

HB1212_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation & Local Government.

HB19-1212 be amended as follows:

1 Amend printed bill, page 7, line 24, strike "12-61-1012," and substitute
2 "12-61-1014,"

3 Page 19, after line 15 insert:

4 **"12-61-1012. Investigation - revocation - actions against**
5 **licensee - rules.** (1) THE DIRECTOR, UPON THE DIRECTOR'S OWN MOTION,
6 MAY, AND, UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL,
7 INVESTIGATE THE ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO
8 ASSUMES TO ACT IN THE CAPACITY OF A LICENSEE WITHIN THE STATE UPON
9 THE DIRECTOR'S DETERMINATION THAT THE COMPLAINT IS VALID. THE
10 DIRECTOR, AFTER HOLDING A HEARING IN ACCORDANCE WITH THE "STATE
11 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, MAY IMPOSE
12 AN ADMINISTRATIVE FINE NOT TO EXCEED TWO THOUSAND FIVE HUNDRED
13 DOLLARS FOR EACH SEPARATE OFFENSE, CENSURE A LICENSEE, PLACE THE
14 LICENSEE ON PROBATION AND SET THE TERMS OF PROBATION, OR
15 TEMPORARILY SUSPEND OR PERMANENTLY REVOKE A LICENSE WHEN THE
16 LICENSEE HAS PERFORMED, IS PERFORMING, OR IS ATTEMPTING TO
17 PERFORM ANY OF THE FOLLOWING ACTS AND IS GUILTY OF:

18 (a) KNOWINGLY MAKING ANY MISREPRESENTATION OR
19 KNOWINGLY MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;

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

23 (c) KNOWINGLY MISREPRESENTING OR MAKING FALSE PROMISES
24 THROUGH AGENTS, ADVERTISING, OR OTHERWISE;

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

27 (e) KNOWINGLY VIOLATING OR KNOWINGLY DIRECTING OTHERS TO
28 VIOLATE CCIOA;

29 (f) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE
30 TIME, ANY MONEY COMING INTO THE LICENSEE'S POSSESSION THAT
31 BELONGS TO OTHERS, WHETHER ACTING AS A COMMUNITY ASSOCIATION
32 MANAGER, APPRENTICE, OR OTHERWISE, AND FAILING TO KEEP RECORDS
33 RELATIVE TO THE MONEY, WHICH RECORDS MUST CONTAIN ANY
34 INFORMATION REQUIRED BY RULES OF THE DIRECTOR AND ARE SUBJECT TO
35 AUDIT BY THE DIRECTOR;

36 (g) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS
37 WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH
38 THE MANAGER'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS
39 IN A SEGREGATED ACCOUNT WITH SOME BANK OR RECOGNIZED

1 DEPOSITORY IN THIS STATE, WHICH ACCOUNT MAY BE ANY TYPE OF
2 CHECKING, DEMAND, PASSBOOK, OR STATEMENT ACCOUNT INSURED BY AN
3 AGENCY OF THE UNITED STATES GOVERNMENT, AND TO SO KEEP RECORDS
4 RELATIVE TO THE DEPOSIT THAT CONTAIN ANY INFORMATION REQUIRED BY
5 RULES OF THE DIRECTOR AND ARE SUBJECT TO AUDIT BY THE DIRECTOR;

6 (h) DISREGARDING OR VIOLATING, OR AIDING OR ABETTING ANY
7 VIOLATION OF, THIS PART 10 OR ANY APPLICABLE RULE OR ORDER OF THE
8 DIRECTOR;

9 (i) PERFORMING ANY ACT THAT LEADS TO A CONVICTION OF,
10 ENTRY OF A PLEA OF GUILTY TO, OR ENTRY OF A PLEA OF NOLO
11 CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18; PARTS 1 TO 4 OF
12 ARTICLE 4 OF TITLE 18; PARTS 1 TO 5 AND 7 TO 9 OF ARTICLE 5 OF TITLE 18;
13 ARTICLE 5.5 OF TITLE 18; PARTS 3, 4, AND 6 TO 8 OF ARTICLE 6 OF TITLE 18;
14 PARTS 1 AND 3 TO 8 OF ARTICLE 7 OF TITLE 18; PART 3 OF ARTICLE 8 OF
15 TITLE 18; ARTICLE 15 OF TITLE 18; ARTICLE 17 OF TITLE 18; SECTION
16 18-18-405, 18-18-411, 18-18-412.5, 18-18-412.7, 18-18-415, 18-18-422,
17 OR 18-18-423; OR ANY OTHER LIKE CRIME UNDER COLORADO LAW,
18 FEDERAL LAW, OR THE LAWS OF OTHER STATES. A CERTIFIED COPY OF THE
19 JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF SUCH CONVICTION
20 OR OTHER OFFICIAL RECORD INDICATING THAT SUCH PLEA WAS ENTERED
21 IS CONCLUSIVE EVIDENCE OF SUCH CONVICTION OR PLEA IN ANY HEARING
22 UNDER THIS PART 10.

23 (j) FAILING TO IMMEDIATELY NOTIFY THE DIRECTOR IN WRITING OF
24 A CONVICTION, PLEA, OR VIOLATION COVERED BY SUBSECTION (1)(i) OF
25 THIS SECTION;

26 (k) HAVING DEMONSTRATED UNWORTHINESS OR INCOMPETENCY
27 TO ACT AS A COMMUNITY ASSOCIATION MANAGER BY CONDUCTING
28 BUSINESS IN SUCH A MANNER AS TO SIGNIFICANTLY ENDANGER THE
29 INTEREST OF A COMMON INTEREST COMMUNITY OR OF THE PUBLIC;

30 (l) IN THE CASE OF A MANAGER WHO EMPLOYS OTHERS OR IS
31 DESIGNATED TO ACT ON BEHALF OF A LICENSED ENTITY, FAILING TO
32 EXERCISE REASONABLE SUPERVISION OVER THE ACTIVITIES OF EMPLOYEES
33 OR APPRENTICES;

34 (m) FAILING TO MAKE A FULL AND TRUE DISCLOSURE OF FEES,
35 CHARGES, AND REMUNERATION AS REQUIRED BY SECTION 12-61-1006;

36 (n) PROCURING, OR ATTEMPTING TO PROCURE, A LICENSE OR
37 RENEWING, REINSTATING, OR REACTIVATING, OR ATTEMPTING TO RENEW,
38 REINSTATE, OR REACTIVATE, A LICENSE BY FRAUD, MISREPRESENTATION,
39 OR DECEIT OR BY MAKING A MATERIAL MISSTATEMENT OF FACT IN AN
40 APPLICATION FOR A LICENSE;

41 (o) CLAIMING, ARRANGING FOR, OR TAKING ANY SECRET OR
42 UNDISCLOSED AMOUNT OF COMPENSATION, COMMISSION, OR PROFIT OR
43 FAILING TO REVEAL TO THE LICENSEE'S PRINCIPAL OR EMPLOYER THE FULL
44 AMOUNT OF THE LICENSEE'S COMPENSATION, COMMISSION, OR PROFIT IN
45 CONNECTION WITH ANY ACTS FOR WHICH A LICENSE IS REQUIRED UNDER

1 THIS PART 10;

2 (p) HAVING HAD A LICENSE OR A SUBDIVISION DEVELOPER'S
3 REGISTRATION SUSPENDED OR REVOKED IN ANY JURISDICTION, OR HAVING
4 HAD ANY DISCIPLINARY ACTION TAKEN AGAINST THE MANAGER OR
5 SUBDIVISION DEVELOPER IN ANY OTHER JURISDICTION IF THE LICENSEE'S
6 OR SUBDIVISION DEVELOPER'S ACTION WOULD CONSTITUTE A VIOLATION
7 OF THIS SUBSECTION (1). A CERTIFIED COPY OF THE ORDER OF
8 DISCIPLINARY ACTION IS PRIMA FACIE EVIDENCE OF SUCH DISCIPLINARY
9 ACTION.

10 (q) WITHIN THE LAST FIVE YEARS, HAVING A LICENSE,
11 REGISTRATION, OR CERTIFICATION ISSUED BY COLORADO OR ANOTHER
12 STATE REVOKED OR SUSPENDED FOR FRAUD, DECEIT, MATERIAL
13 MISREPRESENTATION, THEFT, OR BREACH OF A FIDUCIARY DUTY, AND SUCH
14 DISCIPLINE DENIED THE PERSON AUTHORIZATION TO PRACTICE AS:

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

16 (II) A REAL ESTATE BROKER OR SALESPERSON;

17 (III) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION
18 12-61-702 (11);

19 (IV) AN INSURANCE PRODUCER, AS DEFINED BY SECTION 10-2-103
20 (6);

21 (V) AN ATTORNEY;

22 (VI) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION
23 11-51-201 (2);

24 (VII) A SECURITIES SALES REPRESENTATIVE, AS DEFINED BY
25 SECTION 11-51-201 (14);

26 (VIII) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION
27 11-51-201 (9.5); OR

28 (IX) AN INVESTMENT ADVISOR REPRESENTATIVE, AS DEFINED BY
29 SECTION 11-51-201 (9.6);

30 (r) ACTING OUTSIDE THE SCOPE OF AUTHORITY GRANTED BY THE
31 ISSUANCE OF A LICENSE; OR

32 (s) ANY OTHER CONDUCT, WHETHER OF THE SAME OR A DIFFERENT
33 CHARACTER THAN SPECIFIED IN THIS SUBSECTION (1), THAT CONSTITUTES
34 DISHONEST DEALING.

35 (2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
36 ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A
37 MANAGER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF THE
38 ENTITY COMMITS ANY ACT OR PRACTICE LISTED IN SUBSECTION (1) OF THIS
39 SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF THE
40 ENTITY TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF THE MANAGER,
41 WHETHER OR NOT THE DESIGNATED MANAGER HAD PERSONAL
42 KNOWLEDGE OF THE ACT OR PRACTICE AND WHETHER OR NOT THE
43 DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF ANY OTHER
44 PERSON.

45 (3) (a) THE DIRECTOR SHALL ADOPT RULES SPECIFYING THE

1 FORMAT OF COMPLAINTS, THE FORM AND TIMING OF RESPONSES, AND
2 OTHER DETAILS OF THE COMPLAINT AND INVESTIGATION PROCESS.

3 (b) TO FACILITATE THE HANDLING OF COMPLAINTS, THE DIRECTOR
4 SHALL PROVIDE TO ANY PERSON FILING A COMPLAINT ON THE LICENSING
5 PROGRAM WEBSITE INFORMATION THAT INDICATES:

6 (I) THAT IF A COMPLAINT IS ANONYMOUS, THE DIVISION IS UNABLE
7 TO PROVIDE FOLLOW-UP OR ADDITIONAL INFORMATION TO THE
8 COMPLAINANT OR TO ASK QUESTIONS TO GATHER MORE INFORMATION
9 THAT MIGHT HELP TO INVESTIGATE OR RESOLVE THE COMPLAINT;

10 (II) THE LIKELIHOOD OF SUCCESS WHEN A COMPLAINT IS FILED
11 ANONYMOUSLY;

12 (III) THAT THE NAME AND CONTACT INFORMATION PROVIDED BY
13 A COMPLAINANT WILL BE HELD CONFIDENTIALLY BY THE DIVISION AND
14 ONLY USED FOR PURPOSES OF CONTACTING THE COMPLAINANT FOR
15 REASONS SPECIFIED IN SUBSECTION (3)(b)(I) OF THIS SECTION;

16 (IV) A LIST OF THE GENERAL TYPES AND CLASSIFICATIONS OF
17 VIOLATIONS ARISING UNDER THIS PART 10 OR THE RULES ADOPTED
18 PURSUANT TO THIS PART 10 THAT A PERSON FILING A COMPLAINT MAY
19 CHOOSE FROM;

20 (V) EXAMPLES OF WHAT IS A VIOLATION AND WHAT IS NOT A
21 VIOLATION UNDER THIS PART 10 OR THE RULES ADOPTED PURSUANT TO
22 THIS PART 10;

23 (VI) EXAMPLES OF POSSIBLE WAYS TO RESOLVE A DISPUTE OR
24 PERFORMANCE ISSUE WITH A MANAGER BEFORE FILING A COMPLAINT; AND

25 (VII) THE PROCESS AND A TYPICAL TIMELINE FOR FOLLOWING UP
26 WITH THOSE FILING COMPLAINTS.

27 (4) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
28 EVIDENCE PRESENTED IN A COMPLAINT AND AFTER PROPER
29 INVESTIGATION, THAT A PERSON HAS VIOLATED THIS PART 10 OR RULES
30 ADOPTED PURSUANT TO THIS PART 10, THE DIRECTOR SHALL PROVIDE
31 WRITTEN NOTICE OF VIOLATION TO THE PERSON NAMED IN THE
32 COMPLAINT. THE NOTICE MUST INCLUDE ALL FACTS AND EVIDENCE
33 SUBMITTED AS CREDIBLE EVIDENCE WITH THE COMPLAINT, THE
34 PROVISIONS OF THIS PART 10 OR RULES ADOPTED PURSUANT TO THIS PART
35 10 THAT THE DIRECTOR DEEMS TO HAVE BEEN VIOLATED, THE NAME OF
36 THE INVESTIGATOR WITHIN THE DIVISION THAT VERIFIED THE COMPLAINT
37 AND IS THE POINT OF CONTACT, AND THE PROCESS AND TIMELINE FOR
38 RESPONDING TO A COMPLAINT PURSUANT TO RULES PROMULGATED
39 PURSUANT TO THIS PART 10.

40 (b) THE RESPONDENT MAY BE SERVED BY PERSONAL SERVICE, BY
41 FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR BY SUCH OTHER
42 MEANS AS MAY BE PRACTICABLE. PERSONAL SERVICE OR MAILING OF AN
43 ORDER OR DOCUMENT CONSTITUTES NOTICE OF THE DOCUMENT TO THE
44 RESPONDENT.

45 (c) AFTER RECEIVING A NOTICE OF VIOLATION, THE RESPONDENT

1 MAY CONTACT THE DIVISION'S ASSIGNED INVESTIGATOR LISTED ON THE
2 NOTICE FOR CLARIFICATION REGARDING THE ALLEGED VIOLATION BEFORE
3 SUBMITTING A RESPONSE. ONCE NOTICE IS GIVEN, THE RESPONDENT SHALL
4 PROVIDE A RESPONSE TO THE DIVISION REGARDING THE ALLEGED
5 VIOLATION OR VIOLATIONS, ALONG WITH ANY SUPPORTING
6 DOCUMENTATION TO REFUTE THE COMPLAINT OR FACTS AND EVIDENCE
7 SUBMITTED, WITHIN A TIME PERIOD SPECIFIED IN THE RULES ADOPTED BY
8 THE DIRECTOR.

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

11 (6) COMPLAINTS OF RECORD IN THE OFFICE OF THE DIRECTOR AND
12 DIVISION INVESTIGATIONS, INCLUDING INVESTIGATIVE FILES, ARE CLOSED
13 TO PUBLIC INSPECTION. STIPULATIONS AND FINAL AGENCY ORDERS ARE
14 PUBLIC RECORDS SUBJECT TO SECTIONS 24-72-203 AND 24-72-204.

15 (7) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
16 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
17 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT SHOULD NOT BE
18 DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER
19 OF ADMONITION TO THE LICENSEE AGAINST WHOM THE COMPLAINT WAS
20 MADE AND A COPY OF THE LETTER TO THE PERSON MAKING THE
21 COMPLAINT, BUT THE LETTER MUST ADVISE THE LICENSEE THAT THE
22 LICENSEE HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS
23 AFTER RECEIPT, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED
24 TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER
25 OF ADMONITION IS BASED. IF THE REQUEST IS TIMELY MADE, THE LETTER
26 OF ADMONITION IS VACATED, AND THE MATTER SHALL BE PROCESSED BY
27 MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

28 (8) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS
29 SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
30 CREDIT THEM TO THE DIVISION OF REAL ESTATE CASH FUND CREATED IN
31 SECTION 12-61-111.5 (2)(b).

32 (9) WHEN THE DIVISION BECOMES AWARE OF FACTS OR
33 CIRCUMSTANCES THAT FALL WITHIN THE JURISDICTION OF A CRIMINAL
34 JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITY UPON INVESTIGATION
35 OF THE ACTIVITIES OF A LICENSEE, THE DIVISION SHALL, IN ADDITION TO
36 THE EXERCISE OF ITS AUTHORITY UNDER THIS PART 10, REFER AND
37 TRANSMIT SUCH INFORMATION, WHICH MAY INCLUDE ORIGINALS OR COPIES
38 OF DOCUMENTS AND MATERIALS, TO ONE OR MORE CRIMINAL JUSTICE OR
39 OTHER LAW ENFORCEMENT AUTHORITIES FOR INVESTIGATION AND
40 PROSECUTION AS AUTHORIZED BY LAW.

41 **12-61-1013. Authority of director - cease-and-desist orders -**
42 **rules.** (1) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
43 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
44 A MANAGER OR APPRENTICE IS VIOLATING THIS PART 10 OR RULES
45 ADOPTED PURSUANT TO THIS PART 10 OR THAT A PERSON IS ACTING OR HAS

1 ACTED WITHOUT THE REQUIRED LICENSE, THE DIRECTOR MAY ISSUE AN
2 ORDER TO CEASE AND DESIST THE ACTIVITY. THE ORDER MUST SET FORTH
3 THE STATUTES AND RULES THE MANAGER, APPRENTICE, OR PERSON
4 ALLEGEDLY VIOLATED, THE FACTS THAT ALLEGEDLY CONSTITUTED THE
5 VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR
6 UNLICENSED PRACTICES IMMEDIATELY CEASE.

7 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
8 DESIST PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE
9 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
10 ACTS OR PRACTICES IN VIOLATION OF THIS PART 10 HAVE OCCURRED. THE
11 HEARING MUST BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND
12 24-4-105.

13 (2) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
14 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
15 A MANAGER OR APPRENTICE IS VIOLATING THIS PART 10 OR RULES
16 ADOPTED PURSUANT TO THIS PART 10 OR THAT A PERSON IS ACTING OR HAS
17 ACTED WITHOUT THE REQUIRED LICENSE, THEN, IN ADDITION TO ANY
18 SPECIFIC POWERS GRANTED PURSUANT TO THIS PART 10, THE DIRECTOR
19 MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS TO WHY THE
20 DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON TO
21 CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNLICENSED PRACTICE.

22 (b) IF THE DIRECTOR HAS ISSUED AN ORDER TO SHOW CAUSE
23 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION TO ANY PERSON, THE
24 DIRECTOR SHALL PROMPTLY GIVE THE PERSON NOTICE OF THE ISSUANCE
25 OF THE ORDER TOGETHER WITH A COPY OF THE ORDER, THE FACTUAL AND
26 LEGAL BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
27 HEARING ON THE ORDER. THE NOTICE MAY BE SERVED BY PERSONAL
28 SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS
29 MAY BE PRACTICABLE UPON ANY PERSON AGAINST WHOM THE ORDER IS
30 ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT
31 PURSUANT TO THIS SUBSECTION (2) CONSTITUTES NOTICE TO THE PERSON
32 OF THE ORDER OR DOCUMENT.

33 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE MUST BE
34 COMMENCED NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
35 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
36 NOTICE BY THE DIRECTOR AS PROVIDED IN SUBSECTION (2)(b) OF THIS
37 SECTION. THE HEARING MAY BE CONTINUED BY AGREEMENT OF ALL
38 PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
39 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
40 BUT IN NO EVENT MAY THE HEARING COMMENCE LATER THAN SIXTY
41 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
42 NOTICE.

43 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
44 BEEN ISSUED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION DOES NOT
45 APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE THAT

1 NOTICE WAS PROPERLY SENT OR SERVED UPON THE PERSON PURSUANT TO
2 SUBSECTION (2)(b) OF THIS SECTION AND ANY OTHER EVIDENCE RELATED
3 TO THE MATTER AS THE DIRECTOR DEEMS APPROPRIATE. THE DIRECTOR
4 SHALL ISSUE THE ORDER WITHIN TEN DAYS AFTER THE DIRECTOR'S
5 DETERMINATION RELATED TO REASONABLE ATTEMPTS TO NOTIFY THE
6 RESPONDENT, AND THE ORDER BECOMES FINAL AS TO THE RESPONDENT BY
7 OPERATION OF LAW. THE HEARING SHALL BE CONDUCTED PURSUANT TO
8 SECTIONS 24-4-104 AND 24-4-105.

9 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
10 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
11 HAS ACTED WITHOUT THE REQUIRED LICENSE, OR HAS OR IS ABOUT TO
12 ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS PART
13 10 OR RULES ADOPTED PURSUANT TO THIS PART 10, A FINAL
14 CEASE-AND-DESIST ORDER MAY BE ISSUED, DIRECTING THE PERSON TO
15 CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR UNLICENSED
16 PRACTICES.

17 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
18 FORTH IN SUBSECTION (2)(b) OF THIS SECTION, OF THE FINAL
19 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
20 HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (2)(c) TO EACH
21 PERSON AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL
22 ORDER ISSUED PURSUANT TO SUBSECTION (2)(c)(III) OF THIS SECTION IS
23 EFFECTIVE WHEN ISSUED AND CONSTITUTES A FINAL ORDER FOR PURPOSES
24 OF JUDICIAL REVIEW.

25 (3) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
26 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED IN
27 OR IS ABOUT TO ENGAGE IN ANY UNLICENSED ACT OR PRACTICE, ANY ACT
28 OR PRACTICE CONSTITUTING A VIOLATION OF THIS PART 10, ANY RULE
29 PROMULGATED PURSUANT TO THIS PART 10, ANY ORDER ISSUED PURSUANT
30 TO THIS PART 10, OR ANY ACT OR PRACTICE CONSTITUTING GROUNDS FOR
31 ADMINISTRATIVE SANCTION PURSUANT TO THIS PART 10, THE DIRECTOR
32 MAY ENTER INTO A STIPULATION WITH THE PERSON.

33 (4) IF A PERSON FAILS TO COMPLY WITH A FINAL
34 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
35 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
36 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
37 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A
38 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
39 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

40 (5) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST ORDER
41 MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION OR OF
42 THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SECTION 12-61-1014."

43 Renumber succeeding C.R.S. sections accordingly.

1 Page 31, line 12, strike "12-10-1012," and substitute "12-10-1014,".

2 Page 43, after line 3 insert:

3 **"12-10-1012. Investigation - revocation - actions against**
4 **licensee - rules.** (1) THE DIRECTOR, UPON THE DIRECTOR'S OWN MOTION,
5 MAY, AND, UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL,
6 INVESTIGATE THE ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO
7 ASSUMES TO ACT IN THE CAPACITY OF A LICENSEE WITHIN THE STATE UPON
8 THE DIRECTOR'S DETERMINATION THAT THE COMPLAINT IS VALID. THE
9 DIRECTOR, AFTER HOLDING A HEARING IN ACCORDANCE WITH THE "STATE
10 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, MAY IMPOSE
11 AN ADMINISTRATIVE FINE NOT TO EXCEED TWO THOUSAND FIVE HUNDRED
12 DOLLARS FOR EACH SEPARATE OFFENSE, CENSURE A LICENSEE, PLACE THE
13 LICENSEE ON PROBATION AND SET THE TERMS OF PROBATION, OR
14 TEMPORARILY SUSPEND OR PERMANENTLY REVOKE A LICENSE WHEN THE
15 LICENSEE HAS PERFORMED, IS PERFORMING, OR IS ATTEMPTING TO
16 PERFORM ANY OF THE FOLLOWING ACTS AND IS GUILTY OF:
17 (a) KNOWINGLY MAKING ANY MISREPRESENTATION OR
18 KNOWINGLY MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;
19 (b) MAKING ANY PROMISE OF A CHARACTER THAT INFLUENCES,
20 PERSUADES, OR INDUCES ANOTHER PERSON WHEN HE OR SHE COULD NOT
21 OR DID NOT INTEND TO KEEP SUCH PROMISE;
22 (c) KNOWINGLY MISREPRESENTING OR MAKING FALSE PROMISES
23 THROUGH AGENTS, ADVERTISING, OR OTHERWISE;
24 (d) VIOLATING, DIRECTLY OR INDIRECTLY, ANY APPLICABLE
25 PROVISION OF COLORADO OR FEDERAL FAIR HOUSING LAWS;
26 (e) KNOWINGLY VIOLATING OR KNOWINGLY DIRECTING OTHERS TO
27 VIOLATE CCIOA;
28 (f) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE
29 TIME, ANY MONEY COMING INTO THE LICENSEE'S POSSESSION THAT
30 BELONGS TO OTHERS, WHETHER ACTING AS A COMMUNITY ASSOCIATION
31 MANAGER, APPRENTICE, OR OTHERWISE, AND FAILING TO KEEP RECORDS
32 RELATIVE TO THE MONEY, WHICH RECORDS MUST CONTAIN ANY
33 INFORMATION REQUIRED BY RULES OF THE DIRECTOR AND ARE SUBJECT TO
34 AUDIT BY THE DIRECTOR;
35 (g) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS
36 WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH
37 THE MANAGER'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS
38 IN A SEGREGATED ACCOUNT WITH SOME BANK OR RECOGNIZED
39 DEPOSITORY IN THIS STATE, WHICH ACCOUNT MAY BE ANY TYPE OF
40 CHECKING, DEMAND, PASSBOOK, OR STATEMENT ACCOUNT INSURED BY AN
41 AGENCY OF THE UNITED STATES GOVERNMENT, AND TO SO KEEP RECORDS
42 RELATIVE TO THE DEPOSIT THAT CONTAIN ANY INFORMATION REQUIRED BY
43 RULES OF THE DIRECTOR AND ARE SUBJECT TO AUDIT BY THE DIRECTOR;

- 1 (h) DISREGARDING OR VIOLATING, OR AIDING OR ABETTING ANY
2 VIOLATION OF, THIS PART 10 OR ANY APPLICABLE RULE OR ORDER OF THE
3 DIRECTOR;
- 4 (i) PERFORMING ANY ACT THAT LEADS TO A CONVICTION OF,
5 ENTRY OF A PLEA OF GUILTY TO, OR ENTRY OF A PLEA OF NOLO
6 CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18; PARTS 1 TO 4 OF
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13 FEDERAL LAW, OR THE LAWS OF OTHER STATES. A CERTIFIED COPY OF THE
14 JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF SUCH CONVICTION
15 OR OTHER OFFICIAL RECORD INDICATING THAT SUCH PLEA WAS ENTERED
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17 UNDER THIS PART 10.
- 18 (j) FAILING TO IMMEDIATELY NOTIFY THE DIRECTOR IN WRITING OF
19 A CONVICTION, PLEA, OR VIOLATION COVERED BY SUBSECTION (1)(i) OF
20 THIS SECTION;
- 21 (k) HAVING DEMONSTRATED UNWORTHINESS OR INCOMPETENCY
22 TO ACT AS A COMMUNITY ASSOCIATION MANAGER BY CONDUCTING
23 BUSINESS IN SUCH A MANNER AS TO SIGNIFICANTLY ENDANGER THE
24 INTEREST OF A COMMON INTEREST COMMUNITY OR OF THE PUBLIC;
- 25 (l) IN THE CASE OF A MANAGER WHO EMPLOYS OTHERS OR IS
26 DESIGNATED TO ACT ON BEHALF OF A LICENSED ENTITY, FAILING TO
27 EXERCISE REASONABLE SUPERVISION OVER THE ACTIVITIES OF EMPLOYEES
28 OR APPRENTICES;
- 29 (m) FAILING TO MAKE A FULL AND TRUE DISCLOSURE OF FEES,
30 CHARGES, AND REMUNERATION AS REQUIRED BY SECTION 12-10-1006;
- 31 (n) PROCURING, OR ATTEMPTING TO PROCURE, A LICENSE OR
32 RENEWING, REINSTATING, OR REACTIVATING, OR ATTEMPTING TO RENEW,
33 REINSTATE, OR REACTIVATE, A LICENSE BY FRAUD, MISREPRESENTATION,
34 OR DECEIT OR BY MAKING A MATERIAL MISSTATEMENT OF FACT IN AN
35 APPLICATION FOR A LICENSE;
- 36 (o) CLAIMING, ARRANGING FOR, OR TAKING ANY SECRET OR
37 UNDISCLOSED AMOUNT OF COMPENSATION, COMMISSION, OR PROFIT OR
38 FAILING TO REVEAL TO THE LICENSEE'S PRINCIPAL OR EMPLOYER THE FULL
39 AMOUNT OF THE LICENSEE'S COMPENSATION, COMMISSION, OR PROFIT IN
40 CONNECTION WITH ANY ACTS FOR WHICH A LICENSE IS REQUIRED UNDER
41 THIS PART 10;
- 42 (p) HAVING HAD A LICENSE OR A SUBDIVISION DEVELOPER'S
43 REGISTRATION SUSPENDED OR REVOKED IN ANY JURISDICTION, OR HAVING
44 HAD ANY DISCIPLINARY ACTION TAKEN AGAINST THE MANAGER OR
45 SUBDIVISION DEVELOPER IN ANY OTHER JURISDICTION IF THE LICENSEE'S

1 OR SUBDIVISION DEVELOPER'S ACTION WOULD CONSTITUTE A VIOLATION
2 OF THIS SUBSECTION (1). A CERTIFIED COPY OF THE ORDER OF
3 DISCIPLINARY ACTION IS PRIMA FACIE EVIDENCE OF SUCH DISCIPLINARY
4 ACTION.

5 (q) WITHIN THE LAST FIVE YEARS, HAVING A LICENSE,
6 REGISTRATION, OR CERTIFICATION ISSUED BY COLORADO OR ANOTHER
7 STATE REVOKED OR SUSPENDED FOR FRAUD, DECEIT, MATERIAL
8 MISREPRESENTATION, THEFT, OR BREACH OF A FIDUCIARY DUTY, AND SUCH
9 DISCIPLINE DENIED THE PERSON AUTHORIZATION TO PRACTICE AS:

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

11 (II) A REAL ESTATE BROKER OR SALESPERSON;

12 (III) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION
13 12-61-702 (11);

14 (IV) AN INSURANCE PRODUCER, AS DEFINED BY SECTION 10-2-103
15 (6);

16 (V) AN ATTORNEY;

17 (VI) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION
18 11-51-201 (2);

19 (VII) A SECURITIES SALES REPRESENTATIVE, AS DEFINED BY
20 SECTION 11-51-201 (14);

21 (VIII) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION
22 11-51-201 (9.5); OR

23 (IX) AN INVESTMENT ADVISOR REPRESENTATIVE, AS DEFINED BY
24 SECTION 11-51-201 (9.6);

25 (r) ACTING OUTSIDE THE SCOPE OF AUTHORITY GRANTED BY THE
26 ISSUANCE OF A LICENSE; OR

27 (s) ANY OTHER CONDUCT, WHETHER OF THE SAME OR A DIFFERENT
28 CHARACTER THAN SPECIFIED IN THIS SUBSECTION (1), THAT CONSTITUTES
29 DISHONEST DEALING.

30 (2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
31 ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A
32 MANAGER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF THE
33 ENTITY COMMITS ANY ACT OR PRACTICE LISTED IN SUBSECTION (1) OF THIS
34 SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF THE
35 ENTITY TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF THE MANAGER,
36 WHETHER OR NOT THE DESIGNATED MANAGER HAD PERSONAL
37 KNOWLEDGE OF THE ACT OR PRACTICE AND WHETHER OR NOT THE
38 DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF ANY OTHER
39 PERSON.

40 (3) (a) THE DIRECTOR SHALL ADOPT RULES SPECIFYING THE
41 FORMAT OF COMPLAINTS, THE FORM AND TIMING OF RESPONSES, AND
42 OTHER DETAILS OF THE COMPLAINT AND INVESTIGATION PROCESS.

43 (b) TO FACILITATE THE HANDLING OF COMPLAINTS, THE DIRECTOR
44 SHALL PROVIDE TO ANY PERSON FILING A COMPLAINT ON THE LICENSING
45 PROGRAM WEBSITE INFORMATION THAT INDICATES:

1 (I) THAT IF A COMPLAINT IS ANONYMOUS, THE DIVISION IS UNABLE
2 TO PROVIDE FOLLOW-UP OR ADDITIONAL INFORMATION TO THE
3 COMPLAINANT OR TO ASK QUESTIONS TO GATHER MORE INFORMATION
4 THAT MIGHT HELP TO INVESTIGATE OR RESOLVE THE COMPLAINT;
5 (II) THE LIKELIHOOD OF SUCCESS WHEN A COMPLAINT IS FILED
6 ANONYMOUSLY;
7 (III) THAT THE NAME AND CONTACT INFORMATION PROVIDED BY
8 A COMPLAINANT WILL BE HELD CONFIDENTIALLY BY THE DIVISION AND
9 ONLY USED FOR PURPOSES OF CONTACTING THE COMPLAINANT FOR
10 REASONS SPECIFIED IN SUBSECTION (3)(b)(I) OF THIS SECTION;
11 (IV) A LIST OF THE GENERAL TYPES AND CLASSIFICATIONS OF
12 VIOLATIONS ARISING UNDER THIS PART 10 OR THE RULES ADOPTED
13 PURSUANT TO THIS PART 10 THAT A PERSON FILING A COMPLAINT MAY
14 CHOOSE FROM;
15 (V) EXAMPLES OF WHAT IS A VIOLATION AND WHAT IS NOT A
16 VIOLATION UNDER THIS PART 10 OR THE RULES ADOPTED PURSUANT TO
17 THIS PART 10;
18 (VI) EXAMPLES OF POSSIBLE WAYS TO RESOLVE A DISPUTE OR
19 PERFORMANCE ISSUE WITH A MANAGER BEFORE FILING A COMPLAINT; AND
20 (VII) THE PROCESS AND A TYPICAL TIMELINE FOR FOLLOWING UP
21 WITH THOSE FILING COMPLAINTS.
22 (4) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
23 EVIDENCE PRESENTED IN A COMPLAINT AND AFTER PROPER
24 INVESTIGATION, THAT A PERSON HAS VIOLATED THIS PART 10 OR RULES
25 ADOPTED PURSUANT TO THIS PART 10, THE DIRECTOR SHALL PROVIDE
26 WRITTEN NOTICE OF VIOLATION TO THE PERSON NAMED IN THE
27 COMPLAINT. THE NOTICE MUST INCLUDE ALL FACTS AND EVIDENCE
28 SUBMITTED AS CREDIBLE EVIDENCE WITH THE COMPLAINT, THE
29 PROVISIONS OF THIS PART 10 OR RULES ADOPTED PURSUANT TO THIS PART
30 10 THAT THE DIRECTOR DEEMS TO HAVE BEEN VIOLATED, THE NAME OF
31 THE INVESTIGATOR WITHIN THE DIVISION THAT VERIFIED THE COMPLAINT
32 AND IS THE POINT OF CONTACT, AND THE PROCESS AND TIMELINE FOR
33 RESPONDING TO A COMPLAINT PURSUANT TO RULES PROMULGATED
34 PURSUANT TO THIS PART 10.
35 (b) THE RESPONDENT MAY BE SERVED BY PERSONAL SERVICE, BY
36 FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR BY SUCH OTHER
37 MEANS AS MAY BE PRACTICABLE. PERSONAL SERVICE OR MAILING OF AN
38 ORDER OR DOCUMENT CONSTITUTES NOTICE OF THE DOCUMENT TO THE
39 RESPONDENT.
40 (c) AFTER RECEIVING A NOTICE OF VIOLATION, THE RESPONDENT
41 MAY CONTACT THE DIVISION'S ASSIGNED INVESTIGATOR LISTED ON THE
42 NOTICE FOR CLARIFICATION REGARDING THE ALLEGED VIOLATION BEFORE
43 SUBMITTING A RESPONSE. ONCE NOTICE IS GIVEN, THE RESPONDENT SHALL
44 PROVIDE A RESPONSE TO THE DIVISION REGARDING THE ALLEGED
45 VIOLATION OR VIOLATIONS, ALONG WITH ANY SUPPORTING

1 DOCUMENTATION TO REFUTE THE COMPLAINT OR FACTS AND EVIDENCE
2 SUBMITTED, WITHIN A TIME PERIOD SPECIFIED IN THE RULES ADOPTED BY
3 THE DIRECTOR.

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

6 (6) COMPLAINTS OF RECORD IN THE OFFICE OF THE DIRECTOR AND
7 DIVISION INVESTIGATIONS, INCLUDING INVESTIGATIVE FILES, ARE CLOSED
8 TO PUBLIC INSPECTION. STIPULATIONS AND FINAL AGENCY ORDERS ARE
9 PUBLIC RECORDS SUBJECT TO SECTIONS 24-72-203 AND 24-72-204.

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

23 (8) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS
24 SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
25 CREDIT THEM TO THE DIVISION OF REAL ESTATE CASH FUND CREATED IN
26 SECTION 12-10-215 (2)(b).

27 (9) WHEN THE DIVISION BECOMES AWARE OF FACTS OR
28 CIRCUMSTANCES THAT FALL WITHIN THE JURISDICTION OF A CRIMINAL
29 JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITY UPON INVESTIGATION
30 OF THE ACTIVITIES OF A LICENSEE, THE DIVISION SHALL, IN ADDITION TO
31 THE EXERCISE OF ITS AUTHORITY UNDER THIS PART 10, REFER AND
32 TRANSMIT SUCH INFORMATION, WHICH MAY INCLUDE ORIGINALS OR COPIES
33 OF DOCUMENTS AND MATERIALS, TO ONE OR MORE CRIMINAL JUSTICE OR
34 OTHER LAW ENFORCEMENT AUTHORITIES FOR INVESTIGATION AND
35 PROSECUTION AS AUTHORIZED BY LAW.

36 **12-10-1013. Authority of director - cease-and-desist orders -**
37 **rules.** (1) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
38 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
39 A MANAGER OR APPRENTICE IS VIOLATING THIS PART 10 OR RULES
40 ADOPTED PURSUANT TO THIS PART 10 OR THAT A PERSON IS ACTING OR HAS
41 ACTED WITHOUT THE REQUIRED LICENSE, THE DIRECTOR MAY ISSUE AN
42 ORDER TO CEASE AND DESIST THE ACTIVITY. THE ORDER MUST SET FORTH
43 THE STATUTES AND RULES THE MANAGER, APPRENTICE, OR PERSON
44 ALLEGEDLY VIOLATED, THE FACTS THAT ALLEGEDLY CONSTITUTED THE
45 VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR

1 UNLICENSED PRACTICES IMMEDIATELY CEASE.

2 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
3 DESIST PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE
4 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
5 ACTS OR PRACTICES IN VIOLATION OF THIS PART 10 HAVE OCCURRED. THE
6 HEARING MUST BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND
7 24-4-105.

8 (2) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
9 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
10 A MANAGER OR APPRENTICE IS VIOLATING THIS PART 10 OR RULES
11 ADOPTED PURSUANT TO THIS PART 10 OR THAT A PERSON IS ACTING OR HAS
12 ACTED WITHOUT THE REQUIRED LICENSE, THEN, IN ADDITION TO ANY
13 SPECIFIC POWERS GRANTED PURSUANT TO THIS PART 10, THE DIRECTOR
14 MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS TO WHY THE
15 DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON TO
16 CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNLICENSED PRACTICE.

17 (b) IF THE DIRECTOR HAS ISSUED AN ORDER TO SHOW CAUSE
18 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION TO ANY PERSON, THE
19 DIRECTOR SHALL PROMPTLY GIVE THE PERSON NOTICE OF THE ISSUANCE
20 OF THE ORDER TOGETHER WITH A COPY OF THE ORDER, THE FACTUAL AND
21 LEGAL BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
22 HEARING ON THE ORDER. THE NOTICE MAY BE SERVED BY PERSONAL
23 SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS
24 MAY BE PRACTICABLE UPON ANY PERSON AGAINST WHOM THE ORDER IS
25 ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT
26 PURSUANT TO THIS SUBSECTION (2) CONSTITUTES NOTICE TO THE PERSON
27 OF THE ORDER OR DOCUMENT.

28 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE MUST BE
29 COMMENCED NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
30 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
31 NOTICE BY THE DIRECTOR AS PROVIDED IN SUBSECTION (2)(b) OF THIS
32 SECTION. THE HEARING MAY BE CONTINUED BY AGREEMENT OF ALL
33 PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
34 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
35 BUT IN NO EVENT MAY THE HEARING COMMENCE LATER THAN SIXTY
36 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
37 NOTICE.

38 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
39 BEEN ISSUED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION DOES NOT
40 APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE THAT
41 NOTICE WAS PROPERLY SENT OR SERVED UPON THE PERSON PURSUANT TO
42 SUBSECTION (2)(b) OF THIS SECTION AND ANY OTHER EVIDENCE RELATED
43 TO THE MATTER AS THE DIRECTOR DEEMS APPROPRIATE. THE DIRECTOR
44 SHALL ISSUE THE ORDER WITHIN TEN DAYS AFTER THE DIRECTOR'S
45 DETERMINATION RELATED TO REASONABLE ATTEMPTS TO NOTIFY THE

1 RESPONDENT, AND THE ORDER BECOMES FINAL AS TO THE RESPONDENT BY
2 OPERATION OF LAW. THE HEARING SHALL BE CONDUCTED PURSUANT TO
3 SECTIONS 24-4-104 AND 24-4-105.

4 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
5 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
6 HAS ACTED WITHOUT THE REQUIRED LICENSE, OR HAS OR IS ABOUT TO
7 ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS PART
8 10 OR RULES ADOPTED PURSUANT TO THIS PART 10, A FINAL
9 CEASE-AND-DESIST ORDER MAY BE ISSUED, DIRECTING THE PERSON TO
10 CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR UNLICENSED
11 PRACTICES.

12 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
13 FORTH IN SUBSECTION (2)(b) OF THIS SECTION, OF THE FINAL
14 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
15 HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (2)(c) TO EACH
16 PERSON AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL
17 ORDER ISSUED PURSUANT TO SUBSECTION (2)(c)(III) OF THIS SECTION IS
18 EFFECTIVE WHEN ISSUED AND CONSTITUTES A FINAL ORDER FOR PURPOSES
19 OF JUDICIAL REVIEW.

20 (3) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
21 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED IN
22 OR IS ABOUT TO ENGAGE IN ANY UNLICENSED ACT OR PRACTICE, ANY ACT
23 OR PRACTICE CONSTITUTING A VIOLATION OF THIS PART 10, ANY RULE
24 PROMULGATED PURSUANT TO THIS PART 10, ANY ORDER ISSUED PURSUANT
25 TO THIS PART 10, OR ANY ACT OR PRACTICE CONSTITUTING GROUNDS FOR
26 ADMINISTRATIVE SANCTION PURSUANT TO THIS PART 10, THE DIRECTOR
27 MAY ENTER INTO A STIPULATION WITH THE PERSON.

28 (4) IF A PERSON FAILS TO COMPLY WITH A FINAL
29 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
30 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
31 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
32 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A
33 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
34 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

35 (5) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST ORDER
36 MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION OR OF
37 THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SECTION 12-61-1014."

38 Renumber succeeding C.R.S. sections accordingly.

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