE
26 PUBLIC ON THE DIVISION'S WEB SITE. PUBLICATION OF THE RECORD AND OF
27 ANY OTHER INFORMATION CIRCULATED IN QUANTITY OUTSIDE THE

1 EXECUTIVE BRANCH MUST BE IN ACCORDANCE WITH SECTION 24-1-136,
2 C.R.S.

3 **12-61-1008. Change of location or employment status - notice**
4 **required.** (1) A COMMUNITY ASSOCIATION MANAGER LICENSED UNDER
5 THIS PART 10 SHALL NOTIFY THE DIRECTOR WITHIN THIRTY DAYS AFTER
6 ANY CHANGE OF BUSINESS LOCATION OR EMPLOYMENT. A CHANGE OF
7 BUSINESS ADDRESS OR EMPLOYMENT STATUS WITHOUT NOTIFICATION TO
8 THE DIRECTOR AUTOMATICALLY INACTIVATES THE LICENSEE'S LICENSE.

9 (2) FOR PURPOSES OF THIS SECTION, A CHANGE IN EMPLOYMENT
10 STATUS INCLUDES THE DESIGNATION OF A LICENSED COMMUNITY
11 ASSOCIATION MANAGER AS A NEW OR SUCCESSOR MANAGER ACTING FOR
12 A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION.

13 **12-61-1009. License fees - partnership, limited liability**
14 **company, and corporation licenses - rules.** (1) THE DIRECTOR SHALL
15 ESTABLISH, COLLECT, AND PERIODICALLY ADJUST IN ACCORDANCE WITH
16 SECTION 12-61-111.5, FEES FOR:

- 17 (a) EACH MANAGER'S EXAMINATION;
- 18 (b) EACH MANAGER'S ORIGINAL APPLICATION AND LICENSE;
- 19 (c) EACH RENEWAL OR REINSTATEMENT OF A MANAGER'S LICENSE;
- 20 AND
- 21 (d) ANY CHANGE OF NAME, ADDRESS, OR EMPLOYMENT STATUS
22 REQUIRING A CHANGE IN DIRECTOR RECORDS.

23 (2) THE DIRECTOR SHALL TRANSMIT ALL FEES TO THE STATE
24 TREASURER, WHO SHALL CREDIT THEM TO THE COMMUNITY ASSOCIATION
25 MANAGER LICENSING CASH FUND, CREATED IN SECTION 12-61-1011. FEES
26 COLLECTED UNDER PARAGRAPHS (b), (c), AND (d) OF SUBSECTION (1) OF
27 THIS SECTION ARE NONREFUNDABLE.

1 (3) LICENSES ARE VALID FOR UP TO THREE YEARS, SUBJECT TO
2 EXPIRATION AND RENEWAL ON A SCHEDULE DETERMINED BY THE
3 DIRECTOR. THE DIRECTOR SHALL ESTABLISH, BY RULE, THE REQUIREMENTS
4 FOR CONTINUING EDUCATION, REEXAMINATION, AND SUBSEQUENT
5 CRIMINAL HISTORY RECORD CHECKS; EXCEPT THAT THESE REQUIREMENTS
6 MUST NOT BE MORE STRINGENT THAN THE EQUIVALENT REQUIREMENTS
7 FOR REAL ESTATE BROKERS UNDER PART 1 OF THIS ARTICLE.

8 **12-61-1010. Investigation - revocation - actions against**
9 **licensee.** (1) THE DIRECTOR, UPON THE DIRECTOR'S OWN MOTION, MAY,
10 AND, UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL,
11 INVESTIGATE THE ACTIVITIES OF ANY COMMUNITY ASSOCIATION MANAGER
12 OR ANY PERSON WHO ASSUMES TO ACT IN SUCH CAPACITY WITHIN THE
13 STATE. THE DIRECTOR, AFTER HOLDING A HEARING IN ACCORDANCE WITH
14 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
15 C.R.S., MAY IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED TWO
16 THOUSAND FIVE HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE,
17 CENSURE A LICENSEE, PLACE THE LICENSEE ON PROBATION AND SET THE
18 TERMS OF PROBATION, OR TEMPORARILY SUSPEND OR PERMANENTLY
19 REVOKE A LICENSE WHEN THE LICENSEE HAS PERFORMED, IS PERFORMING,
20 OR IS ATTEMPTING TO PERFORM ANY OF THE FOLLOWING ACTS AND IS
21 GUILTY OF:

22 (a) KNOWINGLY MAKING ANY MISREPRESENTATION OR
23 KNOWINGLY MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;

24 (b) MAKING ANY PROMISE OF A CHARACTER THAT INFLUENCES,
25 PERSUADES, OR INDUCES ANOTHER PERSON WHEN HE OR SHE COULD NOT
26 OR DID NOT INTEND TO KEEP SUCH PROMISE;

27 (c) KNOWINGLY MISREPRESENTING OR MAKING FALSE PROMISES

1 THROUGH AGENTS, ADVERTISING, OR OTHERWISE;

2

3 (d) VIOLATING, DIRECTLY OR INDIRECTLY, ANY APPLICABLE
4 PROVISION OF COLORADO OR FEDERAL FAIR HOUSING LAWS;

5 (e) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE
6 TIME, ANY MONEYS COMING INTO THE LICENSEE'S POSSESSION THAT
7 BELONG TO OTHERS, WHETHER ACTING AS A COMMUNITY ASSOCIATION
8 MANAGER OR OTHERWISE, AND FAILING TO KEEP RECORDS RELATIVE TO
9 SAID MONEYS, WHICH RECORDS MUST CONTAIN ANY INFORMATION
10 REQUIRED BY RULES OF THE DIRECTOR AND ARE SUBJECT TO AUDIT BY THE
11 DIRECTOR;

12 (f) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS
13 WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH
14 THE MANAGER'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS
15 IN A SEGREGATED ACCOUNT WITH SOME BANK OR RECOGNIZED
16 DEPOSITORY IN THIS STATE, WHICH ACCOUNT MAY BE ANY TYPE OF
17 CHECKING, DEMAND, PASSBOOK, OR STATEMENT ACCOUNT INSURED BY AN
18 AGENCY OF THE UNITED STATES GOVERNMENT, AND TO SO KEEP RECORDS
19 RELATIVE TO THE DEPOSIT THAT CONTAIN ANY INFORMATION REQUIRED BY
20 RULES OF THE DIRECTOR AND ARE SUBJECT TO AUDIT BY THE DIRECTOR;

21 (g) DISREGARDING OR VIOLATING, OR AIDING OR ABETTING ANY
22 VIOLATION OF, THIS PART 10 OR ANY APPLICABLE RULE OR ORDER OF THE
23 DIRECTOR;

24 (h) PERFORMING ANY ACT THAT LEADS TO A CONVICTION OF,
25 ENTRY OF A PLEA OF GUILTY TO, OR ENTRY OF A PLEA OF NOLO
26 CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18, C.R.S.; PARTS 1 TO
27 4 OF ARTICLE 4 OF TITLE 18, C.R.S.; PARTS 1 TO 5 AND 7 TO 9 OF ARTICLE

1 5 OF TITLE 18, C.R.S.; ARTICLE 5.5 OF TITLE 18, C.R.S.; PARTS 1, 3, 4, AND
2 6 TO 8 OF ARTICLE 6 OF TITLE 18, C.R.S.; PARTS 1 AND 3 TO 8 OF ARTICLE
3 7 OF TITLE 18, C.R.S.; PART 3 OF ARTICLE 8 OF TITLE 18, C.R.S.; ARTICLE
4 15 OF TITLE 18, C.R.S.; ARTICLE 17 OF TITLE 18, C.R.S.; SECTION
5 18-18-404, 18-18-405, 18-18-411, 18-18-412.5, 18-18-412.7,
6 18-18-412.8, 18-18-415, 18-18-416, 18-18-422, OR 18-18-423, C.R.S., OR
7 ANY OTHER LIKE CRIME UNDER COLORADO LAW, FEDERAL LAW, OR THE
8 LAWS OF OTHER STATES. A CERTIFIED COPY OF THE JUDGMENT OF A COURT
9 OF COMPETENT JURISDICTION OF SUCH CONVICTION OR OTHER OFFICIAL
10 RECORD INDICATING THAT SUCH PLEA WAS ENTERED IS CONCLUSIVE
11 EVIDENCE OF SUCH CONVICTION OR PLEA IN ANY HEARING UNDER THIS
12 PART 10.

13 (i) FAILING TO IMMEDIATELY NOTIFY THE DIRECTOR IN WRITING OF
14 A CONVICTION, PLEA, OR VIOLATION PURSUANT TO PARAGRAPH (h) OF THIS
15 SUBSECTION (1);

16 (j) HAVING DEMONSTRATED UNWORTHINESS OR INCOMPETENCY
17 TO ACT AS A COMMUNITY ASSOCIATION MANAGER BY CONDUCTING
18 BUSINESS IN SUCH A MANNER AS TO ENDANGER THE INTEREST OF THE
19 PUBLIC;

20 (k) IN THE CASE OF A MANAGER WHO EMPLOYS OTHERS OR IS
21 DESIGNATED TO ACT ON BEHALF OF A LICENSED ENTITY, FAILING TO
22 EXERCISE REASONABLE SUPERVISION OVER THE ACTIVITIES OF EMPLOYEES;

23 (l) PROCURING, OR ATTEMPTING TO PROCURE, A COMMUNITY
24 ASSOCIATION MANAGER'S LICENSE OR RENEWING, REINSTATING, OR
25 REACTIVATING, OR ATTEMPTING TO RENEW, REINSTATE, OR REACTIVATE,
26 A COMMUNITY ASSOCIATION MANAGER'S LICENSE BY FRAUD,
27 MISREPRESENTATION, OR DECEIT OR BY MAKING A MATERIAL

1 MISSTATEMENT OF FACT IN AN APPLICATION FOR SUCH LICENSE;

2 (m) CLAIMING, ARRANGING FOR, OR TAKING ANY SECRET OR
3 UNDISCLOSED AMOUNT OF COMPENSATION, COMMISSION, OR PROFIT OR
4 FAILING TO REVEAL TO THE LICENSEE'S PRINCIPAL OR EMPLOYER THE FULL
5 AMOUNT OF THE LICENSEE'S COMPENSATION, COMMISSION, OR PROFIT IN
6 CONNECTION WITH ANY ACTS FOR WHICH A LICENSE IS REQUIRED UNDER
7 THIS PART 10;

8 (n) HAVING HAD A COMMUNITY ASSOCIATION MANAGER'S OR A
9 SUBDIVISION DEVELOPER'S LICENSE SUSPENDED OR REVOKED IN ANY
10 JURISDICTION, OR HAVING HAD ANY DISCIPLINARY ACTION TAKEN AGAINST
11 THE MANAGER OR SUBDIVISION DEVELOPER IN ANY OTHER JURISDICTION
12 IF THE MANAGER'S OR SUBDIVISION DEVELOPER'S ACTION WOULD
13 CONSTITUTE A VIOLATION OF THIS SUBSECTION (1). A CERTIFIED COPY OF
14 THE ORDER OF DISCIPLINARY ACTION IS PRIMA FACIE EVIDENCE OF SUCH
15 DISCIPLINARY ACTION.

16 (o) WITHIN THE LAST FIVE YEARS, HAVING A LICENSE,
17 REGISTRATION, OR CERTIFICATION ISSUED BY COLORADO OR ANOTHER
18 STATE REVOKED OR SUSPENDED FOR FRAUD, DECEIT, MATERIAL
19 MISREPRESENTATION, THEFT, OR THE BREACH OF A FIDUCIARY DUTY, AND
20 SUCH DISCIPLINE DENIED THE PERSON AUTHORIZATION TO PRACTICE AS:

21 (I) A MORTGAGE BROKER OR MORTGAGE LOAN ORIGINATOR;

22 (II) A REAL ESTATE BROKER OR SALESPERSON;

23 (III) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION
24 12-61-702 (5);

25 (IV) AN INSURANCE PRODUCER, AS DEFINED BY SECTION 10-2-103
26 (6), C.R.S.;

27 (V) AN ATTORNEY;

1 (VI) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION
2 11-51-201 (2), C.R.S.;

3 (VII) A SECURITIES SALES REPRESENTATIVE, AS DEFINED BY
4 SECTION 11-51-201 (14), C.R.S.;

5 (VIII) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION
6 11-51-201 (9.5), C.R.S.; OR

7 (IX) AN INVESTMENT ADVISOR REPRESENTATIVE, AS DEFINED BY
8 SECTION 11-51-201 (9.6), C.R.S.; OR

9 (p) ANY OTHER CONDUCT, WHETHER OF THE SAME OR A DIFFERENT
10 CHARACTER THAN SPECIFIED IN THIS SUBSECTION (1), THAT CONSTITUTES
11 DISHONEST DEALING.

12 (2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
13 ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A
14 MANAGER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF THE
15 ENTITY COMMITS ANY ACT OR PRACTICE LISTED IN SUBSECTION (1) OF THIS
16 SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF THE
17 ENTITY TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF THE MANAGER,
18 WHETHER OR NOT THE DESIGNATED MANAGER HAD PERSONAL
19 KNOWLEDGE OF THE ACT OR PRACTICE AND WHETHER OR NOT THE
20 DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF ANY OTHER
21 PERSON.

22 (3) THIS PART 10 DOES NOT RELIEVE ANY PERSON FROM CIVIL
23 LIABILITY OR CRIMINAL PROSECUTION UNDER THE LAWS OF THIS STATE.

24 (4) COMPLAINTS OF RECORD IN THE OFFICE OF THE DIRECTOR AND
25 DIVISION INVESTIGATIONS, INCLUDING INVESTIGATIVE FILES, ARE CLOSED
26 TO PUBLIC INSPECTION. STIPULATIONS AND FINAL AGENCY ORDERS ARE
27 PUBLIC RECORDS SUBJECT TO SECTIONS 24-72-203 AND 24-72-204, C.R.S.

1 (5) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
2 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
3 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT SHOULD NOT BE
4 DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER
5 OF ADMONITION TO THE LICENSEE AGAINST WHOM THE COMPLAINT WAS
6 MADE AND A COPY OF THE LETTER TO THE PERSON MAKING THE
7 COMPLAINT, BUT THE LETTER MUST ADVISE THE LICENSEE THAT THE
8 LICENSEE HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS
9 AFTER RECEIPT, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED
10 TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER
11 OF ADMONITION IS BASED. IF THE REQUEST IS TIMELY MADE, THE LETTER
12 OF ADMONITION IS VACATED, AND THE MATTER SHALL BE PROCESSED BY
13 MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

14 (6) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS
15 SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
16 CREDIT THE SAME TO THE COMMUNITY ASSOCIATION MANAGER LICENSING
17 CASH FUND, CREATED IN SECTION 12-61-1011.

18 (7) WHEN THE DIVISION BECOMES AWARE OF FACTS OR
19 CIRCUMSTANCES THAT FALL WITHIN THE JURISDICTION OF A CRIMINAL
20 JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITY UPON INVESTIGATION
21 OF THE ACTIVITIES OF A LICENSEE, THE DIVISION SHALL, IN ADDITION TO
22 THE EXERCISE OF ITS AUTHORITY UNDER THIS PART 10, REFER AND
23 TRANSMIT SUCH INFORMATION, WHICH MAY INCLUDE ORIGINALS OR COPIES
24 OF DOCUMENTS AND MATERIALS, TO ONE OR MORE CRIMINAL JUSTICE OR
25 OTHER LAW ENFORCEMENT AUTHORITIES FOR INVESTIGATION AND
26 PROSECUTION AS AUTHORIZED BY LAW.

27 **12-61-1011. Hearings - use of administrative law judges -**

1 **subpoenas - judicial review - immunity.** (1) EXCEPT AS OTHERWISE
2 PROVIDED IN THIS SECTION, ALL PROCEEDINGS BEFORE THE DIRECTOR WITH
3 RESPECT TO DISCIPLINARY ACTIONS AND DENIAL OF LICENSURE UNDER
4 THIS PART 10, AT THE DISCRETION OF THE DIRECTOR, MAY BE CONDUCTED
5 BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR OR BY AN
6 ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTIONS 24-4-104 AND
7 24-4-105, C.R.S.

8 (2) VENUE FOR PROCEEDINGS IS IN THE COUNTY WHERE THE
9 DIRECTOR HAS HIS OR HER OFFICE OR IN SUCH OTHER PLACE AS THE
10 DIRECTOR MAY DESIGNATE. IF THE LICENSEE IS EMPLOYED BY ANOTHER
11 LICENSED COMMUNITY ASSOCIATION MANAGER, THE DIRECTOR SHALL
12 ALSO NOTIFY THE LICENSEE'S EMPLOYER BY MAILING, BY FIRST-CLASS
13 MAIL, A COPY OF THE WRITTEN NOTICE REQUIRED UNDER SECTION
14 24-4-104 (3), C.R.S., TO THE EMPLOYER'S LAST-KNOWN BUSINESS
15 ADDRESS.

16 (3) THE DIRECTOR, AN AUTHORIZED REPRESENTATIVE OF THE
17 DIRECTOR, OR AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT ALL
18 HEARINGS FOR DENYING, SUSPENDING, OR REVOKING A LICENSE OR
19 CERTIFICATE ON BEHALF OF THE DIRECTOR, SUBJECT TO APPROPRIATIONS
20 MADE TO THE DEPARTMENT OF PERSONNEL. EACH ADMINISTRATIVE LAW
21 JUDGE SHALL BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF
22 TITLE 24, C.R.S. THE ADMINISTRATIVE LAW JUDGE SHALL CONDUCT THE
23 HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S.
24 NO LICENSE MAY BE DENIED, SUSPENDED, OR REVOKED UNTIL THE
25 DIRECTOR HAS MADE HIS OR HER DECISION.

26 (4) THE DIRECTOR, OR THE ADMINISTRATIVE LAW JUDGE
27 APPOINTED FOR HEARINGS, MAY ISSUE A SUBPOENA COMPELLING THE

1 ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF
2 BOOKS, PAPERS, RECORDS OR OTHER EVIDENCE PURSUANT TO AN
3 INVESTIGATION OR HEARING. THESE SUBPOENAS MUST BE SERVED IN THE
4 SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT COURTS AND ISSUED
5 WITHOUT DISCRIMINATION BETWEEN PUBLIC AND PRIVATE PARTIES
6 REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF
7 DOCUMENTS AT HEARINGS. IF A PERSON FAILS TO OBEY A SUBPOENA
8 ISSUED BY THE DIRECTOR OR THE APPOINTED ADMINISTRATIVE LAW JUDGE,
9 THE DIRECTOR MAY PETITION THE DISTRICT COURT OF THE CITY AND
10 COUNTY OF DENVER FOR ISSUANCE OF AN ORDER COMPELLING A WITNESS
11 TO ATTEND AND TESTIFY OR PRODUCE BOOKS, PAPERS, RECORDS OR OTHER
12 EVIDENCE UNDER PENALTY OF PUNISHMENT FOR CONTEMPT.

13 (5) THE DECISION OF THE DIRECTOR IN ANY DISCIPLINARY ACTION
14 OR DENIAL OF LICENSURE UNDER THIS SECTION IS SUBJECT TO JUDICIAL
15 REVIEW BY THE COURT OF APPEALS. IN ORDER TO EFFECTUATE THE
16 PURPOSES OF THIS PART 10, THE DIRECTOR HAS THE POWER TO
17 PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

18 (6) IN A JUDICIAL REVIEW PROCEEDING, THE COURT MAY STAY THE
19 EXECUTION OR EFFECT OF ANY FINAL ORDER OF THE DIRECTOR; BUT A
20 HEARING SHALL BE HELD AFFORDING THE PARTIES AN OPPORTUNITY TO BE
21 HEARD FOR THE PURPOSE OF DETERMINING WHETHER THE PUBLIC HEALTH,
22 SAFETY, AND WELFARE WOULD BE ENDANGERED BY STAYING THE
23 DIRECTOR'S ORDER. IF THE COURT DETERMINES THAT THE ORDER SHOULD
24 BE STAYED, THE COURT SHALL ALSO DETERMINE AT THE HEARING
25 WHETHER THE PETITIONER SHOULD BE REQUIRED TO POST A BOND, THE
26 AMOUNT OF THE BOND AND ADEQUACY OF THE SURETY, WHICH BOND
27 MUST BE CONDITIONED UPON THE FAITHFUL PERFORMANCE BY THE

1 PETITIONER OF ALL OBLIGATIONS AS A COMMUNITY ASSOCIATION
2 MANAGER AND UPON THE PROMPT PAYMENT OF ALL DAMAGES ARISING
3 FROM OR CAUSED BY THE DELAY IN THE TAKING EFFECT OF OR
4 ENFORCEMENT OF THE ORDER COMPLAINED OF AND FOR ALL COSTS THAT
5 MAY BE ASSESSED OR REQUIRED TO BE PAID IN CONNECTION WITH THE
6 PROCEEDINGS.

7 (7) IN ANY HEARING CONDUCTED BY THE DIRECTOR OR AN
8 AUTHORIZED REPRESENTATIVE OF THE DIRECTOR IN WHICH THERE IS A
9 POSSIBILITY OF THE DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE
10 BECAUSE OF THE CONVICTION OF A FELONY OR OF A CRIME INVOLVING
11 MORAL TURPITUDE, THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED
12 REPRESENTATIVE IS GOVERNED BY SECTION 24-5-101, C.R.S.

13 (8) A PERSON PARTICIPATING IN GOOD FAITH IN THE FILING OF A
14 COMPLAINT OR REPORT OR PARTICIPATING IN AN INVESTIGATION OR
15 HEARING BEFORE THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE
16 PURSUANT TO THIS PART 10 IS IMMUNE FROM ANY LIABILITY, CIVIL OR
17 CRIMINAL, THAT OTHERWISE MIGHT RESULT BY REASON OF SUCH ACTION.

18 **12-61-1012. Community association manager licensing cash**
19 **fund - creation.** THE DIRECT AND INDIRECT COSTS INCURRED BY THE
20 DIRECTOR IN ADMINISTERING THIS PART 10 ARE PAYABLE FROM THE
21 COMMUNITY ASSOCIATION MANAGER LICENSING CASH FUND, WHICH FUND
22 IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF FEES
23 PAID BY COMMUNITY ASSOCIATION MANAGERS AND APPLICANTS FOR
24 LICENSURE UNDER SECTION 12-61-1009. INTEREST EARNED ON MONEYS IN
25 THE FUND REMAIN IN THE FUND, AND ANY UNEXPENDED AND
26 UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR
27 DO NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. PAYMENTS

1 FROM THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
2 GENERAL ASSEMBLY.

3 **12-61-1013. Review and report by director - report - repeal.**

4 (1) THE DIRECTOR SHALL REVIEW THE OPERATION OF THIS PART 10
5 DURING THE FIRST YEAR OF ITS IMPLEMENTATION AND SHALL REPORT TO
6 THE SENATE COMMITTEE ON BUSINESS, LABOR, AND TECHNOLOGY AND THE
7 HOUSE COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AND
8 WORKFORCE DEVELOPMENT, OR THEIR SUCCESSOR COMMITTEES, ON OR
9 BEFORE JANUARY 1, 2016, CONCERNING THE DIRECTOR'S FINDINGS AND
10 RECOMMENDATIONS FOR LEGISLATIVE CHANGES, IF ANY. THE MATTERS
11 INCLUDED IN THE DIRECTOR'S REPORT MAY INCLUDE:

12 (a) REFINEMENT OF THE SCOPE, COVERAGE, AND DEFINITION OF
13 KEY TERMS IN THIS PART 10;

14 (b) WHETHER IT WOULD BE ADVISABLE TO CODIFY, IN STATUTES
15 OR RULES, A CODE OF ETHICS FOR COMMUNITY ASSOCIATION MANAGERS;

16 (c) WHETHER IT WOULD BE ADVISABLE TO MODIFY THE
17 CONTINUING EDUCATION REQUIREMENTS;

18 (d) ANY SIGNIFICANT CHANGE IN THE NUMBER OR TYPES OF
19 COMPLAINTS REPORTED TO THE HOA INFORMATION AND RESOURCE
20 CENTER CREATED IN SECTION 12-61-406.5 SINCE THE ADOPTION OF THIS
21 PART 10;

22 (e) THE ADEQUACY OF EXISTING REMEDIES AND OF THE DIRECTOR'S
23 AUTHORITY UNDER THIS PART 10; AND

24 (f) THE ESTIMATED COST SAVINGS TO THE PUBLIC RESULTING FROM
25 EXERCISE OF THE DIRECTOR'S AUTHORITY UNDER THIS PART 10 AS
26 COMPARED TO PRIVATE ENFORCEMENT OF RIGHTS AND REMEDIES UNDER
27 CCIOA BY INDIVIDUAL UNIT OWNERS.

1 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

2 **12-61-1014. Repeal of part.** THIS PART 10 IS REPEALED, EFFECTIVE
3 JULY 1, 2018. PRIOR TO THE REPEAL, THE FUNCTIONS OF THE DIRECTOR
4 UNDER THIS PART 10 ARE SUBJECT TO REVIEW AS PROVIDED IN SECTION
5 24-34-104 (8), C.R.S.

6 **SECTION 4.** In Colorado Revised Statutes, 13-4-102, **add** (2)
7 (m.5) as follows:

8 **13-4-102. Jurisdiction - repeal.** (2) The court of appeals has
9 initial jurisdiction to:

10 (m.5) REVIEW FINAL DECISIONS OR ORDERS OF THE DIRECTOR OF
11 THE DIVISION OF REAL ESTATE, AS PROVIDED IN PART 10 OF ARTICLE 61 OF
12 TITLE 12, C.R.S.;

13 **SECTION 5.** In Colorado Revised Statutes, 12-61-111.5, **amend**
14 (1) and (2) (a) (I) as follows:

15 **12-61-111.5. Fee adjustments.** (1) This section shall apply to all
16 activities of the division under parts 1, 3, 4, ~~and~~ 7, AND 10 of this article.

17 (2) (a) (I) The division shall propose, as part of its annual budget
18 request, an adjustment in the amount of each fee that it is authorized by
19 law to collect under parts 1, 3, 4, ~~and~~ 7, AND 10 of this article. The budget
20 request and the adjusted fees for the division shall reflect direct and
21 indirect costs.

22 **SECTION 6.** In Colorado Revised Statutes, 24-34-104, **amend**
23 (49.5) introductory portion; and **add** (49.5) (e) as follows:

24 **24-34-104. General assembly review of regulatory agencies**
25 **and functions for termination, continuation, or reestablishment.**

26 (49.5) The following agencies, functions, or both, ~~shall~~ terminate on
27 September 1, 2018:

1 (e) THE LICENSING OF COMMUNITY ASSOCIATION MANAGERS BY
2 THE DIRECTOR OF THE DIVISION OF REAL ESTATE IN ACCORDANCE WITH
3 PART 10 OF ARTICLE 61 OF TITLE 12, C.R.S.;

4 **SECTION 7. Act subject to petition - effective date.** This act
5 takes effect January 1, 2015; except that, if a referendum petition is filed
6 pursuant to section 1 (3) of article V of the state constitution against this
7 act or an item, section, or part of this act within the ninety-day period
8 after final adjournment of the general assembly, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2014 and, in such case, will take
11 effect on the date of the official declaration of the vote thereon by the
12 governor.