

[Rule Adopted: April 5, 2016]
[Effective Date: May 30, 2016]

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

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
April 5, 2016

RULE F. USE OF COMMISSION APPROVED FORMS

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 Parts 1 and 8 of Title 12, Article 61, Colorado Revised Statutes, as amended. The specific rulemaking provisions contained therein are sections 12-61-114.5 and 12-61-803(4), C.R.S.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the state statutes of the real estate practice act.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rule is to amend or repeal existing rules with respect to the proper use of standard and Commission approved forms and ensures compliance with the Colorado Supreme Court Conway-Bogue decision.

PROPOSED NEW, AMENDED AND REPEALED RULES

Deleted material shown ~~struck through~~, new material shown ALL CAPS. Rules, or portions of rules, which are unaffected are reproduced.

Proposed New, Amended and Repealed Rules

Rule F. USE OF COMMISSION APPROVED FORMS

F-1. Permitted and prohibited form modifications

- (a) No modifications shall be made to a Commission-approved form by a broker except as provided in rules promulgated by the Commission and as set forth in this Rule F-1 through F-7. For purposes of Rule F-1 through F-7, the term "Commission-approved form" means any form promulgated by the Commission; the term "broker" shall also include brokerage firm.
- (b) A broker may add its firm name, address, telephone, e-mail, trademark or other identifying information on a Commission-approved form.
- (c) A broker may add initial lines at the bottom of a page of any Commission-approved form.
- (d) Any deletion to the printed body of a Commission-approved form, or any "Additional Provision" or "Addenda" which by its terms serves to delete portions of the approved language, must result from negotiations or the instruction(s) of a party to the transaction and must be made directly on the printed body of the form by striking through the deleted portion in a legible manner that does not obscure the deletion that has been made.
- (e) Blank spaces on a Commission-approved form may be lengthened or shortened to accommodate the applicable data or information.
- (f) Provisions that are inserted into blank spaces must be printed in a style or type that clearly differentiates such insertions from the style or type used for the Commission-approved form language.
- (g) A broker may delete part or all of the following provisions of a Commission-approved "Contract to Buy and Sell Real Estate" (even if the provision is identified by a different Section number), or corresponding provisions in other Commission-approved forms, if such provisions do not apply to the transaction. In the event any provision is deleted, the provision's caption or heading must remain unaltered on the form followed by the word "omitted-not applicable".
 - 1. Section 2.5 Inclusions in its entirety or any of its subsections
 - 2. Section 2.6 Exclusions
 - 3. Section 4.4 4.2 Seller Concessions
 - 4. Section 4.5 New Loan in its entirety or any of its subsections
 - 5. Section 4.6 Assumption
 - 6. Section 4.7 Seller or Private Financing
 - 7. Section 5 Financing Conditions and Obligations in its entirety or any of its sections
 - 8. Section 6 Appraisal Provisions in its entirety or any of its subsections
 - 9. Section 7 Owners' Association in its entirety or any of its subsections
 - 10. Section 8.5 Special Taxing Districts
 - 11. Section 8.6 Right of First Refusal or Contract Approval
 - 12. Section 10.6 Due Diligence in its entirety or any of its subsections
 - 13. Section 10.8 Source of Potable Water (CBS1, CBS2, CBS4, CBSF1)
 - 14. Section 10.8 Existing Leases; Modification of Existing Leases; New Leases (CBS3)

15. Section 10.9 Existing Leases; Modification of Existing Leases; New Leases (CBS4)
 16. Section 10.12 Existing Leases; Modification of Existing Leases; New Leases (CBS2)
 17. Section 11 Tenant Estoppel Statements in its entirety or any of its subsections (CBS2, CBS3, CBS4)
 18. Section 15.3 Status Letter and Record Change Fees
 19. Section 15.4 Local Transfer Tax
 20. Section 15.5 Private Transfer Fee
 21. Section 15.7 Sales and Use Tax
 22. Section 16.2 Rents
 23. Section 16.3 Association Assessments
- (h) A broker may add one or more additional pages to the “Contract to Buy and Sell Real Estate”, “Counterproposal” and the “Agreement to Amend/Extend Contract”, following such document, that contains the dates and deadlines information set forth in § 3, arranged in chronological date sequence.
- (i) A broker may delete part or all of the following provisions of the “Counterproposal” and the “Agreement to Amend/Extend Contract” if such provisions do not apply to the transaction. In the event any provision is deleted, the provision’s caption or heading must remain unaltered on the form followed by the words “omitted-not applicable”.
1. Section 3 Dates and Deadlines table
 2. Section 4 Purchase Price and Terms [in the Counterproposal only]
- (j) A broker may substitute the term “Landlord” for the term “Seller” and the term “Tenant” for the term “Buyer” in the Brokerage Disclosure to Buyer form, in the Brokerage Disclosure to Seller and Definitions of Working Relationships form when making disclosures in a lease transaction (or use the separate Brokerage Disclosure To Tenant form).
- (k) A broker may add signature lines and identifying labels for the parties signatures on a Commission-approved form.
- (l) A broker may modify, strike or delete such language on a Commission-approved form as the Commission may from time to time authorize to be modified, stricken or deleted.

[THIS PAGE NOT FOR PUBLICATION]

A hearing on the above subject matter will be held on Tuesday, April 5, 2016 at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250C, 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.