

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

NOTICE OF PROPOSED RULEMAKING HEARING
August 5, 2019

RULE C. LICENSING - OFFICE

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 specific purpose of this rulemaking is to repeal existing rules with respect to requirements for an office and qualifications of sole proprietorship and business. 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and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.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 As a result, the current rules are being repealed and re-established in a chapter format.

PROPOSED NEW, AMENDED AND REPEALED RULES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.

~~C. — Licensing - Office~~

~~C-1. — A broker licensed as an individual or as an individual doing business under a trade name shall be the sole owner of the brokerage business or such brokerage business will be considered as a partnership and the partnership shall apply for a broker's license under 12-61-103(7) C.R.S.~~

~~C-2. — Resident broker required to have office; exceptions~~

~~Every resident Colorado real estate broker shall maintain and supervise a brokerage practice available to the public, except those brokers registered in the Commission office as in the employ of another broker or those brokers registered as inactive.~~

~~C-3. — Responsible broker availability.~~

~~Any broker licensed as an individual proprietorship or the acting broker for a corporation, partnership, or limited liability company must be reasonably available to manage and supervise such brokerage practice.~~

~~C-4. — Repealed effective 1-1-97~~

~~C-5. — Repealed effective 1-1-97~~

~~C-6. — Repealed effective 1-1-97~~

~~C-7. — Repealed effective 1-1-97~~

~~C-8. — Repealed effective 1-1-97~~

~~C-9. — Repealed.~~

~~C-10. — Repealed.~~

~~C-11. — Repealed.~~

~~C-12. — Repealed.~~

~~C-13.~~

~~(a) — Repealed~~

~~(b) — Repealed~~

~~C-14. — Repealed.~~

~~C-15. — Repealed.~~

~~C-16. — No agreement shall be entered into by any licensee whereby an individual licensee lends their name or license for the benefit of another person, partnership, limited liability company or corporation, whereby the provisions of the Colorado Real Estate Broker License Law and Commission Rules relating to licensing are circumvented.~~

~~C-17. — The Commission may refuse to issue a license to a partnership, limited liability company or corporation if the name of said corporation, partnership or limited liability company is the same as that of any person or entity whose license has been suspended or revoked or is so similar as to be easily confused with that of the suspended or revoked person or entity by members of the general public.~~

~~C-18. — Brokerage activity only in trade name or full licensed name.~~

~~An independent or employing broker may adopt a trade name according to Colorado law and such trade name will appear on the face of the independent or employing~~

~~broker's license, however, pursuant to 12-61-103(10), C.R.S. such independent or employing broker must conduct brokerage business only under such trade name or conduct brokerage business under the entire name appearing on the face of the license. Employed brokers, who are licensed under an employing broker that is doing business under a trade name, shall be licensed under the entire name appearing on the face of the license, and not under the brokerage's or individual's trade name.~~

~~C-19.—Repealed.~~

~~C-20.—No broker's license will be issued to a broker under a trade name, corporate name, partnership name or limited liability company name which is identical to another licensed broker's trade name, corporate, partnership or limited liability company name.~~

~~C-21.—A broker licensed as an individual proprietorship shall not adopt a trade name which includes the following words: Corporation, Partnership, Limited Liability Company, Limited, Incorporated, or the abbreviations thereof.~~

~~C-22.—Employing broker qualifications for business entities.~~

~~When a broker applicant submits an application to qualify:~~

~~(a) A corporation as a real estate brokerage company, the broker applicant must certify that:~~

- ~~1. The corporation has been properly incorporated with the Colorado Secretary of State or is authorized to do business in Colorado, and is in good standing, proof of which shall be included with the application;~~
- ~~2. If an assumed or trade name is to be used, it has been properly filed with and accepted by the Colorado Secretary of State, proof of which shall be included with the application;~~
- ~~3. The broker applicant has been appointed by the board of directors to act as broker for the corporation;~~

~~(b) A partnership as a real estate brokerage company, the broker applicant must certify that:~~

- ~~1. The partnership has been properly registered with the Colorado Department of Revenue or properly filed with the Colorado Secretary of State and is in good standing, proof of which shall be included with the application;~~
- ~~2. If an assumed or trade name is to be used, it has been properly filed with Colorado Department of Revenue or filed and accepted by the Colorado Secretary of State, proof of which shall be included with the application;~~
- ~~3. The broker applicant has been appointed the real estate broker for the partnership by all general partners or managers/officers;~~

~~(c) — A limited liability company as a real estate brokerage company, the broker applicant must certify that:~~

- ~~1. — The limited liability company has been properly registered with the Colorado Secretary of State and is in good standing, proof of which shall be included with the application;~~
- ~~2. — If an assumed or trade name is to be used, it has been properly filed with the Colorado Secretary of State, proof of which shall be included with the application;~~
- ~~3. — The broker applicant has been appointed the real estate broker for the limited liability company by all managers, or if management has been reserved to the members in the articles of organization, by all members;~~

~~C-23. — Unlicensed on-site manager.~~

~~Pursuant to 12-61-101(2), C.R.S., offering to rent or lease real estate or renting or leasing real estate requires a Colorado real estate broker's license. If a brokerage firm employs an unlicensed on-site manager, the employing broker must:~~

- ~~(a) — Actively and diligently supervise all activities of the on-site manager or delegate the supervisory responsibility in writing to a qualified employed broker;~~
- ~~(b) — Require the on-site manager to report directly to either the employing broker or the delegated employed broker;~~
- ~~(c) — Require the on-site manager account for and remit all monies, including rents and security deposits, collected on behalf of the broker or owner to the employing broker or the delegated employed broker;~~
- ~~(d) — Ensure that property maintenance scheduled by the on-site manager is performed in accordance with the executed property management agreement;~~
- ~~(e) — Engage the on-site manager, either as a regularly salaried employee or as an independent contractor, and pay the on-site manager through the real estate brokerage firm. The salary may include rent value or other non-commission income.~~
- ~~(f) — Instruct the on-site manager to not negotiate any of the material terms of a lease or rental agreement with a tenant or prospective tenant.~~

~~The unlicensed on-site manager may fill in blanks, as a scrivener, on lease forms provided by the brokerage firm, show prospective tenants available units, quote rental prices established by the owner or broker, arrange for maintenance, and collect monies, including security deposits and rents.~~

~~C-24. — Repealed.~~

~~C-25.— Notice of termination; employing broker.~~

~~The employing broker of a licensed corporation, partnership, or limited liability company must immediately notify the Commission in a manner acceptable to the Commission, of the employing broker's termination of employment with such licensed corporation, partnership, or limited liability company, or upon the employing broker's failure to continue to comply with 12-61-103, C.R.S. and applicable rules. Upon such notification, the employing broker and all employed licensees shall be placed on inactive status.~~

~~C-26.— A broker license may be issued on an inactive status.~~

(Repealed and re-established in 4 CCR 725-1, Chapters 1-9 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.