

[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PROPOSED NEW, AMENDED AND REPEALED RULES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Proposed New, Amended and Repealed Rules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-2. Additional Provisions

- (a) The “Additional Provisions” section of a Commission-approved form must contain only those transaction-specific terms or acknowledgments that result from negotiations or the instruction(s) of the party(ies) to the transaction.
- (b) A broker who is not a principal party to the contract may not insert personal provisions, personal disclaimers or exculpatory language in favor of the broker in the “Additional Provisions” section of a Commission-approved form. A broker may, at the direction of a principal party, include language regarding payment of the broker’s or brokerage’s commission if this is a term of negotiation between the principal parties of the Contract to Buy and Sell.
- (c) A broker who uses a transaction-specific clause or clauses drafted by the broker’s licensed Colorado attorney must ensure that the broker understands the clause, and the clause is used and completed appropriately. The broker must retain the clause(s) prepared by the broker’s licensed Colorado attorney for four (4) years from the date that the form was last used by the broker. The broker must provide those clause(s) and the name of the licensed Colorado attorney or law firm that prepared the clause(s) upon request by the Commission.