

DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
REAL ESTATE BROKERS
4 CCR 725-1
NOTICE OF PROPOSED RULEMAKING HEARING
October 4, 2011
E-47 Competency

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Section 1. Authority

The statutory basis for the adoption of this rule regarding real estate brokers is Part 1 of Title 12, Article 61 C.R.S. The specific rulemaking provisions contained therein are sections 12-61-114(4) and 12-61-114.5, C.R.S.

Section 2. Scope and Purpose

Pursuant to sections 12-61-804, 12-61-805 and 12-61-807, C.R.S. real estate brokers are required to perform the terms of the written or oral agreements they make with certain parties to a real estate transaction. Real estate brokers are also required to exercise reasonable skill and care for their clients. Pursuant to sections 12-61-804 and 12-61-805, C.R.S., real estate brokers have a duty to promote the interests of their clients with the utmost good faith, loyalty, and fidelity. Pursuant to section 12-61-113(1)(n), C.R.S., it is a violation of the license law if a licensee demonstrates unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public.

The purpose of this rule is to ensure that licensed real estate brokers do not agree to perform brokerage activities in a transaction where they lack the necessary training, experience, or education to fulfill the terms of the brokerage practice agreement, unless the licensed broker is assisted by another licensed real estate broker possessing the necessary competency.

Section 3. Applicability

This rule applies to real estate brokers licensed by the Colorado Real Estate Commission.

Section 4. E-47 Competency

Prior to negotiating the terms of any agreement to list, offer for sale, sell, exchange, auction, buy, lease, or rent any real property, any option on real property, any business opportunity, or interest therein, a real estate licensee must determine whether he or she possesses the necessary experience, training, and/or knowledge to complete the terms of the agreement and maintain compliance with the applicable federal, state or local laws, rules, regulations, or ordinances. If the licensee does not have the necessary experience, training, and/or knowledge to consummate the terms of the agreement, the licensee shall either decline to provide brokerage services, or the

licensee shall seek the assistance of another real estate licensee who does have the necessary experience, training, and/or knowledge to fulfill the terms of the agreement.

Section 5. Enforcement

1. Noncompliance with this rule, whether defined or reasonably implied in the rule, may result in the imposition of any of the sanctions allowable under Colorado law, including but not limited to:
 - a. Revocation;
 - b. Refusal to renew a license;
 - c. Imposition of fines; and
 - d. Public censure

A hearing on the above subject matter will be held on Tuesday, October 4, 2011, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250-C, 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.