

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

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
August 5, 2019

CHAPTER 2. LICENSURE REQUIREMENTS

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 by House Bill 19-1172 which becomes effective October 1, 2019.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive pursuant to section 24-4-103.3., C.R.S. (Senate Bill 14-063) and House Bill 19-1172 along with promulgating the 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 add, modify and amend the licensure requirements of real estate brokers as a result of the mandatory rule review required by section 24-4-103.3., C.R.S. 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. The review also determined whether the rules should be continued in their current form, modified, or repealed.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, Chapter 2 sets forth the licensure requirements for real estate brokers. This rulemaking also revises the statutory citations as a result of the passage of House Bill 19-1172.

PROPOSED NEW, AMENDED AND REPEALED RULES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.

Chapter 2: Licensure Requirements

2.1. Educational Requirements

A. Associate Broker Level License

In order to obtain an Associate Broker level license, the Applicant must successfully complete the educational requirements pursuant to section 12-10-203(4)(a), C.R.S.:

1. A degree from an accredited college or university with a major course of study in real estate; or
2. Proof of completion of one hundred sixty-eight (168) hours of classroom instruction or equivalent Distance Learning hours from any accredited college or university, or any Real Estate School for the following courses:
 - a. Real Estate Law and Real Estate Practice: 48 hours;
 - b. Colorado Real Estate Contracts: 48 hours;
 - c. Real Estate Closings: not less than 24 hours;
 - d. Trust Accounts and Record Keeping: not less than 8 hours;
 - e. Current Legal Issues: not less than 8 hours; and
 - f. Practical Application: not less than 32 hours.

B. Employing Broker Level License

An Applicant desiring an Employing Broker level license must successfully complete the twenty-four (24) hours of classroom instruction or equivalent Distance Learning hours in Brokerage Administration pursuant to section 12-10-203(5)(c)(II), C.R.S.

C. Educational Principles

Completion of courses of study approved by the Commission as set forth in subsections A.2. and B. of this Rule, whether through classroom or Distance Learning, must be based upon educational principles acceptable to the Commission.

D. Course Audits

The Commission may audit courses set forth in subsection A.2. and B. of this Rule at any time and at no cost. The Commission may request all instructional materials and student attendance records from each accredited college or university, or Real Estate School for any approved course of study. The purpose of the audit is to ensure adherence to the approved course of study by verifying the course material and instruction are consistent with acceptable educational principles; and that instruction is provided in a manner that the desired learning objectives are met. Failure to comply with statutes and these Rules may result in the removal of the course provider, instructor, and/or the course from the approved provider list.

2.2. Examination Requirements

A. Real Estate Licensing Examination

The Real Estate Licensing Examination is administered and developed by a third party testing service and consists of two (2) parts, which include:

1. a national part; and

2. a Colorado part.

B. Test Administration Standards

Examinees must comply with the standards of test administration established by the Commission and the testing service provider.

C. Educational Requirements Completed Prior to Real Estate Licensing Examination

Educational requirements as set forth in Rule 2.1.A. must be completed and proof filed in a manner as prescribed by the Commission prior to taking the Real Estate Licensing Examination and applying for an Associate Broker level license.

D. Duly Qualified Applicants

The Real Estate Licensing Examination will be given to duly qualified Applicants; however, one (1) instructor from each accredited college or university or Real Estate School may take the examination one (1) time during any twelve (12) month period to conduct research for course content.

E. Retake Failed Parts of Real Estate Licensing Examination

If an Applicant fails one or both parts of the Real Estate Licensing Examination, the Applicant may retake the failed part(s) at a subsequent time.

F. Valid Testing Scores

A passing score for either part of the Real Estate Licensing Examination is valid for one (1) year. Failure to submit a complete application within one (1) year will result in the examination grade being invalid.

G. No Certification of Examination Results until Licensed

The Commission will not certify to any person, state, or agency any information concerning the results of any examination as it pertains to any person who has taken the Real Estate Licensing Examination unless such person is or has been licensed as a Broker.

2.3. Criminal Background Check Requirements

Pursuant to section 12-10-203(1)(b)(I), C.R.S., an Applicant must submit a set of fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state and national

criminal history record check prior to submitting an application to the Division. Fingerprints must be submitted to the Colorado Bureau of Investigation for processing in a manner acceptable to the Colorado Bureau of Investigation. Fingerprints must be readable and all personal identification data completed in a manner satisfactory to the Colorado Bureau of Investigation. The Commission may, however, acquire a name-based criminal history record check for an Applicant who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable.

2.4. Certified License History Requirements

An Applicant who has held a real estate license (e.g. real estate salesperson or broker) in any other Jurisdiction must file a certification of licensing history issued by each Jurisdiction where the Applicant is currently or was previously licensed to practice real estate with their application. The certificate must bear a date of not more than ninety (90) days prior to the submission date of the application.

2.5. Experience Requirements

A. Associate Broker Level License

Pursuant to section 12-10-203, C.R.S., there are no prescribed experience requirements to apply for a Colorado Associate Broker level license.

B. Independent Broker Level License

Pursuant to section 12-10-203(5)(c)(I), C.R.S., each Applicant for a Colorado Independent Broker level license must have held an Associate Broker level license on Active status for at least two (2) years preceding the date of application.

C. Employing Broker Level License

1. Held a Real Estate Broker License on December 31, 1996

Pursuant to section 12-10-203(5)(c), C.R.S., a Broker that held a current and valid Colorado Real Estate Broker's license on December 31, 1996 does not need to demonstrate additional experience and knowledge to act as an Employing Broker.

2. Issued an Employing Broker Level License prior to January 1, 2018 but after December 31, 1996

Pursuant to section 12-10-203(5)(c)(III), C.R.S., an Applicant that was issued an Employing Broker level license prior to January 1, 2018 but after December 31, 1996 must demonstrate additional experience and knowledge by satisfying one of the following requirements:

- a. The Applicant must have held an Active Employing Broker level license for at least two (2) years within the five (5) year period immediately preceding January 1, 2019;
- b. Proof of completion of classroom instruction or equivalent Distance Learning hours for the Employing Broker Refresher Course; or
- c. The Applicant meets the experience requirements as set forth in subsection C.3. of this Rule.

3. Applying for an Employing Broker Level License on or after January 1, 2018

Pursuant to section 12-10-203(5)(c)(III), C.R.S., each Applicant for an Employing Broker level license who applies on or after January 1, 2018 must submit evidence satisfactory to the Commission that the Applicant has practiced as an Active Broker, as appropriate to the Broker's area of supervision, for at least two (2) years within the five (5) year period immediately preceding the date of application.

- a. The evidence must qualify the Applicant for a total of at least fifty (50) points having accumulated within the five (5) year period immediately preceding the date of application, based on the following point system:
 - i. Each full year that the Applicant has practiced as an Employing Broker is worth ten (10) points.
 - ii. Each full year that the Applicant was delegated supervisory authority from an Employing Broker that included responsibility for ensuring compliance with the Commission statutes and these Rules, and that ensured responsibility for the Brokerage Firm (excluding any mentorship) is worth five (5) points. A copy of the detailed executed delegation of authority must be included.
 - iii. Each hour of an approved and designated continuing education course in the Broker's area of expertise completed after January 1, 2018, is worth one (1) point. This educational point category cannot exceed twenty (20) points.
 - iv. Each completed or closed residential sales transaction is worth three (3) points.
 - v. Each completed or closed commercial sales transaction is worth six (6) points.
 - vi. Each completed or closed vacant land sales transaction is worth six (6) points.

- vii. Each administered commercial property management transaction is worth four (4) points.
 - viii. Each administered residential property management transaction with two (2) points.
 - ix. Each completed or closed commercial lease transaction is worth two (2) points.
 - x. Each completed or closed residential lease transaction is worth one (1) point.
 - xi. Each completed or closed time share sales transaction is worth two (2) points.
- b. Each Applicant must complete and submit the prescribed worksheet or form developed by the Commission and supporting documents with the application for an Employing Broker level license.

2.6. Associate Broker Level License Requirements

Applicants applying for an Associate Broker level license must satisfy the licensure requirements as set forth in one of the following:

A. New License

Pursuant to section 12-10-203(4)(a), C.R.S., an Applicant who has never held a real estate license in Colorado or any other Jurisdiction must complete the following requirements:

1. Proof of completion of the educational requirements as set forth in Rule 2.1.A.;
2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.; and
3. Submission of fingerprints as set forth in Rule 2.3.

B. Licensed Attorney

Pursuant to section 12-10-203(10), C.R.S., an Applicant who is a licensed attorney in Colorado or any other Jurisdiction must complete the following requirements:

1. Proof of completion of twelve (12) hours of classroom instruction or equivalent Distance Learning hours for the following courses:
 - a. Real Estate Closings as set forth in Rule 2.1.A.2.c.; and
 - b. Trust Accounts and Record Keeping as set forth in Rule 2.1.A.2.d.

2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.;
3. Submission of fingerprints as set forth in Rule 2.3.; and
4. Proof of law license.

C. Expired or Less than Two Years as a Real Estate Salesperson from Another Jurisdiction

Pursuant to section 12-10-203(4)(c), C.R.S., an Applicant holding a real estate salesperson license from another Jurisdiction that is either expired or held for less than two (2) years must complete the following requirements:

1. Proof of completion of classroom instruction or equivalent Distance Learning hours for the following courses:
 - a. Colorado Real Estate Contracts as set forth in Rule 2.1.A.2.b.;
 - b. Real Estate Closings as set forth in Rule 2.1.A.2.c.;
 - c. Trust Accounts and Record Keeping as set forth in Rule 2.1.A.2.d.;
 - d. Current Legal Issues as set forth in Rule 2.1.A.2.e.; and
 - e. Practical Application as set forth in Rule 2.1.A.2.f.
2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.;
3. Submission of fingerprints as required in Rule 2.3.; and
4. Submission of certified license history as set forth in Rule 2.4.

D. Expired or Less than Two Years as a Real Estate Broker from another Jurisdiction

Pursuant to section 12-10-203(4)(b), C.R.S., an Applicant holding a real estate broker license from another Jurisdiction that is either expired or held for less than two (2) years must complete the following requirements:

1. Proof of completion of classroom instruction or equivalent Distance Learning hours for the following courses:
 - a. Colorado Real Estate Contracts as set forth in Rule 2.1.A.2.b.; and
 - b. Real Estate Closings as set forth in Rule 2.1.A.2.c.

2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.;
3. Submission of fingerprints as required in Rule 2.3.; and
4. Submission of certified license history as set forth in Rule 2.4.

E. Current Real Estate License from Another Jurisdiction Held for Two or More Years

Pursuant to section 12-10-203(5)(b), C.R.S., an Applicant holding a real estate license (e.g. real estate salesperson or broker), whether on Active or Inactive status, for two (2) or more years from another Jurisdiction must complete the following requirements:

1. There are no prescribed educational requirements;
2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.2.;
3. Submission of fingerprints as set forth in Rule 2.3.; and
4. Submission of certified license history as set forth in Rule 2.4.

F. Expired Colorado Associate Broker Level License Issued After January 1, 1997

Pursuant to section 12-10-203, C.R.S., an Applicant who was issued a Colorado Associate Broker level license on or after January 1, 1997 that is expired beyond the three-year right to reinstate must complete the following requirements:

1. Verification by the Commission that the Associate Broker level license was issued by the Commission on or after January 1, 1997 to confirm prior completion of the educational requirements as set forth in Rule 2.1.A.;
2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.; and
3. Submission of fingerprints as set forth in Rule 2.3.

G. Expired Colorado Salesperson License Issued on or before December 31, 1996

Pursuant to section 12-10-203, C.R.S., an Applicant who was issued a Colorado real estate salesperson license on or before December 31, 1996 that is expired beyond the three-year right to reinstate must complete the following requirements:

1. Proof of completion of classroom instruction or equivalent Distance Learning hours for the following courses:
 - a. Colorado Real Estate Contracts as set forth in Rule 2.1.A.2.b.;

- b. Real Estate Closings as set forth in Rule 2.1.A.2.c.;
 - c. Trust Accounts and Record Keeping as set forth in Rule 2.1.A.2.d.;
 - d. Current Legal Issues as set forth in Rule 2.1.A.2.e.; and
 - e. Practical Application as set forth in Rule 2.1.A.2.f.
 - 2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.; and
 - 3. Submission of fingerprints as set forth in Rule 2.3.
- H. Expired Colorado Real Estate Broker License Issued on or before December 31, 1996

Pursuant to section 12-10-203, C.R.S., an Applicant who was issued a Colorado real estate broker license on or before December 31, 1996 that is expired beyond the three-year right to reinstate must complete the following requirements:

- 1. Proof of completion of classroom instruction or equivalent Distance Learning hours for the following courses:
 - a. Colorado Real Estate Contracts as set forth in Rule 2.1.A.2.b.; and
 - b. Real Estate Closings as set forth in Rule 2.1.A.2.c.
 - 2. Successful completion of the Real Estate Licensing Examination as set forth in Rule 2.2.A.; and
 - 3. Submission of fingerprints as set forth in Rule 2.3.
- 2.7. Independent Broker Level License Requirements
 - A. Initial Licensure as an Independent Broker Level License

An Applicant with at least two (2) years of Active licensure as a Broker in either Colorado or another Jurisdiction preceding the date of application may apply for an Independent Broker level license by completing the applicable licensure requirements as set forth in Rule 2.6.
 - B. Upgrade to an Independent Broker Level License

Pursuant to section 12-10-203(5)(c)(I), C.R.S, an Applicant may apply to upgrade to an Independent Broker level license as set forth in Rule 2.5.B.
- 2.8. Employing Broker Level License Requirements on or after January 1, 2018

Pursuant to section 12-10-203(5)(c), C.R.S, an Applicant for an Employing Broker level license who applies on or after January 1, 2018 must complete the following requirements:

A. Educational Requirement

Proof of completion of classroom instruction or equivalent Distance Learning hours for Brokerage Administration as set forth in Rule 2.1.B.

B. Experience Requirement

Submission of evidence as set forth in Rule 2.5.C. that the Applicant has practiced as an Active Broker, as appropriate to the Broker's area of supervision, for at least two (2) years within the five (5) year period immediately preceding the date of application.

C. Criminal Background Check Requirement

For Applicants licensed in another Jurisdiction, submission of fingerprints as set forth in Rule 2.3.

D. Certified License History

For Applicants licensed in another Jurisdiction, submission of certified license history as set forth in Rule 2.4.

2.9. Broker Qualifications for Sole Proprietors

A. The Broker must have either an Independent Broker or Employing Broker level license.

B. A Broker licensed as a sole proprietorship must not adopt a trade name, which includes the following words: corporation, partnership, limited liability company, limited, incorporated, or the abbreviations thereof.

C. A Broker licensed as a sole proprietorship or as a sole proprietorship doing business under a trade name must be the sole owner of the Brokerage Firm. Otherwise, the Brokerage Firm will be considered as a partnership and the partnership must apply for a Broker's License pursuant to section 12-10-203(6), C.R.S. and as set forth in Rule 2.10.

2.10. Broker Qualifications for Partnerships, Corporations, or Limited Liability Companies

A. When an Independent Broker or Employing Broker submits an application to qualify a partnership, corporation, or limited liability company as a Brokerage Firm, the Applicant must certify:

1. The partnership, corporation, or limited liability company has been properly registered with the Colorado Secretary of State and is in good standing, proof of which must 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 must be included with the application; and
3. The Independent Broker or Employing Broker has been appointed as the Independent Broker or Employing Broker by the appropriate authority of the applicable Brokerage Firm.

B. Notice of Termination of the 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 section 12-10-203, C.R.S. and these Rules. Upon such notification, the Employing Broker and all Associate Brokers will be placed on Inactive status.

C. Temporary Employing Broker Level License

A Temporary License may be issued to a corporation, partnership or limited liability company to prevent hardship. No application for a Temporary License will be approved unless the designated person satisfies the licensure requirements of an Employing Broker. A Temporary License is valid for up to ninety (90) days. No more than two (2) Temporary Licenses may be issued to any corporation, partnership, or limited liability company, whether consecutive or not, during any eighteen (18) month period.

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.