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SENATE BILL 14-117

BY SENATOR(S) Jahn, Crowder, Jones;  
also REPRESENTATIVE(S) Fischer, Becker, Kagan, Singer.

CONCERNING THE REAUTHORIZATION OF THE REGULATION OF REAL ESTATE APPRAISERS BY THE BOARD OF REAL ESTATE APPRAISERS THROUGH A RECREATION AND REENACTMENT OF THE RELEVANT STATUTES INCORPORATING NO SUBSTANTIVE AMENDMENTS OTHER THAN THOSE APPROVED DURING THE FIRST REGULAR SESSION OF THE 69TH GENERAL ASSEMBLY.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **recreate and reenact, with amendments**, part 7 of article 61 of title 12 as follows:

PART 7  
REAL ESTATE APPRAISERS

**12-61-701. Legislative declaration.** THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT SECTIONS 12-61-702 TO 12-61-723 ARE ENACTED PURSUANT TO THE REQUIREMENTS OF THE "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO 3351. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT SECTIONS 12-61-702 TO 12-61-723 ARE INTENDED TO IMPLEMENT THE REQUIREMENTS OF FEDERAL LAW IN THE LEAST BURDENSOME MANNER TO REAL ESTATE APPRAISERS AND APPRAISAL MANAGEMENT COMPANIES. LICENSED AD VALOREM APPRAISERS LICENSED UNDER THIS ARTICLE ARE NOT REGULATED BY THE FEDERAL "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO 3351.

**12-61-702. Definitions.** AS USED IN THIS PART 7, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "APPRAISAL", "APPRAISAL REPORT", OR "REAL ESTATE APPRAISAL" MEANS A WRITTEN OR ORAL ANALYSIS, OPINION, OR CONCLUSION RELATING TO THE NATURE, QUALITY, VALUE, OR UTILITY OF SPECIFIED INTERESTS IN, OR ASPECTS OF, IDENTIFIED REAL ESTATE THAT IS TRANSMITTED TO THE CLIENT UPON THE COMPLETION OF AN ASSIGNMENT. THESE TERMS INCLUDE A VALUATION, WHICH IS AN OPINION OF THE VALUE OF REAL ESTATE, AND AN ANALYSIS, WHICH IS A GENERAL STUDY OF REAL ESTATE NOT SPECIFICALLY PERFORMED ONLY TO DETERMINE VALUE; EXCEPT THAT THE TERMS INCLUDE A VALUATION COMPLETED BY AN APPRAISER EMPLOYEE OF A COUNTY ASSESSOR AS DEFINED IN SECTION 39-1-102 (2), C.R.S.

(b) THE TERMS DO NOT INCLUDE AN ANALYSIS, VALUATION, OPINION, CONCLUSION, NOTATION, OR COMPILATION OF DATA BY AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE OF A FINANCIAL INSTITUTION OR ITS AFFILIATE, MADE FOR INTERNAL USE ONLY BY THE FINANCIAL INSTITUTION OR AFFILIATE, CONCERNING AN INTEREST IN REAL ESTATE THAT IS OWNED OR HELD AS COLLATERAL BY THE FINANCIAL INSTITUTION OR AFFILIATE AND THAT IS NOT REPRESENTED OR DEEMED TO BE AN APPRAISAL EXCEPT TO THE FINANCIAL INSTITUTION, THE AGENCIES REGULATING THE FINANCIAL INSTITUTION, AND ANY SECONDARY MARKETS THAT PURCHASE REAL ESTATE SECURED LOANS. AN APPRAISAL PREPARED BY AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE OF A FINANCIAL INSTITUTION WHO IS NOT LICENSED OR CERTIFIED UNDER THIS PART 7 SHALL CONTAIN A WRITTEN NOTICE THAT THE PREPARER IS NOT LICENSED OR CERTIFIED AS AN APPRAISER UNDER THIS PART 7.

(2) **[Formerly 12-61-702 (1.5)]** (a) "APPRAISAL MANAGEMENT COMPANY" MEANS, IN CONNECTION WITH VALUING PROPERTIES COLLATERALIZING MORTGAGE LOANS OR MORTGAGES INCORPORATED INTO A SECURITIZATION, ANY EXTERNAL THIRD PARTY AUTHORIZED EITHER BY A CREDITOR IN A CONSUMER CREDIT TRANSACTION SECURED BY A CONSUMER'S PRINCIPAL DWELLING THAT OVERSEES A NETWORK OR PANEL OF LICENSED OR CERTIFIED APPRAISERS, OR BY AN UNDERWRITER OF, OR OTHER PRINCIPAL IN, THE SECONDARY MORTGAGE MARKETS THAT OVERSEES A NETWORK OR PANEL OF LICENSED OR CERTIFIED APPRAISERS.

(b) "APPRAISAL MANAGEMENT COMPANY" DOES NOT INCLUDE:

(I) A CORPORATION, LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP, OR OTHER ENTITY THAT DIRECTLY PERFORMS APPRAISAL SERVICES;

(II) A CORPORATION, LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP, OR OTHER ENTITY THAT DOES NOT CONTRACT WITH APPRAISERS FOR APPRAISAL SERVICES, BUT THAT SOLELY DISTRIBUTES ORDERS TO A CLIENT-SELECTED PANEL OF APPRAISERS; AND

(III) A MORTGAGE COMPANY, OR ITS SUBSIDIARY, THAT MANAGES A PANEL OF APPRAISERS WHO ARE ENGAGED TO PROVIDE APPRAISAL SERVICES ON MORTGAGE LOANS EITHER ORIGINATED BY THE MORTGAGE COMPANY OR FUNDED BY THE MORTGAGE COMPANY WITH ITS OWN FUNDS.

(3) **[Formerly 12-61-702 (2)]** "BOARD" MEANS THE BOARD OF REAL ESTATE APPRAISERS CREATED IN SECTION 12-61-703.

(4) **[Formerly 12-61-702 (2.1)]** "CLIENT" MEANS THE PARTY OR PARTIES WHO ENGAGE AN APPRAISER OR AN APPRAISAL MANAGEMENT COMPANY FOR A SPECIFIC ASSIGNMENT.

(5) **[Formerly 12-61-702 (2.3)]** "COMMISSION" MEANS THE CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED IN SECTION 12-61-725 (1).

(6) **[Formerly 12-61-702 (2.5)]** "CONSULTING SERVICES" MEANS SERVICES PERFORMED BY AN APPRAISER THAT DO NOT FALL WITHIN THE DEFINITION OF AN "INDEPENDENT APPRAISAL" IN SUBSECTION (10) OF THIS

SECTION. "CONSULTING SERVICES" INCLUDES MARKETING, FINANCING AND FEASIBILITY STUDIES, VALUATIONS, ANALYSES, AND OPINIONS AND CONCLUSIONS GIVEN IN CONNECTION WITH REAL ESTATE BROKERAGE, MORTGAGE BANKING, AND COUNSELING AND ADVOCACY IN REGARD TO PROPERTY TAX ASSESSMENTS AND APPEALS THEREOF; EXCEPT THAT, IF IN RENDERING SUCH SERVICES THE APPRAISER ACTS AS A DISINTERESTED THIRD PARTY, THE WORK IS DEEMED AN INDEPENDENT APPRAISAL AND NOT A CONSULTING SERVICE. NOTHING IN THIS SUBSECTION (6) PRECLUDES A PERSON FROM ACTING AS AN EXPERT WITNESS IN VALUATION APPEALS.

(7) **[Formerly 12-61-702 (3)]** "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REAL ESTATE.

(8) **[Formerly 12-61-702 (4)]** "DIVISION" MEANS THE DIVISION OF REAL ESTATE.

(9) **[Formerly 12-61-702 (4.3)]** "FINANCIAL INSTITUTION" MEANS ANY "BANK" OR "SAVINGS ASSOCIATION", AS SUCH TERMS ARE DEFINED IN 12 U.S.C. SEC. 1813, ANY STATE BANK INCORPORATED UNDER TITLE 11, C.R.S., ANY STATE OR FEDERALLY CHARTERED CREDIT UNION, OR ANY COMPANY THAT HAS DIRECT OR INDIRECT CONTROL OVER ANY OF THOSE ENTITIES.

(10) **[Formerly 12-61-702 (4.5)]** "INDEPENDENT APPRAISAL" MEANS AN ENGAGEMENT FOR WHICH AN APPRAISER IS EMPLOYED OR RETAINED TO ACT AS A DISINTERESTED THIRD PARTY IN RENDERING AN UNBIASED ANALYSIS, OPINION, OR CONCLUSION RELATING TO THE NATURE, QUALITY, VALUE, OR UTILITY OF SPECIFIED INTERESTS IN OR ASPECTS OF IDENTIFIED REAL ESTATE.

(11) **[Formerly 12-61-702 (5)]** (a) "REAL ESTATE APPRAISER" OR "APPRAISER" MEANS A PERSON WHO PROVIDES AN ESTIMATE OF THE NATURE, QUALITY, VALUE, OR UTILITY OF AN INTEREST IN, OR ASPECT OF, IDENTIFIED REAL ESTATE AND INCLUDES ONE WHO ESTIMATES VALUE AND WHO POSSESSES THE NECESSARY QUALIFICATIONS, ABILITY, AND EXPERIENCE TO EXECUTE OR DIRECT THE APPRAISAL OF REAL PROPERTY.

(b) "REAL ESTATE APPRAISER" DOES NOT INCLUDE:

(I) A PERSON WHO CONDUCTS APPRAISALS STRICTLY OF PERSONAL

PROPERTY;

(II) A PERSON LICENSED AS A BROKER PURSUANT TO PART 1 OF THIS ARTICLE WHO PROVIDES AN OPINION OF VALUE THAT IS NOT REPRESENTED AS AN APPRAISAL AND IS NOT USED FOR PURPOSES OF OBTAINING FINANCING;

(III) A PERSON LICENSED AS A CERTIFIED PUBLIC ACCOUNTANT PURSUANT TO ARTICLE 2 OF THIS TITLE, AND OTHERWISE REGULATED, AS LONG AS THE PERSON DOES NOT REPRESENT HIS OR HER OPINIONS OF VALUE FOR REAL ESTATE AS AN APPRAISAL;

(IV) A CORPORATION, ACTING THROUGH ITS OFFICERS OR REGULAR SALARIED EMPLOYEES, WHEN CONDUCTING A VALUATION OF REAL ESTATE PROPERTY RIGHTS OWNED, TO BE PURCHASED, OR SOLD BY THE CORPORATION;

(V) A PERSON WHO CONDUCTS APPRAISALS STRICTLY OF WATER RIGHTS OR OF MINERAL RIGHTS;

(VI) A RIGHT-OF-WAY ACQUISITION AGENT EMPLOYED BY A PUBLIC ENTITY WHO PROVIDES AN OPINION OF VALUE THAT IS NOT REPRESENTED AS AN APPRAISAL WHEN THE PROPERTY BEING VALUED IS TWENTY-FIVE THOUSAND DOLLARS OR LESS, AS PERMITTED BY FEDERAL LAW;

(VII) AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE OF A FINANCIAL INSTITUTION OR ITS AFFILIATE WHO MAKES, FOR INTERNAL USE ONLY BY THE FINANCIAL INSTITUTION OR AFFILIATE, AN ANALYSIS, EVALUATION, OPINION, CONCLUSION, NOTATION, OR COMPILATION OF DATA WITH RESPECT TO AN APPRAISAL SO LONG AS THE PERSON DOES NOT MAKE A WRITTEN ADJUSTMENT OF THE APPRAISAL'S CONCLUSION AS TO THE VALUE OF THE SUBJECT REAL PROPERTY;

(VIII) AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE OF A FINANCIAL INSTITUTION OR ITS AFFILIATE WHO MAKES AN INTERNAL ANALYSIS, VALUATION, OPINION, CONCLUSION, NOTATION, OR COMPILATION OF DATA CONCERNING AN INTEREST IN REAL ESTATE THAT IS OWNED OR HELD AS COLLATERAL BY THE FINANCIAL INSTITUTION OR ITS AFFILIATE; OR

(IX) **[Formerly 12-61-712 (3)]** A PERSON WHO REPRESENTS

PROPERTY OWNERS AS AN ADVOCATE IN TAX OR VALUATION PROTESTS AND APPEALS PURSUANT TO TITLE 39, C.R.S.

**12-61-703. Board of real estate appraisers - creation - compensation - immunity - legislative declaration - repeal of part.**

(1) (a) THERE IS HEREBY CREATED IN THE DIVISION A BOARD OF REAL ESTATE APPRAISERS CONSISTING OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE CONSENT OF THE SENATE. OF THE MEMBERS, THREE SHALL BE LICENSED OR CERTIFIED APPRAISERS, ONE OF WHOM SHALL HAVE EXPERTISE IN EMINENT DOMAIN MATTERS; ONE SHALL BE A COUNTY ASSESSOR IN OFFICE; ONE SHALL BE AN OFFICER OR EMPLOYEE OF A COMMERCIAL BANK EXPERIENCED IN REAL ESTATE LENDING; ONE SHALL BE AN OFFICER OR EMPLOYEE OF AN APPRAISAL MANAGEMENT COMPANY; AND ONE SHALL BE A MEMBER OF THE PUBLIC AT LARGE NOT ENGAGED IN ANY OF THE BUSINESSES REPRESENTED BY THE OTHER MEMBERS OF THE BOARD.

(b) MEMBERS OF THE BOARD SHALL HOLD OFFICE FOR TERMS OF THREE YEARS. IN THE EVENT OF A VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE, THE GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM. THE GOVERNOR HAS THE AUTHORITY TO REMOVE ANY MEMBER FOR MISCONDUCT, NEGLIGENCE OF DUTY, OR INCOMPETENCE.

(2) (a) THE BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DIVISION AS IF TRANSFERRED TO THE DIVISION BY A **TYPE 1** TRANSFER, AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(b) [**Formerly 12-61-703 (2.5)**] THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE ORGANIZATION OF THE BOARD UNDER THE DIVISION AS A **TYPE 1** AGENCY WILL PROVIDE THE AUTONOMY NECESSARY TO AVOID POTENTIAL CONFLICTS OF INTEREST BETWEEN THE RESPONSIBILITY OF THE BOARD IN THE REGULATION OF REAL ESTATE APPRAISERS AND THE RESPONSIBILITY OF THE DIVISION IN THE REGULATION OF REAL ESTATE BROKERS AND SALESPERSONS. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THE PLACEMENT OF THE BOARD AS A **TYPE 1** AGENCY UNDER THE DIVISION IS CONSISTENT WITH THE ORGANIZATIONAL STRUCTURE OF STATE GOVERNMENT.

(3) EACH MEMBER OF THE BOARD SHALL RECEIVE THE SAME

COMPENSATION AND REIMBURSEMENT OF EXPENSES AS IS PROVIDED FOR MEMBERS OF BOARDS AND COMMISSIONS IN THE DIVISION OF PROFESSIONS AND OCCUPATIONS PURSUANT TO SECTION 24-34-102 (13), C.R.S. PAYMENT FOR ALL PER DIEM COMPENSATION AND EXPENSES SHALL BE MADE OUT OF ANNUAL APPROPRIATIONS FROM THE DIVISION OF REAL ESTATE CASH FUND PROVIDED FOR IN SECTION 12-61-705.

(4) MEMBERS OF THE BOARD, CONSULTANTS, AND EXPERT WITNESSES ARE IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BASED UPON ANY DISCIPLINARY PROCEEDINGS OR OTHER OFFICIAL ACTS THEY PERFORMED IN GOOD FAITH PURSUANT TO THIS PART 7.

(5) A MAJORITY OF THE BOARD CONSTITUTES A QUORUM FOR THE TRANSACTION OF ALL BUSINESS, AND ACTIONS OF THE BOARD REQUIRE A VOTE OF A MAJORITY OF THE MEMBERS PRESENT IN FAVOR OF THE ACTION TAKEN.

(6) THIS PART 7 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022. PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE FUNCTIONS OF THE BOARD OF REAL ESTATE APPRAISERS AS PROVIDED IN SECTION 24-34-104, C.R.S.

**12-61-704. Powers and duties of the board - rules.** (1) IN ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

(a) (I) TO PROMULGATE AND AMEND, AS NECESSARY, RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS PART 7 AND AS REQUIRED TO COMPLY WITH THE FEDERAL "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO 3351, AND WITH ANY REQUIREMENTS IMPOSED BY AMENDMENTS TO THAT FEDERAL LAW.

(II) THE BOARD SHALL NOT ESTABLISH ANY REQUIREMENTS THAT ARE MORE STRINGENT THAN THE REQUIREMENTS OF ANY APPLICABLE FEDERAL LAW.

(III) LICENSED AD VALOREM APPRAISERS ARE NOT REGULATED BY

THE FEDERAL "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO 3351, BUT THE BOARD SHALL ADOPT RULES REGARDING MINIMUM QUALIFICATIONS AND STANDARDS OF PRACTICE FOR LICENSED AD VALOREM APPRAISERS.

(b) TO CHARGE APPLICATION, EXAMINATION, AND LICENSE AND CERTIFICATE RENEWAL FEES ESTABLISHED PURSUANT TO SECTION 12-61-111.5 FROM ALL APPLICANTS FOR LICENSURE, CERTIFICATION, EXAMINATION, AND RENEWAL UNDER THIS PART 7. THE BOARD SHALL NOT REFUND ANY FEES RECEIVED FROM APPLICANTS SEEKING LICENSURE, CERTIFICATION, EXAMINATION, OR RENEWAL.

(c) [**Formerly 12-61-704 (1) (d)**] THROUGH THE DEPARTMENT OF REGULATORY AGENCIES AND SUBJECT TO APPROPRIATIONS MADE TO THE DEPARTMENT OF REGULATORY AGENCIES, TO EMPLOY ADMINISTRATIVE LAW JUDGES, APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., ON A FULL-TIME OR PART-TIME BASIS TO CONDUCT ANY HEARINGS REQUIRED BY THIS PART 7;

(d) [**Formerly 12-61-704 (1) (e)**] TO ISSUE, DENY, OR REFUSE TO RENEW A LICENSE OR CERTIFICATE PURSUANT TO THIS PART 7;

(e) [**Formerly 12-61-704 (1) (f)**] TO TAKE DISCIPLINARY ACTIONS IN CONFORMITY WITH THIS PART 7;

(f) [**Formerly 12-61-704 (1) (g)**] TO DELEGATE TO THE DIRECTOR THE ADMINISTRATION AND ENFORCEMENT OF THIS PART 7 AND THE AUTHORITY TO ACT ON BEHALF OF THE BOARD ON OCCASIONS AND IN CIRCUMSTANCES THAT THE BOARD DIRECTS;

(g) [**Formerly 12-61-704 (1) (h)**] (I) TO DEVELOP, PURCHASE, OR CONTRACT FOR ANY EXAMINATION REQUIRED FOR THE ADMINISTRATION OF THIS PART 7, TO OFFER EACH EXAMINATION AT LEAST TWICE A YEAR OR, IF DEMAND WARRANTS, AT MORE FREQUENT INTERVALS, AND TO ESTABLISH A PASSING SCORE FOR EACH EXAMINATION THAT REFLECTS A MINIMUM LEVEL OF COMPETENCY.

(II) IF STUDY MATERIALS ARE DEVELOPED BY A TESTING COMPANY



OR OTHER ENTITY, THE BOARD SHALL MAKE THE MATERIALS AVAILABLE TO PERSONS DESIRING TO TAKE EXAMINATIONS PURSUANT TO THIS PART 7. THE BOARD MAY CHARGE FEES FOR THE MATERIALS TO DEFRAY ANY COSTS ASSOCIATED WITH MAKING THE MATERIALS AVAILABLE.

(h) **[Formerly 12-61-704 (1) (i)]** IN COMPLIANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., TO MAKE INVESTIGATIONS; SUBPOENA PERSONS AND DOCUMENTS, WHICH SUBPOENAS MAY BE ENFORCED BY A COURT OF COMPETENT JURISDICTION IF NOT OBEYED; HOLD HEARINGS; AND TAKE EVIDENCE IN ALL MATTERS RELATING TO THE EXERCISE OF THE BOARD'S POWER UNDER THIS PART 7;

(i) **[Formerly 12-61-704 (1) (j)]** PURSUANT TO SEC. 1119 (b) OF TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", PUB.L. 101-73, TO APPLY, IF NECESSARY, FOR A FEDERAL WAIVER OF THE REQUIREMENT RELATING TO CERTIFICATION OR LICENSING OF A PERSON TO PERFORM APPRAISALS AND TO MAKE THE NECESSARY WRITTEN DETERMINATIONS SPECIFIED IN SAID SECTION FOR PURPOSES OF MAKING THE APPLICATION;

(j) **[Formerly 12-61-704 (1) (k)]** IF THE BOARD HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION IS VIOLATING THIS PART 7, TO ENTER AN ORDER REQUIRING THE INDIVIDUAL OR APPRAISAL MANAGEMENT COMPANY TO CEASE AND DESIST THE VIOLATION; AND

(k) **[Formerly 12-61-704 (1) (l)]** TO ESTABLISH CLASSROOM EDUCATION AND EXPERIENCE REQUIREMENTS FOR AN APPRAISER WHO PREPARES AN APPRAISAL FOR A CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE REQUIREMENTS MUST ENSURE THAT APPRAISERS HAVE A SUFFICIENT AMOUNT OF TRAINING AND EXPERTISE TO ACCURATELY PREPARE APPRAISALS THAT COMPLY WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AND ANY OTHER PROVISION OF LAW RELATED TO THE APPRAISAL OF CONSERVATION EASEMENTS FOR WHICH A TAX CREDIT IS CLAIMED. A TAX CREDIT CERTIFICATE FOR A CONSERVATION EASEMENT SHALL NOT BE GIVEN IN ACCORDANCE WITH SECTIONS 12-61-726 AND 12-61-727 UNLESS THE APPRAISER WHO PREPARED THE APPRAISAL OF THE EASEMENT MET ALL REQUIREMENTS ESTABLISHED IN ACCORDANCE WITH THIS PARAGRAPH (k) IN EFFECT AT THE TIME THE APPRAISAL WAS

COMPLETED.

(2) [**Formerly 12-61-704 (1) (c) (II)**] THE BOARD SHALL MAINTAIN OR PRESERVE, FOR SEVEN YEARS, LICENSING HISTORY RECORDS OF A PERSON LICENSED OR CERTIFIED UNDER THIS PART 7. COMPLAINTS OF RECORD IN THE OFFICE OF THE BOARD AND BOARD INVESTIGATIONS, INCLUDING BOARD INVESTIGATIVE FILES, ARE CLOSED TO PUBLIC INSPECTION. STIPULATIONS AND FINAL AGENCY ORDERS ARE PUBLIC RECORD AND ARE SUBJECT TO SECTIONS 24-72-203 AND 24-72-204, C.R.S.

**12-61-705. Fees, penalties, and fines collected under part 7.** ALL FEES, PENALTIES, AND FINES COLLECTED PURSUANT TO THIS PART 7, NOT INCLUDING FEES RETAINED BY CONTRACTORS PURSUANT TO CONTRACTS ENTERED INTO IN ACCORDANCE WITH SECTION 12-61-103, 12-61-706, OR 24-34-101, C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF REAL ESTATE CASH FUND, CREATED IN SECTION 12-61-111.5.

**12-61-706. Qualifications for licensing and certification of appraisers - continuing education - definitions - rules.** (1) (a) THE BOARD SHALL, BY RULE, PRESCRIBE REQUIREMENTS FOR THE INITIAL LICENSING OR CERTIFICATION OF PERSONS UNDER THIS PART 7 TO MEET THE REQUIREMENTS OF THE "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO 3351, AND SHALL DEVELOP, PURCHASE, OR CONTRACT FOR EXAMINATIONS TO BE PASSED BY APPLICANTS. THE BOARD SHALL NOT ESTABLISH ANY REQUIREMENTS FOR INITIAL LICENSING OR CERTIFICATION THAT ARE MORE STRINGENT THAN THE REQUIREMENTS OF ANY APPLICABLE FEDERAL LAW; EXCEPT THAT ALL APPLICANTS SHALL PASS AN EXAMINATION OFFERED BY THE BOARD. IF THERE IS NO APPLICABLE FEDERAL LAW, THE BOARD SHALL CONSIDER AND MAY USE AS GUIDELINES THE MOST RECENT AVAILABLE CRITERIA PUBLISHED BY THE APPRAISER QUALIFICATIONS BOARD OF THE APPRAISAL FOUNDATION OR ITS SUCCESSOR ORGANIZATION.

(b) THE FOUR LEVELS OF APPRAISER LICENSURE AND CERTIFICATION, PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), ARE DEFINED AS FOLLOWS:

(I) "CERTIFIED GENERAL APPRAISER" MEANS AN APPRAISER MEETING

THE REQUIREMENTS SET BY THE BOARD FOR GENERAL CERTIFICATION;

(II) "CERTIFIED RESIDENTIAL APPRAISER" MEANS AN APPRAISER MEETING THE REQUIREMENTS SET BY THE BOARD FOR RESIDENTIAL CERTIFICATION;

(III) "LICENSED AD VALOREM APPRAISER" MEANS AN APPRAISER MEETING THE REQUIREMENTS SET BY THE BOARD FOR AD VALOREM APPRAISER CERTIFICATION. ONLY A COUNTY ASSESSOR, EMPLOYEE OF A COUNTY ASSESSOR'S OFFICE, OR EMPLOYEE OF THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS MAY OBTAIN OR POSSESS AN AD VALOREM APPRAISER CERTIFICATION; AND

(IV) "LICENSED APPRAISER" MEANS AN APPRAISER MEETING THE REQUIREMENTS SET BY THE BOARD FOR A LICENSE.

(c) A COUNTY ASSESSOR OR EMPLOYEE OF A COUNTY ASSESSOR'S OFFICE WHO IS A LICENSED AD VALOREM APPRAISER MAY NOT PERFORM REAL ESTATE APPRAISALS OUTSIDE OF HIS OR HER OFFICIAL DUTIES.

(d) THE BOARD SHALL TRANSFER PERSONS EMPLOYED IN A COUNTY ASSESSOR'S OFFICE OR IN THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS WHO ARE REGISTERED APPRAISERS AS OF JULY 1, 2013, TO THE CATEGORY OF LICENSED AD VALOREM APPRAISER. THE BOARD SHALL ALLOW THESE PERSONS, UNTIL DECEMBER 31, 2015, TO MEET ANY ADDITIONAL REQUIREMENTS IMPOSED BY THE BOARD PURSUANT TO SECTION 12-61-704 (1) (a), AS AMENDED.

(2) (a) THE BOARD SHALL, BY RULE, PRESCRIBE CONTINUING EDUCATION REQUIREMENTS FOR PERSONS LICENSED OR CERTIFIED AS CERTIFIED GENERAL APPRAISERS, CERTIFIED RESIDENTIAL APPRAISERS, OR LICENSED APPRAISERS AS NEEDED TO MEET THE REQUIREMENTS OF THE "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO 3351. THE BOARD SHALL NOT ESTABLISH ANY CONTINUING EDUCATION REQUIREMENTS THAT ARE MORE STRINGENT THAN THE REQUIREMENTS OF ANY APPLICABLE LAW; EXCEPT THAT ALL PERSONS LICENSED OR CERTIFIED UNDER THIS PART 7 ARE SUBJECT TO CONTINUING EDUCATION REQUIREMENTS. IF THERE IS NO APPLICABLE FEDERAL LAW, THE BOARD

SHALL CONSIDER AND MAY USE AS GUIDELINES THE MOST RECENT AVAILABLE CRITERIA PUBLISHED BY THE APPRAISER QUALIFICATIONS BOARD OF THE APPRAISAL FOUNDATION OR ITS SUCCESSOR ORGANIZATION.

(b) THE BOARD SHALL, BY RULE, PRESCRIBE CONTINUING EDUCATION REQUIREMENTS FOR LICENSED AD VALOREM APPRAISERS.

(3) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE CRITERIA ESTABLISHED BY THE BOARD FOR THE LICENSING OR CERTIFICATION OF APPRAISERS PURSUANT TO THIS PART 7 SHALL NOT INCLUDE MEMBERSHIP OR LACK OF MEMBERSHIP IN ANY APPRAISAL ORGANIZATION.

(4) **[Formerly 12-61-706 (5)]** (a) SUBJECT TO SECTION 12-61-719 (2), ALL APPRAISER EMPLOYEES OF COUNTY ASSESSORS SHALL BE LICENSED OR CERTIFIED AS PROVIDED IN SUBSECTIONS (1) AND (2) OF THIS SECTION. OBTAINING AND MAINTAINING A LICENSE OR CERTIFICATE UNDER EITHER OF SAID SUBSECTIONS (1) AND (2) ENTITLES AN APPRAISER EMPLOYEE OF A COUNTY ASSESSOR TO PERFORM ALL REAL ESTATE APPRAISALS REQUIRED TO FULFILL THE PERSON'S OFFICIAL DUTIES.

(b) APPRAISER EMPLOYEES OF COUNTY ASSESSORS WHO ARE EMPLOYED TO APPRAISE REAL PROPERTY ARE SUBJECT TO THIS PART 7; EXCEPT THAT APPRAISER EMPLOYEES OF COUNTY ASSESSORS WHO ARE EMPLOYED TO APPRAISE REAL PROPERTY ARE NOT SUBJECT TO DISCIPLINARY ACTIONS BY THE BOARD ON THE GROUND THAT THEY HAVE PERFORMED APPRAISALS BEYOND THEIR LEVEL OF COMPETENCY WHEN APPRAISING REAL ESTATE IN FULFILLMENT OF THEIR OFFICIAL DUTIES. COUNTY ASSESSORS, IF LICENSED OR CERTIFIED AS PROVIDED IN SUBSECTIONS (1) AND (2) OF THIS SECTION, ARE NOT SUBJECT TO DISCIPLINARY ACTIONS BY THE BOARD ON THE GROUND THAT THEY HAVE PERFORMED APPRAISALS BEYOND THEIR LEVEL OF COMPETENCY WHEN APPRAISING REAL ESTATE IN FULFILLMENT OF THEIR OFFICIAL DUTIES.

(c) THE COUNTY IN WHICH AN APPRAISER EMPLOYEE OF A COUNTY ASSESSOR IS EMPLOYED SHALL PAY ALL REASONABLE COSTS INCURRED BY THE APPRAISER EMPLOYEE OF THE COUNTY ASSESSOR TO OBTAIN AND MAINTAIN A LICENSE OR CERTIFICATE PURSUANT TO THIS SECTION.

(5) **[Formerly 12-61-706 (9)]** THE BOARD SHALL NOT ISSUE AN

APPRAISER'S LICENSE AS REFERENCED IN SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION UNLESS THE APPLICANT HAS AT LEAST TWELVE MONTHS' APPRAISAL EXPERIENCE.

(6) **[Formerly 12-61-706 (10)]** (a) THE BOARD SHALL NOT ISSUE A LICENSE OR CERTIFICATION UNTIL THE APPLICANT DEMONSTRATES THAT HE OR SHE MEETS THE FITNESS STANDARDS ESTABLISHED BY BOARD RULE AND SUBMITS A SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. EACH PERSON SUBMITTING A SET OF FINGERPRINTS SHALL PAY THE FEE ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR CONDUCTING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO THE BUREAU. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE BOARD. THE BOARD MAY REQUIRE 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. THE BOARD MAY DENY AN APPLICATION FOR LICENSURE OR CERTIFICATION BASED ON THE OUTCOME OF THE CRIMINAL HISTORY RECORD CHECK AND MAY ESTABLISH CRIMINAL HISTORY REQUIREMENTS MORE STRINGENT THAN THOSE ESTABLISHED BY ANY APPLICABLE FEDERAL LAW. AT A MINIMUM, THE BOARD SHALL ADOPT THE CRIMINAL HISTORY REQUIREMENTS ESTABLISHED BY ANY APPLICABLE FEDERAL LAW.

(b) AN APPLICANT FOR CERTIFICATION AS A LICENSED AD VALOREM APPRAISER IS NOT SUBJECT TO THE FINGERPRINTING AND CRIMINAL BACKGROUND CHECK REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (6).

**12-61-707. [Formerly 12-61-706.3] Appraisal management companies - application for license - exemptions.** (1) AN APPLICANT SHALL APPLY FOR A LICENSE AS AN APPRAISAL MANAGEMENT COMPANY, OR AS A CONTROLLING APPRAISER, TO THE BOARD IN A MANNER PRESCRIBED BY THE BOARD.

(2) THE BOARD MAY GRANT APPRAISAL MANAGEMENT COMPANY LICENSES TO INDIVIDUALS, PARTNERSHIPS, LIMITED LIABILITY COMPANIES,

OR CORPORATIONS. A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION, IN ITS APPLICATION FOR A LICENSE, SHALL DESIGNATE A CONTROLLING APPRAISER WHO IS ACTIVELY CERTIFIED IN A STATE RECOGNIZED BY THE APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATIONS COUNCIL OR ITS SUCCESSOR ENTITY. THE CONTROLLING APPRAISER IS RESPONSIBLE FOR THE LICENSED PRACTICES OF THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION AND ALL PERSONS EMPLOYED BY THE ENTITY. THE APPLICATION OF THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION AND THE APPLICATION OF THE APPRAISER DESIGNATED BY IT AS THE CONTROLLING APPRAISER SHALL BE FILED WITH THE BOARD. THE BOARD HAS JURISDICTION OVER THE APPRAISER SO DESIGNATED AND OVER THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION.

(3) THE BOARD SHALL NOT ISSUE A LICENSE TO ANY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION UNLESS AND UNTIL THE APPRAISER DESIGNATED BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION AS CONTROLLING APPRAISER AND EACH INDIVIDUAL WHO OWNS MORE THAN TEN PERCENT OF THE ENTITY DEMONSTRATES THAT HE OR SHE MEETS THE FITNESS STANDARDS ESTABLISHED BY BOARD RULE AND SUBMITS A SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. EACH PERSON SUBMITTING A SET OF FINGERPRINTS SHALL PAY THE FEE ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR CONDUCTING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO THE BUREAU. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE BOARD. THE BOARD MAY REQUIRE 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. THE BOARD MAY DENY AN APPLICATION FOR LICENSURE OR REFUSE TO RENEW A LICENSE BASED ON THE OUTCOME OF THE CRIMINAL HISTORY RECORD CHECK. THE BOARD MAY REQUIRE CRIMINAL HISTORY REQUIREMENTS MORE STRINGENT THAN THOSE ESTABLISHED BY ANY APPLICABLE FEDERAL LAW. AT A MINIMUM, THE BOARD SHALL ADOPT THE CRIMINAL HISTORY REQUIREMENTS ESTABLISHED BY ANY APPLICABLE FEDERAL LAW.

(4) THE BOARD SHALL NOT ISSUE A LICENSE TO ANY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION IF THE APPRAISER DESIGNATED BY THE ENTITY AS CONTROLLING APPRAISER HAS PREVIOUSLY HAD, IN ANY STATE, AN APPRAISER REGISTRATION, LICENSE, OR CERTIFICATE REFUSED, DENIED, CANCELLED, SURRENDERED IN LIEU OF REVOCATION, OR REVOKED. A DISCIPLINARY ACTION RESULTING IN REFUSAL, DENIAL, CANCELLATION, SURRENDER IN LIEU OF REVOCATION, OR REVOCATION RELATING TO A REGISTRATION, LICENSE, OR CERTIFICATION AS AN APPRAISER REGISTERED, LICENSED, OR CERTIFIED UNDER THIS PART 7 OR ANY RELATED OCCUPATION IN ANY OTHER STATE, TERRITORY, OR COUNTRY FOR DISCIPLINARY REASONS IS PRIMA FACIE EVIDENCE OF GROUNDS FOR DENIAL OF A LICENSE BY THE BOARD.

(5) THE BOARD SHALL NOT ISSUE A LICENSE TO ANY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION IF IT IS OWNED, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY ANY PERSON WHO HAS HAD, IN ANY STATE, AN APPRAISER LICENSE, REGISTRATION, OR CERTIFICATE REFUSED, DENIED, CANCELLED, SURRENDERED IN LIEU OF REVOCATION, OR REVOKED. A DISCIPLINARY ACTION RESULTING IN REFUSAL, DENIAL, CANCELLATION, SURRENDER IN LIEU OF REVOCATION, OR REVOCATION RELATING TO A LICENSE, REGISTRATION, OR CERTIFICATION AS AN APPRAISER LICENSED, REGISTERED, OR CERTIFIED UNDER THIS PART 7 OR ANY RELATED OCCUPATION IN ANY OTHER STATE, TERRITORY, OR COUNTRY FOR DISCIPLINARY REASONS IS PRIMA FACIE EVIDENCE OF GROUNDS FOR DENIAL OF A LICENSE BY THE BOARD.

(6) THE BOARD MAY DENY AN APPLICATION FOR A LICENSE FOR ANY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION IF THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION HAS PREVIOUSLY HAD A LICENSE REVOKED OR SURRENDERED A LICENSE IN LIEU OF REVOCATION. A DISCIPLINARY ACTION RESULTING IN THE SURRENDER IN LIEU OF REVOCATION OR THE REVOCATION OF A LICENSE AS AN APPRAISAL MANAGEMENT COMPANY UNDER THIS PART 7 OR ANY RELATED OCCUPATION IN ANY OTHER STATE, TERRITORY, OR COUNTRY FOR DISCIPLINARY REASONS MAY BE DEEMED TO BE PRIMA FACIE EVIDENCE OF GROUNDS FOR DENIAL OF A LICENSE BY THE BOARD.

(7) EACH APPRAISAL MANAGEMENT COMPANY MUST MAINTAIN A DEFINITE PLACE OF BUSINESS. IF THE APPRAISAL MANAGEMENT COMPANY IS DOMICILED IN ANOTHER STATE, THE APPRAISER DESIGNATED BY THE

APPRAISAL MANAGEMENT COMPANY AS CONTROLLING APPRAISER IS RESPONSIBLE FOR SUPERVISING ALL LICENSED ACTIVITIES THAT OCCUR IN COLORADO. ALL LICENSED ACTIONS OCCURRING WITHIN THE STATE OF COLORADO MUST OCCUR UNDER THE NAME UNDER WHICH THE APPRAISAL MANAGEMENT COMPANY IS LICENSED OR ITS TRADE NAME ADOPTED IN ACCORDANCE WITH COLORADO LAW.

(8) AN APPLICATION THAT IS SUBMITTED BY AN APPRAISAL MANAGEMENT COMPANY THAT IS:

(a) A PARTNERSHIP MUST BE PROPERLY REGISTERED WITH THE COLORADO DEPARTMENT OF REVENUE OR PROPERLY FILED WITH THE COLORADO SECRETARY OF STATE AND IN GOOD STANDING, PROOF OF WHICH MUST BE INCLUDED IN THE APPLICATION. IF AN ASSUMED OR TRADE NAME IS TO BE USED, IT MUST BE PROPERLY FILED WITH THE COLORADO DEPARTMENT OF REVENUE OR FILED AND ACCEPTED BY THE COLORADO SECRETARY OF STATE, PROOF OF WHICH MUST BE INCLUDED WITH THE APPLICATION.

(b) A LIMITED LIABILITY COMPANY MUST BE PROPERLY REGISTERED WITH THE COLORADO SECRETARY OF STATE AND IN GOOD STANDING, PROOF OF WHICH MUST BE INCLUDED WITH THE APPLICATION. IF AN ASSUMED OR TRADE NAME IS TO BE USED, IT MUST BE PROPERLY FILED WITH THE COLORADO SECRETARY OF STATE, PROOF OF WHICH MUST BE INCLUDED WITH THE APPLICATION.

(c) A CORPORATION MUST BE REGISTERED AS A FOREIGN CORPORATION OR PROPERLY INCORPORATED WITH THE COLORADO SECRETARY OF STATE AND IN GOOD STANDING, PROOF OF WHICH MUST BE INCLUDED WITH THE APPLICATION. IF AN ASSUMED OR TRADE NAME IS TO BE USED, IT MUST BE PROPERLY FILED WITH THE COLORADO SECRETARY OF STATE, PROOF OF WHICH MUST BE INCLUDED WITH THE APPLICATION.

(9) FINANCIAL INSTITUTIONS AND APPRAISAL MANAGEMENT COMPANY SUBSIDIARIES THAT ARE OWNED AND CONTROLLED BY THE FINANCIAL INSTITUTION AND REGULATED BY A FEDERAL FINANCIAL INSTITUTION REGULATORY AGENCY ARE NOT REQUIRED TO REGISTER WITH OR BE LICENSED BY THE BOARD. THIS EXEMPTION INCLUDES A PANEL OF APPRAISERS WHO ARE ENGAGED TO PROVIDE APPRAISAL SERVICES AND ARE ADMINISTERED BY A FINANCIAL INSTITUTION REGULATED BY A FEDERAL



FINANCIAL REGULATORY AGENCY.

**12-61-708. [Formerly 12-61-706.5] Errors and omissions insurance - duties of the division - certificate of coverage - group plan made available - rules.** (1) EVERY LICENSEE UNDER THIS PART 7, EXCEPT AN APPRAISER WHO IS EMPLOYED BY A STATE OR LOCAL GOVERNMENTAL ENTITY OR AN INACTIVE APPRAISER OR APPRAISAL MANAGEMENT COMPANY, SHALL MAINTAIN ERRORS AND OMISSIONS INSURANCE TO COVER ALL ACTIVITIES CONTEMPLATED UNDER THIS PART 7. THE DIVISION SHALL MAKE THE ERRORS AND OMISSIONS INSURANCE AVAILABLE TO ALL LICENSEES BY CONTRACTING WITH AN INSURER FOR A GROUP POLICY AFTER A COMPETITIVE BID PROCESS IN ACCORDANCE WITH ARTICLE 103 OF TITLE 24, C.R.S. A GROUP POLICY OBTAINED BY THE DIVISION MUST BE AVAILABLE TO ALL LICENSEES WITH NO RIGHT ON THE PART OF THE INSURER TO CANCEL ANY LICENSEE. A LICENSEE MAY OBTAIN ERRORS AND OMISSIONS INSURANCE INDEPENDENTLY IF THE COVERAGE COMPLIES WITH THE MINIMUM REQUIREMENTS ESTABLISHED BY THE DIVISION.

(2) (a) IF THE DIVISION IS UNABLE TO OBTAIN ERRORS AND OMISSIONS INSURANCE COVERAGE TO INSURE ALL LICENSEES WHO CHOOSE TO PARTICIPATE IN THE GROUP PROGRAM AT A REASONABLE ANNUAL PREMIUM, AS DETERMINED BY THE DIVISION, A LICENSEE SHALL INDEPENDENTLY OBTAIN THE ERRORS AND OMISSIONS INSURANCE REQUIRED BY THIS SECTION.

(b) THE DIVISION SHALL SOLICIT AND CONSIDER INFORMATION AND COMMENTS FROM INTERESTED PERSONS WHEN DETERMINING THE REASONABLENESS OF ANNUAL PREMIUMS.

(3) THE DIVISION SHALL DETERMINE THE TERMS AND CONDITIONS OF COVERAGE REQUIRED UNDER THIS SECTION BASED ON RULES PROMULGATED BY THE BOARD. EACH LICENSEE SHALL BE NOTIFIED OF THE REQUIRED TERMS AND CONDITIONS AT LEAST THIRTY DAYS BEFORE THE ANNUAL PREMIUM RENEWAL DATE AS DETERMINED BY THE DIVISION. EACH LICENSEE SHALL FILE A CERTIFICATE OF COVERAGE SHOWING COMPLIANCE WITH THE REQUIRED TERMS AND CONDITIONS WITH THE DIVISION BY THE ANNUAL PREMIUM RENEWAL DATE, AS DETERMINED BY THE DIVISION.

(4) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED UPON THE BOARD BY THIS PART 7, THE BOARD IS AUTHORIZED AND

DIRECTED TO ADOPT RULES IT DEEMS NECESSARY OR PROPER TO CARRY OUT THE REQUIREMENTS OF THIS SECTION.

**12-61-709. [Formerly 12-61-706.7] Bond required.** (1) BEFORE THE BOARD ISSUES A LICENSE TO AN APPLICANT FOR AN APPRAISAL MANAGEMENT COMPANY LICENSE, THE APPLICANT SHALL POST WITH THE BOARD A SURETY BOND IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS. A LICENSED APPRAISAL MANAGEMENT COMPANY SHALL MAINTAIN THE REQUIRED BOND AT ALL TIMES.

(2) THE SURETY BOND SHALL REQUIRE THE SURETY TO PROVIDE NOTICE TO THE BOARD WITHIN THIRTY DAYS IF PAYMENT IS MADE FROM THE SURETY BOND OR IF THE BOND IS CANCELLED.

**12-61-710. [Formerly 12-61-707] Expiration of licenses - renewal - penalties - fees - rules.** (1) (a) ALL LICENSES OR CERTIFICATES EXPIRE PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR AND MAY BE RENEWED OR REINSTATED PURSUANT TO THIS SECTION. UPON COMPLIANCE WITH THIS SECTION AND ANY APPLICABLE RULES OF THE BOARD REGARDING RENEWAL, INCLUDING THE PAYMENT OF A RENEWAL FEE PLUS A REINSTATEMENT FEE ESTABLISHED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1), THE EXPIRED LICENSE OR CERTIFICATE SHALL BE REINSTATED. A REAL ESTATE APPRAISER'S LICENSE OR CERTIFICATE THAT HAS NOT BEEN RENEWED FOR A PERIOD GREATER THAN TWO YEARS SHALL NOT BE REINSTATED, AND THE PERSON MUST SUBMIT A NEW APPLICATION FOR LICENSURE OR CERTIFICATION.

(b) A PERSON WHO FAILS TO RENEW HIS OR HER LICENSE OR CERTIFICATE BEFORE THE APPLICABLE RENEWAL DATE MAY HAVE IT REINSTATED IF THE PERSON SUBMITS AN APPLICATION AS PRESCRIBED BY THE BOARD:

(I) WITHIN THIRTY-ONE DAYS AFTER THE DATE OF EXPIRATION, BY PAYMENT OF THE REGULAR RENEWAL FEE;

(II) MORE THAN THIRTY-ONE DAYS, BUT WITHIN ONE YEAR, AFTER THE DATE OF EXPIRATION, BY PAYMENT OF THE REGULAR RENEWAL FEE AND PAYMENT OF A REINSTATEMENT FEE EQUAL TO ONE-THIRD OF THE REGULAR RENEWAL FEE; OR

(III) MORE THAN ONE YEAR, BUT WITHIN TWO YEARS, AFTER THE DATE OF EXPIRATION, BY PAYMENT OF THE REGULAR RENEWAL FEE AND PAYMENT OF A REINSTATEMENT FEE EQUAL TO TWO-THIRDS OF THE REGULAR RENEWAL FEE.

(2) IF THE FEDERAL REGISTRY FEE COLLECTED BY THE BOARD AND TRANSMITTED TO THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL IS INCREASED PRIOR TO EXPIRATION OF A LICENSE OR CERTIFICATE, THE BOARD SHALL COLLECT THE AMOUNT OF THE INCREASE IN THE FEE FROM THE HOLDER OF THE LICENSE OR CERTIFICATE AND FORWARD THE AMOUNT TO THE COUNCIL ANNUALLY. THE FEDERAL REGISTRY FEE DOES NOT APPLY TO LICENSED AD VALOREM APPRAISERS LICENSED UNDER THIS ARTICLE.

(3) (a) IF THE APPLICANT HAS COMPLIED WITH THIS SECTION AND ANY APPLICABLE RULES OF THE BOARD REGARDING RENEWAL, EXCEPT FOR THE CONTINUING EDUCATION REQUIREMENTS PURSUANT TO SECTION 12-61-706, THE LICENSEE MAY RENEW THE LICENSE ON INACTIVE STATUS. AN INACTIVE LICENSE MAY BE ACTIVATED IF THE LICENSEE SUBMITS WRITTEN CERTIFICATION OF COMPLIANCE WITH SECTION 12-61-706 FOR THE PREVIOUS LICENSING PERIOD. THE BOARD MAY ADOPT RULES ESTABLISHING PROCEDURES TO FACILITATE REACTIVATION OF LICENSES.

(b) THE HOLDER OF AN INACTIVE LICENSE SHALL NOT PERFORM A REAL ESTATE APPRAISAL OR APPRAISAL MANAGEMENT DUTIES.

(c) THE HOLDER OF AN INACTIVE LICENSE SHALL NOT HOLD HIMSELF OR HERSELF OUT AS HAVING AN ACTIVE LICENSE PURSUANT TO THIS PART 7.

(4) AT THE TIME OF RENEWAL OR REINSTATEMENT, EVERY LICENSEE, CERTIFICATE HOLDER, AND PERSON OR INDIVIDUAL WHO OWNS MORE THAN TEN PERCENT OF AN APPRAISAL MANAGEMENT COMPANY SHALL SUBMIT A SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION, IF THE PERSON HAS NOT PREVIOUSLY DONE SO FOR ISSUANCE OF A LICENSE OR CERTIFICATION BY THE BOARD. EACH PERSON SUBMITTING A SET OF FINGERPRINTS SHALL PAY THE FEE ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR CONDUCTING THE FINGERPRINT-BASED

CRIMINAL HISTORY RECORD CHECK TO THE BUREAU. THE BUREAU SHALL FORWARD THE RESULTS TO THE BOARD. THE BOARD MAY REQUIRE 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. THE BOARD MAY REFUSE TO RENEW OR REINSTATE A LICENSE OR CERTIFICATION BASED ON THE OUTCOME OF THE CRIMINAL HISTORY RECORD CHECK.

**12-61-711. [Formerly 12-61-708] Licensure or certification by endorsement - temporary practice.** (1) THE BOARD MAY ISSUE A LICENSE OR CERTIFICATION TO AN APPRAISER BY ENDORSEMENT TO ENGAGE IN THE OCCUPATION OF REAL ESTATE APPRAISAL TO ANY APPLICANT WHO HAS A LICENSE OR CERTIFICATION IN GOOD STANDING AS A REAL ESTATE APPRAISER UNDER THE LAWS OF ANOTHER JURISDICTION IF:

(a) THE APPLICANT PRESENTS PROOF SATISFACTORY TO THE BOARD THAT, AT THE TIME OF APPLICATION FOR A COLORADO LICENSE OR CERTIFICATE BY ENDORSEMENT, THE APPLICANT POSSESSES CREDENTIALS AND QUALIFICATIONS THAT ARE SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS OF THIS PART 7; OR

(b) THE JURISDICTION THAT ISSUED THE APPLICANT A LICENSE OR CERTIFICATE TO ENGAGE IN THE OCCUPATION OF REAL ESTATE APPRAISAL HAS A LAW SIMILAR TO THIS SUBSECTION (1) PURSUANT TO WHICH IT LICENSES OR CERTIFIES PERSONS WHO ARE LICENSED REAL ESTATE APPRAISERS IN THIS STATE.

(2) **[Formerly 12-61-708 (1.2)]** THE BOARD MAY SPECIFY, BY RULE, WHAT CONSTITUTES SUBSTANTIALLY EQUIVALENT CREDENTIALS AND QUALIFICATIONS AND THE MANNER IN WHICH THE BOARD WILL REVIEW CREDENTIALS AND QUALIFICATIONS OF AN APPLICANT.

(3) **[Formerly 12-61-708 (2)]** PURSUANT TO SECTION 1122 (a) OF TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", PUB.L. 101-73, THE BOARD SHALL RECOGNIZE, ON A TEMPORARY BASIS, THE LICENSE OR CERTIFICATION OF AN APPRAISER ISSUED BY ANOTHER STATE IF:

(a) **[Formerly 12-61-708 (2) (b)]** THE APPRAISER'S BUSINESS IS OF A TEMPORARY NATURE; AND

(b) [Formerly 12-61-708 (2) (c)] THE APPRAISER APPLIES FOR AND IS GRANTED A TEMPORARY PRACTICE PERMIT BY THE BOARD.

**12-61-712. [Formerly 12-61-709] Denial of license or certificate - renewal - definition.** (1) THE BOARD MAY DETERMINE WHETHER AN APPLICANT FOR LICENSURE OR CERTIFICATION POSSESSES THE NECESSARY QUALIFICATIONS FOR LICENSURE OR CERTIFICATION REQUIRED BY THIS PART 7. THE BOARD MAY CONSIDER SUCH QUALITIES AS THE APPLICANT'S FITNESS AND PRIOR PROFESSIONAL LICENSURE AND WHETHER THE APPLICANT HAS BEEN CONVICTED OF A CRIME. AS USED IN THIS SUBSECTION (1), "APPLICANT" INCLUDES ANY INDIVIDUAL WHO OWNS, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, AN APPRAISAL MANAGEMENT COMPANY AND ANY APPRAISER DESIGNATED AS A CONTROLLING APPRAISER BY A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION ACTING AS AN APPRAISAL MANAGEMENT COMPANY.

(2) IF THE BOARD DETERMINES THAT AN APPLICANT DOES NOT POSSESS THE APPLICABLE QUALIFICATIONS REQUIRED BY THIS PART 7, OR THE APPLICANT HAS VIOLATED THIS PART 7, RULES PROMULGATED BY THE BOARD, OR ANY BOARD ORDER, THE BOARD MAY DENY THE APPLICANT A LICENSE OR CERTIFICATE OR DENY THE RENEWAL OR REINSTATEMENT OF A LICENSE OR CERTIFICATE PURSUANT TO SECTION 12-61-710, AND, IN SUCH INSTANCE, THE BOARD SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING FORTH THE BASIS OF THE BOARD'S DETERMINATION THAT THE APPLICANT DOES NOT POSSESS THE QUALIFICATIONS OR PROFESSIONAL COMPETENCE REQUIRED BY THIS PART 7. THE APPLICANT MAY REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION 24-4-104 (9), C.R.S.

**12-61-713. [Formerly 12-61-710] Prohibited activities - grounds for disciplinary actions - procedures.** (1) A REAL ESTATE APPRAISER IS IN VIOLATION OF THIS PART 7 IF THE APPRAISER:

(a) HAS BEEN CONVICTED OF A FELONY OR HAS HAD ACCEPTED BY A COURT A PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY IF THE FELONY IS RELATED TO THE ABILITY TO ACT AS A REAL PROPERTY APPRAISER. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE DISCIPLINARY ACTION, THE BOARD SHALL BE GOVERNED BY THE PROVISIONS OF SECTION

24-5-101, C.R.S.

(b) HAS VIOLATED, OR ATTEMPTED TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTED IN OR ABETTED THE VIOLATION OF, OR CONSPIRED TO VIOLATE THIS PART 7, A RULE PROMULGATED PURSUANT TO THIS PART 7, OR AN ORDER OF THE BOARD ISSUED PURSUANT TO THIS PART 7;

(c) HAS ACCEPTED ANY FEES, COMPENSATION, OR OTHER VALUABLE CONSIDERATION TO INFLUENCE THE OUTCOME OF AN APPRAISAL;

(d) HAS USED ADVERTISING THAT IS MISLEADING, DECEPTIVE, OR FALSE;

(e) HAS USED FRAUD OR MISREPRESENTATION IN OBTAINING A LICENSE OR CERTIFICATE UNDER THIS PART 7;

(f) HAS CONDUCTED AN APPRAISAL IN A FRAUDULENT MANNER OR USED MISREPRESENTATION IN ANY SUCH ACTIVITY;

(g) HAS ACTED OR FAILED TO ACT IN A MANNER THAT DOES NOT MEET THE GENERALLY ACCEPTED STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AS ADOPTED BY THE BOARD BY RULE. A CERTIFIED COPY OF A MALPRACTICE JUDGMENT OF A COURT OF COMPETENT JURISDICTION IS CONCLUSIVE EVIDENCE OF THE ACT OR OMISSION, BUT EVIDENCE OF THE ACT OR OMISSION IS NOT LIMITED TO A MALPRACTICE JUDGMENT.

(h) HAS PERFORMED APPRAISAL SERVICES BEYOND HIS OR HER LEVEL OF COMPETENCY;

(i) HAS BEEN SUBJECT TO AN ADVERSE OR DISCIPLINARY ACTION IN ANOTHER STATE, TERRITORY, OR COUNTRY RELATING TO A LICENSE, CERTIFICATE, OR OTHER AUTHORIZATION TO PRACTICE AS AN APPRAISER. A DISCIPLINARY ACTION RELATING TO A LICENSE OR CERTIFICATE AS AN APPRAISER LICENSED OR CERTIFIED UNDER THIS PART 7 OR ANY RELATED OCCUPATION IN ANY OTHER STATE, TERRITORY, OR COUNTRY FOR DISCIPLINARY REASONS IS PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION OR DENIAL OF LICENSURE OR CERTIFICATION BY THE BOARD. THIS PARAGRAPH (i) APPLIES ONLY TO VIOLATIONS BASED UPON ACTS OR OMISSIONS IN THE OTHER STATE, TERRITORY, OR COUNTRY THAT ARE ALSO VIOLATIONS OF THIS PART 7.

(j) HAS FAILED TO DISCLOSE IN THE APPRAISAL REPORT THE FEE PAID TO THE APPRAISER FOR A RESIDENTIAL REAL PROPERTY APPRAISAL IF THE APPRAISER WAS ENGAGED BY AN APPRAISAL MANAGEMENT COMPANY TO COMPLETE THE ASSIGNMENT; OR

(k) HAS ENGAGED IN CONDUCT THAT WOULD BE GROUNDS FOR THE DENIAL OF A LICENSE OR CERTIFICATION UNDER SECTION 12-61-712.

(2) IF AN APPLICANT, A LICENSEE, OR A CERTIFIED PERSON HAS VIOLATED ANY PROVISION OF THIS SECTION, THE BOARD MAY DENY OR REFUSE TO RENEW THE LICENSE OR CERTIFICATE, OR, AS SPECIFIED IN SUBSECTIONS (3) AND (6) OF THIS SECTION, REVOKE OR SUSPEND THE LICENSE OR CERTIFICATE, ISSUE A LETTER OF ADMONITION TO A LICENSEE OR CERTIFIED PERSON, PLACE A LICENSEE OR CERTIFIED PERSON ON PROBATION, OR IMPOSE PUBLIC CENSURE.

(3) [**Formerly 12-61-710 (2.5)**] WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT BY A LICENSED OR CERTIFIED APPRAISER THAT, IN THE OPINION OF THE BOARD, DOES NOT WARRANT FORMAL ACTION BY THE BOARD BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE BOARD MAY SEND A LETTER OF ADMONITION BY CERTIFIED MAIL TO THE APPRAISER AGAINST WHOM A COMPLAINT WAS MADE. THE LETTER SHALL ADVISE THE APPRAISER OF THE RIGHT TO MAKE A WRITTEN REQUEST, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER OF ADMONITION, TO THE BOARD TO BEGIN FORMAL DISCIPLINARY PROCEEDINGS AS PROVIDED IN THIS SECTION TO ADJUDICATE THE CONDUCT OR ACTS ON WHICH THE LETTER WAS BASED.

(4) [**Formerly 12-61-710 (3)**] THE BOARD MAY START A PROCEEDING FOR DISCIPLINE OF A LICENSEE OR CERTIFIED PERSON WHEN THE BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A LICENSEE OR CERTIFIED PERSON HAS COMMITTED ANY ACT OR FAILED TO ACT PURSUANT TO THE GROUNDS ESTABLISHED IN SUBSECTION (1) OF THIS SECTION OR WHEN A REQUEST FOR A HEARING IS TIMELY MADE UNDER SUBSECTION (3) OF THIS SECTION.

(5) [**Formerly 12-61-710 (4)**] DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN THE MANNER PRESCRIBED BY THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

(6) [Formerly 12-61-710 (5)] AS AUTHORIZED IN SUBSECTION (2) OF THIS SECTION, DISCIPLINARY ACTIONS BY THE BOARD MAY CONSIST OF THE FOLLOWING:

(a) **Revocation of a license or certificate.** (I) REVOCATION OF A LICENSE OR CERTIFICATE BY THE BOARD MEANS THAT THE LICENSED OR CERTIFIED PERSON SHALL SURRENDER HIS OR HER LICENSE OR CERTIFICATE IMMEDIATELY TO THE BOARD.

(II) ANY PERSON WHOSE LICENSE OR CERTIFICATE TO PRACTICE IS REVOKED IS INELIGIBLE TO APPLY FOR A LICENSE OR CERTIFICATE ISSUED UNDER THIS PART 7 UNTIL MORE THAN TWO YEARS HAVE ELAPSED FROM THE DATE OF SURRENDER OF THE LICENSE OR CERTIFICATE. A REAPPLICATION AFTER THE TWO-YEAR PERIOD IS TREATED AS A NEW APPLICATION.

(b) **Suspension of a license or certificate.** SUSPENSION OF A LICENSE OR CERTIFICATE BY THE BOARD IS FOR A PERIOD TO BE DETERMINED BY THE BOARD.

(c) **Probationary status.** THE BOARD MAY IMPOSE PROBATIONARY STATUS ON A LICENSEE OR CERTIFIED PERSON. IF THE BOARD PLACES A LICENSEE OR CERTIFIED PERSON ON PROBATION, THE BOARD MAY INCLUDE CONDITIONS FOR CONTINUED PRACTICE THAT THE BOARD DEEMS APPROPRIATE TO ASSURE THAT THE LICENSEE OR CERTIFIED PERSON IS OTHERWISE QUALIFIED TO PRACTICE IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, AS SPECIFIED IN BOARD RULES, INCLUDING ANY OR ALL OF THE FOLLOWING:

(I) A REQUIREMENT THAT THE LICENSEE OR CERTIFIED PERSON TAKE COURSES OF TRAINING OR EDUCATION AS NEEDED TO CORRECT DEFICIENCIES FOUND IN THE HEARING;

(II) A REVIEW OR SUPERVISION OF HIS OR HER PRACTICE AS MAY BE NECESSARY TO DETERMINE THE QUALITY OF THE PRACTICE AND TO CORRECT DEFICIENCIES IN THE PRACTICE; AND

(III) THE IMPOSITION OF RESTRICTIONS UPON THE NATURE OF HIS OR HER APPRAISAL PRACTICE TO ASSURE THAT HE OR SHE DOES NOT PRACTICE BEYOND THE LIMITS OF HIS OR HER CAPABILITIES.



(d) **[Formerly 12-61-710 (5) (e)] Public censure.** IF, AFTER NOTICE AND HEARING, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE DETERMINES THAT THE LICENSEE OR CERTIFIED PERSON HAS COMMITTED ANY OF THE ACTS SPECIFIED IN THIS SECTION, THE BOARD MAY IMPOSE PUBLIC CENSURE.

(7) **[Formerly 12-61-710 (6)]** IN ADDITION TO ANY OTHER DISCIPLINE IMPOSED PURSUANT TO THIS SECTION, ANY PERSON WHO VIOLATES THIS PART 7 OR THE RULES PROMULGATED PURSUANT TO THIS ARTICLE MAY BE PENALIZED BY THE BOARD UPON A FINDING OF A VIOLATION PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AS FOLLOWS:

(a) IN THE FIRST ADMINISTRATIVE PROCEEDING AGAINST A PERSON, A FINE OF NOT LESS THAN THREE HUNDRED DOLLARS BUT NOT MORE THAN FIVE HUNDRED DOLLARS PER VIOLATION;

(b) IN ANY SUBSEQUENT ADMINISTRATIVE PROCEEDING AGAINST A PERSON FOR TRANSACTIONS OCCURRING AFTER A FINAL AGENCY ACTION DETERMINING THAT A VIOLATION OF THIS PART 7 HAS OCCURRED, A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS BUT NOT MORE THAN TWO THOUSAND DOLLARS.

(8) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A COMPLAINT OR REPORT OR PARTICIPATING IN AN INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING BEFORE THE BOARD PURSUANT TO THIS ARTICLE IS IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT BY REASON OF THE ACTION.

(9) **[Formerly 12-61-710 (10)]** A LICENSEE OR CERTIFIED PERSON WHO HAS DIRECT KNOWLEDGE THAT A PERSON HAS VIOLATED THIS PART 7 SHALL REPORT HIS OR HER KNOWLEDGE TO THE BOARD.

(10) **[Formerly 12-61-710 (11)]** THE BOARD, ON ITS OWN MOTION OR UPON APPLICATION AT ANY TIME AFTER THE IMPOSITION OF DISCIPLINE AS PROVIDED IN THIS SECTION, MAY RECONSIDER ITS PRIOR ACTION AND REINSTATE OR RESTORE A LICENSE OR CERTIFICATE, TERMINATE PROBATION, OR REDUCE THE SEVERITY OF ITS PRIOR DISCIPLINARY ACTION. THE DECISION OF WHETHER TO TAKE ANY FURTHER ACTION OR HOLD A HEARING WITH RESPECT TO A PRIOR DISCIPLINARY ACTION RESTS IN THE SOLE DISCRETION OF THE BOARD.

**12-61-714. [Formerly 12-61-710.5] Appraisal management companies - prohibited activities - grounds for disciplinary actions - procedures - rules.**

(1) THE BOARD, UPON ITS OWN MOTION, MAY, AND UPON A COMPLAINT SUBMITTED TO THE BOARD IN WRITING BY ANY PERSON, SHALL, INVESTIGATE THE ACTIVITIES OF A LICENSED APPRAISAL MANAGEMENT COMPANY; AN APPRAISER DESIGNATED AS A CONTROLLING APPRAISER BY A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION ACTING AS AN APPRAISAL MANAGEMENT COMPANY; OR A PERSON OR ENTITY THAT ASSUMES TO ACT IN THAT CAPACITY WITHIN THE STATE. THE BOARD, UPON FINDING A VIOLATION, MAY IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE; CENSURE A LICENSEE; PLACE THE LICENSEE ON PROBATION AND SET THE TERMS OF PROBATION; OR TEMPORARILY SUSPEND OR PERMANENTLY REVOKE A LICENSE, WHEN THE LICENSEE HAS PERFORMED, IS PERFORMING, OR IS ATTEMPTING TO PERFORM ANY OF THE FOLLOWING ACTS:

(a) FAILING TO EXERCISE DUE DILIGENCE WHEN HIRING OR ENGAGING A REAL ESTATE APPRAISER TO ENSURE THAT THE REAL ESTATE APPRAISER IS APPROPRIATELY CREDENTIALLED BY THE BOARD AND COMPETENT TO PERFORM THE ASSIGNMENT;

(b) REQUIRING AN APPRAISER TO INDEMNIFY THE APPRAISAL MANAGEMENT COMPANY AGAINST LIABILITY, DAMAGES, LOSSES, OR CLAIMS OTHER THAN THOSE ARISING OUT OF THE SERVICES PERFORMED BY THE APPRAISER, INCLUDING PERFORMANCE OR NONPERFORMANCE OF THE APPRAISER'S DUTIES AND OBLIGATIONS, WHETHER AS A RESULT OF NEGLIGENCE OR WILLFUL MISCONDUCT;

(c) INFLUENCING OR ATTEMPTING TO INFLUENCE THE DEVELOPMENT, REPORTING, RESULT, OR REVIEW OF A REAL ESTATE APPRAISAL OR THE ENGAGEMENT OF AN APPRAISER THROUGH COERCION, EXTORTION, COLLUSION, COMPENSATION, INDUCEMENT, INTIMIDATION, BRIBERY, OR IN ANY OTHER MANNER. THIS PROHIBITION DOES NOT PROHIBIT AN APPRAISAL MANAGEMENT COMPANY FROM REQUESTING AN APPRAISER TO:

(I) CONSIDER ADDITIONAL, APPROPRIATE PROPERTY INFORMATION;

(II) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION FOR THE APPRAISER'S VALUE CONCLUSION; OR

(III) CORRECT ERRORS IN THE APPRAISAL REPORT;

(d) PROHIBITING AN APPRAISER, IN THE COMPLETION OF AN APPRAISAL SERVICE, FROM COMMUNICATING WITH THE CLIENT, ANY INTENDED USERS, REAL ESTATE BROKERS, TENANTS, PROPERTY OWNERS, MANAGEMENT COMPANIES, OR ANY OTHER ENTITY THAT THE APPRAISER REASONABLY BELIEVES HAS INFORMATION PERTINENT TO THE COMPLETION OF AN APPRAISAL ASSIGNMENT; EXCEPT THAT THIS PARAGRAPH (d) DOES NOT APPLY TO COMMUNICATIONS BETWEEN AN APPRAISER AND AN APPRAISAL MANAGEMENT COMPANY'S CLIENT IF THE CLIENT HAS ADOPTED AN EXPLICIT POLICY PROHIBITING SUCH COMMUNICATION. IF THE CLIENT HAS ADOPTED AN EXPLICIT POLICY PROHIBITING COMMUNICATION BY THE APPRAISER WITH THE CLIENT, COMMUNICATION BY AN APPRAISER TO THE CLIENT MUST BE MADE IN WRITING AND SUBMITTED TO THE APPRAISAL MANAGEMENT COMPANY.

(e) ALTERING OR MODIFYING A COMPLETED APPRAISAL REPORT WITHOUT THE AUTHORIZING APPRAISER'S KNOWLEDGE AND WRITTEN CONSENT, AND THE CONSENT OF THE INTENDED USER, EXCEPT TO MODIFY THE FORMAT OF THE REPORT SOLELY FOR TRANSMISSION TO THE CLIENT AND IN A MANNER ACCEPTABLE TO THE CLIENT;

(f) REQUIRING AN APPRAISER TO PROVIDE TO THE APPRAISAL MANAGEMENT COMPANY ACCESS TO THE APPRAISER'S ELECTRONIC SIGNATURE;

(g) FAILING TO VALIDATE OR VERIFY THAT THE WORK COMPLETED BY AN APPRAISER WHO IS HIRED OR ENGAGED BY THE APPRAISAL MANAGEMENT COMPANY COMPLIES WITH STATE AND FEDERAL REGULATIONS, INCLUDING THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, BY CONDUCTING AN ANNUAL AUDIT OF A RANDOM SAMPLE OF THE APPRAISALS RECEIVED WITHIN THE PREVIOUS YEAR BY THE APPRAISAL MANAGEMENT COMPANY. THE BOARD SHALL ESTABLISH ANNUAL APPRAISAL REVIEW REQUIREMENTS BY RULE AND SHALL SOLICIT AND CONSIDER INFORMATION AND COMMENTS FROM INTERESTED PERSONS.

(h) FAILING TO MAKE PAYMENT TO AN APPRAISER WITHIN SIXTY DAYS AFTER COMPLETION OF THE APPRAISAL, UNLESS OTHERWISE AGREED OR UNLESS THE APPRAISER HAS BEEN NOTIFIED IN WRITING THAT A BONA FIDE DISPUTE EXISTS REGARDING THE PERFORMANCE OR QUALITY OF THE

APPRAISAL;

(i) FAILING TO PERFORM THE TERMS OF A WRITTEN AGREEMENT WITH AN APPRAISER HIRED OR ENGAGED TO COMPLETE AN APPRAISAL ASSIGNMENT;

(j) FAILING TO DISCLOSE TO AN APPRAISER, AT THE TIME OF ENGAGEMENT, THE IDENTITY OF THE CLIENT;

(k) USING AN APPRAISAL REPORT FOR A CLIENT OTHER THAN THE ONE ORIGINALLY CONTRACTED WITH, WITHOUT THE ORIGINAL CLIENT'S WRITTEN CONSENT;

(l) FAILING TO MAINTAIN POSSESSION OF, FOR FUTURE USE OR INSPECTION BY THE BOARD, FOR A PERIOD OF AT LEAST FIVE YEARS OR AT LEAST TWO YEARS AFTER FINAL DISPOSITION OF ANY JUDICIAL PROCEEDING IN WHICH A REPRESENTATIVE OF THE APPRAISAL MANAGEMENT COMPANY PROVIDED TESTIMONY RELATED TO THE ASSIGNMENT, WHICHEVER PERIOD EXPIRES LAST, THE DOCUMENTS OR RECORDS PRESCRIBED BY THE RULES OF THE BOARD OR TO PRODUCE THE DOCUMENTS OR RECORDS UPON REASONABLE REQUEST BY THE BOARD;

(m) HAVING BEEN CONVICTED OF, OR ENTERING A PLEA OF GUILTY, AN ALFORD PLEA, OR A PLEA OF NOLO CONTENDERE TO, ANY MISDEMEANOR OR FELONY RELATING TO THE CONDUCT OF AN APPRAISAL, THEFT, EMBEZZLEMENT, BRIBERY, FRAUD, MISREPRESENTATION, OR DECEIT, OR ANY OTHER LIKE CRIME UNDER COLORADO LAW, FEDERAL LAW, OR THE LAWS OF OTHER STATES. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR OTHER OFFICIAL RECORD INDICATING THAT A PLEA WAS ENTERED IS CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA IN ANY HEARING UNDER THIS PART 7.

(n) HAVING BEEN THE SUBJECT OF AN ADVERSE OR DISCIPLINARY ACTION IN ANOTHER STATE, TERRITORY, OR COUNTRY RELATING TO A LICENSE, REGISTRATION, CERTIFICATION, OR OTHER AUTHORIZATION TO PRACTICE AS AN APPRAISAL MANAGEMENT COMPANY. A DISCIPLINARY ACTION RELATING TO A REGISTRATION, LICENSE, OR CERTIFICATE AS AN APPRAISAL MANAGEMENT COMPANY UNDER THIS PART 7 OR ANY RELATED OCCUPATION IN ANY OTHER STATE, TERRITORY, OR COUNTRY FOR DISCIPLINARY REASONS IS PRIMA FACIE EVIDENCE OF GROUNDS FOR

DISCIPLINARY ACTION OR DENIAL OF A LICENSE BY THE BOARD. THIS PARAGRAPH (n) APPLIES ONLY TO VIOLATIONS BASED UPON ACTS OR OMISSIONS IN THE OTHER STATE, TERRITORY, OR COUNTRY THAT WOULD VIOLATE THIS PART 7 IF COMMITTED IN COLORADO.

(o) VIOLATING THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S.;

(p) PROCURING, OR ATTEMPTING TO PROCURE, AN APPRAISAL MANAGEMENT COMPANY LICENSE OR RENEWING, REINSTATING, OR REACTIVATING, OR ATTEMPTING TO RENEW, REINSTATE, OR REACTIVATE, AN APPRAISAL MANAGEMENT COMPANY LICENSE BY FRAUD, MISREPRESENTATION, OR DECEIT OR BY MAKING A MATERIAL MISSTATEMENT OF FACT IN AN APPLICATION FOR A LICENSE;

(q) KNOWINGLY MISREPRESENTING OR MAKING FALSE PROMISES THROUGH AGENTS, ADVERTISING, OR OTHERWISE;

(r) FAILING TO DISCLOSE TO A CLIENT THE FEE AMOUNT PAID TO THE APPRAISER HIRED OR ENGAGED TO COMPLETE THE APPRAISAL UPON COMPLETION OF THE ASSIGNMENT; OR

(s) DISREGARDING, VIOLATING, OR ABETTING, DIRECTLY OR INDIRECTLY, A VIOLATION OF THIS PART 7, A RULE PROMULGATED BY THE BOARD PURSUANT TO THIS PART 7, OR AN ORDER OF THE BOARD ENTERED PURSUANT TO THIS PART 7.

(2) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD, DOES NOT WARRANT FORMAL ACTION BY THE BOARD BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE BOARD MAY SEND A LETTER OF ADMONITION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LICENSEE AGAINST WHOM THE COMPLAINT WAS MADE. THE LETTER SHALL ADVISE THE LICENSEE OF THE RIGHT TO MAKE A WRITTEN REQUEST, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER OF ADMONITION, TO THE BOARD TO BEGIN FORMAL DISCIPLINARY PROCEEDINGS AS PROVIDED IN THIS SECTION TO ADJUDICATE THE CONDUCT OR ACTS ON WHICH THE LETTER WAS BASED.

(3) DISCIPLINARY PROCEEDINGS MUST BE CONDUCTED IN THE MANNER PRESCRIBED BY THE "STATE ADMINISTRATIVE PROCEDURE ACT",

ARTICLE 4 OF TITLE 24, C.R.S.

(4) IF A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION OPERATING UNDER THE LICENSE OF AN APPRAISER DESIGNATED AND LICENSED AS A CONTROLLING APPRAISER BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION IS GUILTY OF ANY ACT LISTED IN SUBSECTION (1) OF THIS SECTION, THE BOARD MAY SUSPEND OR REVOKE THE RIGHT OF THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF THE CONTROLLING APPRAISER, WHETHER OR NOT THE CONTROLLING APPRAISER HAD PERSONAL KNOWLEDGE OF THE VIOLATION AND WHETHER OR NOT THE BOARD SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF THE CONTROLLING APPRAISER.

(5) THIS PART 7 DOES NOT RELIEVE ANY PERSON FROM CIVIL LIABILITY OR CRIMINAL PROSECUTION UNDER THE LAWS OF THIS STATE.

(6) A LICENSEE OR CERTIFIED PERSON HAVING DIRECT KNOWLEDGE THAT A PERSON OR LICENSED PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION HAS VIOLATED THIS PART 7 SHALL REPORT HIS OR HER KNOWLEDGE TO THE BOARD.

(7) THE BOARD, ON ITS OWN MOTION OR UPON APPLICATION, AT ANY TIME AFTER THE IMPOSITION OF DISCIPLINE AS PROVIDED IN THIS SECTION, MAY RECONSIDER ITS PRIOR ACTION AND REINSTATE OR RESTORE A LICENSE, TERMINATE PROBATION, OR REDUCE THE SEVERITY OF ITS PRIOR DISCIPLINARY ACTION. THE DECISION OF WHETHER TO TAKE ANY FURTHER ACTION OR HOLD A HEARING WITH RESPECT TO THE ACTION RESTS IN THE SOLE DISCRETION OF THE BOARD.

**12-61-715. [Formerly 12-61-711] Judicial review of final board actions and orders.** FINAL ACTIONS AND ORDERS OF THE BOARD UNDER SECTIONS 12-61-712, 12-61-713, AND 12-61-714 APPROPRIATE FOR JUDICIAL REVIEW ARE SUBJECT TO JUDICIAL REVIEW IN THE COURT OF APPEALS IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

**12-61-716. [Formerly 12-61-712] Unlawful acts - penalties.**  
(1) IT IS UNLAWFUL FOR A PERSON TO:

(a) VIOLATE SECTION 12-61-713 (1) (c), (1) (e), OR (1) (f) OR

PERFORM A REAL ESTATE APPRAISAL WITHOUT FIRST HAVING OBTAINED A LICENSE OR CERTIFICATE FROM THE BOARD PURSUANT TO THIS PART 7;

(b) ACCEPT A FEE FOR AN INDEPENDENT APPRAISAL ASSIGNMENT THAT IS CONTINGENT UPON:

(I) REPORTING A PREDETERMINED ANALYSIS, OPINION, OR CONCLUSION; OR

(II) THE ANALYSIS, OPINION, OR CONCLUSION REACHED; OR

(III) THE CONSEQUENCES RESULTING FROM THE ANALYSIS, OPINION, OR CONCLUSION;

(c) MISREPRESENT A CONSULTING SERVICE AS AN INDEPENDENT APPRAISAL; OR

(d) FAIL TO DISCLOSE, IN CONNECTION WITH A CONSULTING SERVICE FOR WHICH A CONTINGENT FEE IS OR WILL BE PAID, THE FACT THAT A CONTINGENT FEE IS OR WILL BE PAID.

(2) ANY PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S. ANY PERSON WHO SUBSEQUENTLY VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION WITHIN FIVE YEARS AFTER THE DATE OF A CONVICTION FOR A VIOLATION OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 5 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401, C.R.S.

**12-61-717. [Formerly 12-61-712.5] Appraisal management company license required - violations - injunction.** (1) EXCEPT AS PROVIDED IN SECTION 12-61-707 (9), IT IS UNLAWFUL FOR ANY PERSON, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION TO ENGAGE IN THE BUSINESS OF APPRAISAL MANAGEMENT IN THIS STATE WITHOUT FIRST HAVING OBTAINED A LICENSE FROM THE BOARD. THE BOARD SHALL NOT GRANT A LICENSE TO A PERSON, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION UNTIL THE PERSON, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION DEMONSTRATES COMPLIANCE WITH THIS PART 7.

(2) THE BOARD MAY APPLY TO A COURT OF COMPETENT JURISDICTION FOR AN ORDER ENJOINING AN ACT OR PRACTICE THAT CONSTITUTES A VIOLATION OF THIS PART 7, AND, UPON A SHOWING THAT A PERSON, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION IS ENGAGING OR INTENDS TO ENGAGE IN AN ACT OR PRACTICE THAT VIOLATES THIS PART 7, THE COURT SHALL GRANT AN INJUNCTION, RESTRAINING ORDER, OR OTHER APPROPRIATE ORDER, REGARDLESS OF THE EXISTENCE OF ANOTHER REMEDY FOR THE VIOLATION. ANY NOTICE, HEARING, OR DURATION OF AN INJUNCTION OR RESTRAINING ORDER SHALL BE MADE IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE.

(3) ANY PERSON, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION VIOLATING THIS PART 7 BY ACTING AS AN APPRAISAL MANAGEMENT COMPANY WITHOUT HAVING OBTAINED A LICENSE OR ACTING AS AN APPRAISAL MANAGEMENT COMPANY AFTER THE APPRAISAL MANAGEMENT COMPANY'S LICENSE HAS BEEN REVOKED OR DURING ANY PERIOD FOR WHICH THE LICENSE WAS SUSPENDED IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF:

(a) IF A NATURAL PERSON, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT, FOR THE FIRST VIOLATION AND, FOR A SECOND OR SUBSEQUENT VIOLATION, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT; AND

(b) IF AN ENTITY, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS.

**12-61-718. [Formerly 12-61-713] Injunctive proceedings.**

(1) THE BOARD MAY, IN THE NAME OF THE PEOPLE OF THE STATE OF COLORADO, THROUGH THE ATTORNEY GENERAL OF THE STATE OF COLORADO, APPLY FOR AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO PERPETUALLY ENJOIN A PERSON OR APPRAISAL MANAGEMENT COMPANY FROM COMMITTING AN ACT PROHIBITED BY THIS PART 7.

(2) INJUNCTIVE PROCEEDINGS UNDER THIS SECTION ARE IN ADDITION



TO AND NOT IN LIEU OF PENALTIES AND OTHER REMEDIES PROVIDED IN THIS PART 7.

(3) WHEN SEEKING AN INJUNCTION UNDER THIS SECTION, THE BOARD IS NOT REQUIRED TO ALLEGE OR PROVE EITHER THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD RESULT FROM A CONTINUED VIOLATION.

**12-61-719. [Formerly 12-61-714] Special provision for appraiser employees of county assessors.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, UNLESS A FEDERAL WAIVER IS APPLIED FOR AND GRANTED PURSUANT TO SECTION 12-61-704 (1) (i), A PERSON ACTING AS A REAL ESTATE APPRAISER IN THIS STATE SHALL BE LICENSED OR CERTIFIED AS PROVIDED IN THIS PART 7. NO PERSON SHALL PRACTICE WITHOUT A LICENSE OR CERTIFICATE OR HOLD HIMSELF OR HERSELF OUT TO THE PUBLIC AS A LICENSED OR CERTIFIED REAL ESTATE APPRAISER UNLESS LICENSED OR CERTIFIED PURSUANT TO THIS PART 7.

(2) AN APPRAISER EMPLOYEE OF A COUNTY ASSESSOR WHO IS EMPLOYED TO APPRAISE REAL PROPERTY SHALL BE LICENSED OR CERTIFIED AS PROVIDED IN THIS PART 7 AND SHALL HAVE TWO YEARS FROM THE DATE OF TAKING OFFICE OR THE BEGINNING OF EMPLOYMENT TO COMPLY WITH THIS PART 7.

**12-61-720. [Formerly 12-61-715] Duties of board under federal law.** (1) THE BOARD SHALL:

(a) TRANSMIT TO THE APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATIONS COUNCIL OR ITS SUCCESSOR ENTITY, NO LESS THAN ANNUALLY, A ROSTER LISTING INDIVIDUALS AND APPRAISAL MANAGEMENT COMPANIES THAT HAVE RECEIVED A CERTIFICATE OR LICENSE AS PROVIDED IN THIS PART 7;

(b) COLLECT FROM INDIVIDUALS AND APPRAISAL MANAGEMENT COMPANIES THAT ARE LICENSED OR CERTIFIED PURSUANT TO THIS PART 7 AN ANNUAL REGISTRY FEE AS PRESCRIBED BY THE APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATIONS COUNCIL OR ITS SUCCESSOR ENTITY AND TRANSMIT THE FEE TO THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATIONS COUNCIL ON AN ANNUAL BASIS; AND

(c) CONDUCT ITS BUSINESS AND PROMULGATE RULES IN A MANNER CONSISTENT WITH TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, PUB.L. 101-73.

(2) THE BOARD SHALL NOT COLLECT OR TRANSMIT THE INFORMATION REQUIRED BY THIS SECTION FOR LICENSED AD VALOREM APPRAISERS.

**12-61-721. [Formerly 12-61-716] Business entities.** (1) A CORPORATION, PARTNERSHIP, BANK, SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, CREDIT UNION, OR OTHER BUSINESS ENTITY MAY PROVIDE APPRAISAL SERVICES IF THE APPRAISAL IS PREPARED BY A CERTIFIED GENERAL APPRAISER, A CERTIFIED RESIDENTIAL APPRAISER, OR A LICENSED APPRAISER. AN INDIVIDUAL WHO IS NOT A CERTIFIED GENERAL APPRAISER, A CERTIFIED RESIDENTIAL APPRAISER, OR A LICENSED APPRAISER MAY ASSIST IN THE PREPARATION OF AN APPRAISAL IF:

(a) THE ASSISTANT IS UNDER THE DIRECT SUPERVISION OF A CERTIFIED OR LICENSED APPRAISER; AND

(b) THE FINAL APPRAISAL DOCUMENT IS APPROVED AND SIGNED BY AN INDIVIDUAL WHO IS A CERTIFIED OR LICENSED APPRAISER.

**12-61-722. [Formerly 12-61-717] Provisions found not to comply with federal law null and void - severability.** (1) IF ANY PROVISION OF THIS PART 7 IS FOUND BY A COURT OF COMPETENT JURISDICTION OR BY THE APPROPRIATE FEDERAL AGENCY NOT TO COMPLY WITH THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, PUB.L. 101-73, THE PROVISION IS NULL AND VOID, BUT THE REMAINING PROVISIONS OF THIS PART 7 ARE VALID UNLESS THE REMAINING PROVISIONS ALONE ARE INCOMPLETE AND ARE INCAPABLE OF BEING EXECUTED IN ACCORDANCE WITH THE LEGISLATIVE INTENT OF THIS PART 7.

(2) IF THE REGULATION OF APPRAISAL MANAGEMENT COMPANIES IS REPEALED FROM TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, PUB.L. 101-73, THE BOARD'S JURISDICTION OVER THESE ENTITIES IS ALSO REPEALED. BEFORE THE REPEAL, THE DIVISION SHALL REVIEW THE

REGULATION OF APPRAISAL MANAGEMENT COMPANIES AS PROVIDED IN SECTION 24-34-104, C.R.S. IF THE BOARD'S JURISDICTION IS REPEALED, THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES OF THE DATE OF THE REPEAL.

**12-61-723. [Formerly 12-61-718] Scope of article - regulated financial institutions - de minimis exemption.** (1) (a) THIS ARTICLE DOES NOT APPLY TO AN APPRAISAL RELATING TO ANY REAL ESTATE-RELATED TRANSACTION OR LOAN MADE OR TO BE MADE BY A FINANCIAL INSTITUTION OR ITS AFFILIATE IF THE REAL ESTATE-RELATED TRANSACTION OR LOAN IS EXCEPTED FROM APPRAISAL REGULATIONS ESTABLISHED BY THE PRIMARY FEDERAL REGULATOR OF THE FINANCIAL INSTITUTION AND THE APPRAISAL IS PERFORMED BY:

(I) AN OFFICER, DIRECTOR, OR REGULAR SALARIED EMPLOYEE OF THE FINANCIAL INSTITUTION OR ITS AFFILIATE; OR

(II) A REAL ESTATE BROKER LICENSED UNDER THIS ARTICLE WITH WHOM SAID INSTITUTION OR AFFILIATE HAS CONTRACTED FOR PERFORMANCE OF THE APPRAISAL.

(b) THE APPRAISAL MUST NOT BE REPRESENTED OR DEEMED TO BE AN APPRAISAL EXCEPT TO THE FINANCIAL INSTITUTION, THE AGENCIES REGULATING THE FINANCIAL INSTITUTION, AND ANY SECONDARY MARKETS THAT PURCHASE REAL ESTATE SECURED LOANS. THE APPRAISAL MUST CONTAIN A WRITTEN NOTICE THAT THE PREPARER IS NOT LICENSED OR CERTIFIED AS AN APPRAISER UNDER THIS PART 7. NOTHING IN THIS SUBSECTION (1) EXEMPTS A PERSON LICENSED OR CERTIFIED AS AN APPRAISER UNDER THIS PART 7 FROM REGULATION AS PROVIDED IN THIS PART 7.

(2) NOTHING IN THIS ARTICLE LIMITS THE ABILITY OF ANY FEDERAL OR STATE REGULATOR OF A FINANCIAL INSTITUTION TO REQUIRE THE FINANCIAL INSTITUTION TO OBTAIN APPRAISALS AS SPECIFIED BY THE REGULATOR.

**12-61-724. [Formerly 12-61-720] Certification of conservation easement holders - fund created - rules - repeal - definition.** (1) THE DIVISION SHALL, IN CONSULTATION WITH THE COMMISSION CREATED IN SECTION 12-61-725, ESTABLISH AND ADMINISTER A CERTIFICATION

PROGRAM FOR QUALIFIED ORGANIZATIONS UNDER SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE PURPOSES OF THE PROGRAM ARE TO:

(a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE PROFESSIONALISM AND STABILITY; AND

(b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS, AS DETERMINED UNDER THE RULES OF THE DIVISION, TO PREVENT THEM FROM BECOMING CERTIFIED BY THE PROGRAM.

(2) THE DIVISION SHALL ESTABLISH AND ACCEPT APPLICATIONS FOR CERTIFICATION. THE DIVISION SHALL CONDUCT A REVIEW OF EACH APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING CERTIFICATION, THE DIVISION AND THE COMMISSION MAY CONSIDER:

(a) THE APPLICANT'S PROCESS FOR REVIEWING, SELECTING, AND APPROVING A POTENTIAL CONSERVATION EASEMENT;

(b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY, INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE PURPOSES OF THE EASEMENT;

(c) AN AUDIT OF THE APPLICANT'S FINANCIAL RECORDS;

(d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND INSIDERS. FOR PURPOSES OF THIS PARAGRAPH (d), "INSIDERS" MEANS BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

(e) ANY OTHER INFORMATION DEEMED RELEVANT BY THE DIVISION OR THE COMMISSION; AND

(f) THE UNIQUE CIRCUMSTANCES OF THE DIFFERENT ENTITIES TO WHICH THIS CERTIFICATION APPLIES AS SET FORTH IN SUBSECTION (4) OF THIS SECTION.

(3) AT THE TIME OF SUBMISSION OF AN APPLICATION, AND EACH YEAR THE ENTITY IS CERTIFIED PURSUANT TO THIS SECTION, THE APPLICANT SHALL PAY THE DIVISION A FEE, AS PRESCRIBED BY THE DIVISION, TO COVER THE COSTS OF THE DIVISION AND THE COMMISSION IN ADMINISTERING THE CERTIFICATION PROGRAM FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS FOR WHICH TAX CREDITS ARE CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE DIVISION SHALL HAVE THE AUTHORITY TO ACCEPT AND EXPEND GIFTS, GRANTS, AND DONATIONS FOR THE PURPOSES OF THIS SECTION. THE STATE TREASURER SHALL CREDIT FEES, GIFTS, GRANTS, AND DONATIONS COLLECTED PURSUANT TO THIS SUBSECTION (3) TO THE CONSERVATION EASEMENT HOLDER CERTIFICATION FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION TO THE DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS SECTION AND DO NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S. ON OR BEFORE EACH JANUARY 1, THE DIVISION SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF THE FEE PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (3).

(4) THE CERTIFICATION PROGRAM APPLIES TO:

(a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH CONSERVATION VALUES CONSISTING OF RECREATION OR EDUCATION, PROTECTION OF ENVIRONMENTAL SYSTEMS, OR PRESERVATION OF OPEN SPACE;

(b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY FOR HISTORIC PRESERVATION; AND

(c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE THAT HOLDS AN EASEMENT.

(5) THE CERTIFICATION PROGRAM MAY CONTAIN A PROVISION ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION OF AN ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE CONSERVATION INDUSTRY.

(6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND MAKE RECOMMENDATIONS TO THE DIVISION REGARDING THE CERTIFICATION PROGRAM. THE DIVISION IS AUTHORIZED TO DETERMINE WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE NECESSARY QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES ADOPTED BY THE DIVISION. IF THE DIVISION DETERMINES THAT AN APPLICANT DOES NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 7, THE RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE RENEWAL OF A CERTIFICATION, AND, IN SUCH INSTANCE, THE DIVISION SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE APPLICANT MAY REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION 24-4-104 (9), C.R.S. THE DIVISION SHALL NOTIFY SUCCESSFUL APPLICANTS IN WRITING. AN APPLICANT THAT IS NOT CERTIFIED MAY REAPPLY FOR CERTIFICATION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE DIVISION.

(7) THE DIVISION SHALL IMPLEMENT THE CERTIFICATION PROGRAM IN A MANNER THAT EITHER COMMENCES ACCEPTING APPLICATIONS FOR CERTIFICATION:

(a) AT THE SAME TIME FOR ALL TYPES OF ENTITIES THAT HOLD CONSERVATION EASEMENTS; OR

(b) DURING THE FIRST YEAR OF THE PROGRAM FOR ENTITIES DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION AND DURING THE SECOND YEAR OF THE PROGRAM FOR ENTITIES DESCRIBED IN PARAGRAPHS (b) AND (c) OF SUBSECTION (4) OF THIS SECTION, AND OTHER ENTITIES.

(8) A CONSERVATION EASEMENT TAX CREDIT CERTIFICATE APPLICATION MAY BE SUBMITTED PURSUANT TO SECTION 12-61-727 ONLY IF THE ENTITY HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS SECTION AT

THE TIME THE DONATION OF THE EASEMENT IS MADE. THE DIVISION SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC CONCERNING THE DATE THAT IT COMMENCES ACCEPTING APPLICATIONS FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS AND THE REQUIREMENTS OF THIS SUBSECTION (8).

(9) **[Formerly 12-61-720 (10)]** THE DIVISION SHALL MAINTAIN AND UPDATE AN ONLINE LIST, ACCESSIBLE TO THE PUBLIC, OF THE ORGANIZATIONS THAT HAVE APPLIED FOR CERTIFICATION AND WHETHER EACH HAS BEEN CERTIFIED, REJECTED FOR CERTIFICATION, OR HAD ITS CERTIFICATION REVOKED OR SUSPENDED IN ACCORDANCE WITH THIS SECTION.

(10) **[Formerly 12-61-720 (11)]** THE DIVISION MAY INVESTIGATE THE ACTIVITIES OF ANY ENTITY THAT IS REQUIRED TO BE CERTIFIED PURSUANT TO THIS SECTION AND TO IMPOSE DISCIPLINE FOR NONCOMPLIANCE, INCLUDING THE SUSPENSION OR REVOCATION OF A CERTIFICATION OR THE IMPOSITION OF FINES. THE DIVISION MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., FOR THE CERTIFICATION PROGRAM AND DISCIPLINE AUTHORIZED BY THIS SECTION.

(11) **[Formerly 12-61-720 (11.5)]** THE DIVISION MAY SUBPOENA PERSONS AND DOCUMENTS, WHICH SUBPOENAS MAY BE ENFORCED BY A COURT OF COMPETENT JURISDICTION IF NOT OBEYED, FOR PURPOSES OF CONDUCTING INVESTIGATIONS PURSUANT TO SUBSECTION (10) OF THIS SECTION.

(12) NOTHING IN THIS SECTION:

(a) AFFECTS ANY TAX CREDIT THAT WAS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S., BEFORE CERTIFICATION WAS REQUIRED BY THIS SECTION; OR

(b) REQUIRES THE CERTIFICATION OF AN ENTITY THAT HOLDS A CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S.

(13) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018. PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW

THE CERTIFICATION REQUIREMENT AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

**12-61-725. [Formerly 12-61-721] Conservation easement oversight commission - created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A CONSERVATION EASEMENT OVERSIGHT COMMISSION. THE COMMISSION SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DIVISION AS IF TRANSFERRED THERETO BY A **TYPE 2** TRANSFER, AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S. THE COMMISSION CONSISTS OF NINE MEMBERS AS FOLLOWS:

(a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS COLORADO PROGRAM, APPOINTED BY AND SERVING AT THE PLEASURE OF THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND ESTABLISHED IN ARTICLE XXVII OF THE STATE CONSTITUTION;

(b) ONE MEMBER REPRESENTING THE DEPARTMENT OF NATURAL RESOURCES, APPOINTED BY AND SERVING AT THE PLEASURE OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES;

(c) ONE MEMBER REPRESENTING THE DEPARTMENT OF AGRICULTURE, APPOINTED BY AND SERVING AT THE PLEASURE OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE;

(d) SIX MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS, WITH AT LEAST ONE MEMBER WITH THE FOLLOWING QUALIFICATIONS OR REPRESENTING THE FOLLOWING INTERESTS:

(I) A LAND TRUST CERTIFIED IN ACCORDANCE WITH SECTION 12-61-724;

(II) A LAND TRUST OR LOCAL GOVERNMENT OPEN SPACE OR LAND CONSERVATION AGENCY CERTIFIED IN ACCORDANCE WITH SECTION 12-61-724;

(III) A LOCAL GOVERNMENT OPEN SPACE OR LAND CONSERVATION AGENCY CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12-61-724;



(IV) AN INDIVIDUAL WHO IS COMPETENT AND QUALIFIED TO ANALYZE THE CONSERVATION PURPOSE OF CONSERVATION EASEMENTS;

(V) A CERTIFIED GENERAL APPRAISER WITH EXPERIENCE IN CONSERVATION EASEMENTS WHO MEETS ANY CLASSROOM EDUCATION AND EXPERIENCE REQUIREMENTS ESTABLISHED BY THE BOARD IN ACCORDANCE WITH SECTION 12-61-704 (1) (k); AND

(VI) A LANDOWNER THAT HAS DONATED A CONSERVATION EASEMENT IN COLORADO.

(2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE COMMISSION APPOINTED PURSUANT TO PARAGRAPHS (a) TO (c) OF SUBSECTION (1) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT THE APPOINTEE REPRESENTS. NOT MORE THAN THREE OF THE GOVERNOR'S APPOINTEES SERVING AT THE SAME TIME SHALL BE FROM THE SAME POLITICAL PARTY. IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR SHALL APPOINT THREE MEMBERS FOR TERMS OF TWO YEARS. ALL OTHER APPOINTMENTS BY THE GOVERNOR ARE FOR TERMS OF THREE YEARS. NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE EVENT OF A VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE, THE GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM. THE GOVERNOR MAY REMOVE ANY MEMBER FOR MISCONDUCT, NEGLIGENCE OF DUTY, OR INCOMPETENCE.

(3) (a) AT THE REQUEST OF THE DIVISION OR THE DEPARTMENT OF REVENUE, THE COMMISSION SHALL ADVISE THE DIVISION AND THE DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR WHICH A STATE INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S.

(b) **[Formerly 12-61-721 (3) (c)]** THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT TAX CREDIT CERTIFICATE APPLICATIONS AND REQUESTS FOR OPTIONAL PRELIMINARY ADVISORY OPINIONS IN ACCORDANCE WITH SECTION 12-61-727.

(4) THE COMMISSION SHALL MEET NOT LESS THAN ONCE EACH QUARTER. THE DIVISION SHALL CONVENE THE MEETINGS OF THE COMMISSION AND PROVIDE STAFF SUPPORT AS REQUESTED BY THE

COMMISSION. A MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM FOR THE TRANSACTION OF ALL BUSINESS, AND ACTIONS OF THE COMMISSION REQUIRE A VOTE OF A MAJORITY OF THE MEMBERS PRESENT IN FAVOR OF THE ACTION TAKEN. THE COMMISSION MAY DELEGATE TO THE DIRECTOR THE AUTHORITY TO ACT ON BEHALF OF THE COMMISSION ON OCCASIONS AND IN CIRCUMSTANCES THAT THE COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES UNDER THIS PART 7.

(5) THE COMMISSION SHALL ESTABLISH A CONFLICT-OF-INTEREST POLICY TO ENSURE THAT ANY MEMBER OF THE COMMISSION IS DISQUALIFIED FROM PERFORMING AN ACT THAT CONFLICTS WITH A PRIVATE PECUNIARY INTEREST OF THE MEMBER OR FROM PARTICIPATING IN THE DELIBERATION OR DECISION-MAKING PROCESS FOR CERTIFICATION FOR AN APPLICANT REPRESENTED BY THE MEMBER.

(6) (a) THE COMMISSION SHALL ADVISE AND MAKE RECOMMENDATIONS TO THE DIRECTOR REGARDING THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE WITH SECTION 12-61-724. THE DIVISION MAY DETERMINE WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE NECESSARY QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES ADOPTED BY THE DIVISION.

(b) IF THE DIVISION DETERMINES THAT AN APPLICANT DOES NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 7, THE RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE RENEWAL OF A CERTIFICATION. IN SUCH INSTANCE, THE DIVISION SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE APPLICANT MAY REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION 24-4-104 (9), C.R.S.

(c) THE DIVISION SHALL NOTIFY SUCCESSFUL APPLICANTS IN WRITING.

(d) AN APPLICANT THAT IS NOT CERTIFIED MAY REAPPLY FOR CERTIFICATION IN ACCORDANCE WITH THE PROCEDURE ESTABLISHED BY THE DIVISION.

(7) **[Formerly 12-61-721 (6.5)]** COMMISSION MEMBERS ARE IMMUNE FROM LIABILITY IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

(8) **[Formerly 12-61-721 (7)]** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018. PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE COMMISSION AS PROVIDED IN SECTION 24-34-104, C.R.S.

**12-61-726. [Formerly 12-61-722] Conservation easement tax credit certificates - rules.** (1) THE DIVISION SHALL RECEIVE TAX CREDIT CERTIFICATE APPLICATIONS FROM AND ISSUE CERTIFICATES TO LANDOWNERS FOR INCOME TAX CREDITS FOR CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2011, IN ACCORDANCE WITH SECTION 39-22-522 (2.5), C.R.S., AND THIS PART 7. NOTHING IN THIS SECTION RESTRICTS OR LIMITS THE AUTHORITY OF THE DIVISION TO ENFORCE THIS PART 7. THE DIVISION MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., FOR THE ISSUANCE OF THE CERTIFICATES. IN PROMULGATING RULES, THE DIVISION MAY INCLUDE PROVISIONS GOVERNING:

(a) THE REVIEW OF THE TAX CREDIT CERTIFICATE APPLICATION PURSUANT TO THIS PART 7;

(b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION PROCESS;

(c) THE NOTIFICATION TO THE PUBLIC REGARDING THE AGGREGATE AMOUNT OF TAX CREDIT CERTIFICATES THAT HAVE BEEN ISSUED AND THAT ARE ON THE WAIT LIST;

(d) THE NOTIFICATION TO THE LANDOWNER, THE ENTITY TO WHICH THE EASEMENT WAS GRANTED, AND THE DEPARTMENT OF REVENUE REGARDING THE TAX CREDIT CERTIFICATES ISSUED; AND

(e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION 39-22-522 (2.5), C.R.S., OR THIS PART 7.

(2) THE DIVISION SHALL APPLY THE AMOUNT CLAIMED IN A

COMPLETED TAX CREDIT CERTIFICATE APPLICATION AGAINST THE ANNUAL TAX CREDIT LIMIT IN THE ORDER THAT COMPLETED APPLICATIONS ARE RECEIVED. THE DIVISION SHALL APPLY CLAIMED TAX CREDIT AMOUNTS THAT EXCEED THE ANNUAL LIMIT IN ANY YEAR AGAINST THE LIMIT FOR THE NEXT AVAILABLE YEAR AND ISSUE TAX CREDIT CERTIFICATES FOR USE IN THE YEAR IN WHICH THE AMOUNT WAS APPLIED TO THE ANNUAL LIMIT.

(3) THE DIVISION SHALL NOT ISSUE TAX CREDIT CERTIFICATES THAT IN AGGREGATE EXCEED THE LIMIT SET FORTH IN SECTION 39-22-522 (2.5), C.R.S., DURING A PARTICULAR CALENDAR YEAR.

**12-61-727. [Formerly 12-61-723] Conservation easement tax credit certificate application process - conservation easement tax credit certificate review fund - created - definitions - rules.** (1) FOR PURPOSES OF THIS SECTION:

(a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-726 OR THIS SECTION.

(b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH SECTION.

(c) "CREDIBILITY" MEANS THE RESULTS ARE WORTHY OF BELIEF AND ARE SUPPORTED BY RELEVANT EVIDENCE AND LOGIC TO THE DEGREE NECESSARY FOR THE INTENDED USE.

(d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS SECTION.

(e) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REAL ESTATE OR HIS OR HER DESIGNEE.

(f) "LANDOWNER" MEANS THE RECORD OWNER OF THE SURFACE OF THE LAND AND, IF APPLICABLE, OWNER OF THE WATER OR WATER RIGHTS BENEFICIALLY USED THEREON WHO CREATES A CONSERVATION EASEMENT

IN GROSS PURSUANT TO SECTION 38-30.5-104, C.R.S.

(g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION 12-61-726 AND THIS SECTION.

(2) (a) THE DIVISION SHALL ESTABLISH AND ADMINISTER A PROCESS BY WHICH A LANDOWNER SEEKING TO CLAIM AN INCOME TAX CREDIT FOR ANY CONSERVATION EASEMENT DONATION MADE ON OR AFTER JANUARY 1, 2014, MUST APPLY FOR A TAX CREDIT CERTIFICATE AS REQUIRED BY SECTION 39-22-522 (2.5) AND (2.7), C.R.S. THE PURPOSE OF THE APPLICATION PROCESS IS TO DETERMINE WHETHER A CONSERVATION EASEMENT DONATION FOR WHICH A TAX CREDIT WILL BE CLAIMED:

(I) IS A CONTRIBUTION OF A QUALIFIED REAL PROPERTY INTEREST TO A QUALIFIED ORGANIZATION TO BE USED EXCLUSIVELY FOR A CONSERVATION PURPOSE;

(II) IS SUBSTANTIATED WITH A QUALIFIED APPRAISAL PREPARED BY A QUALIFIED APPRAISER IN ACCORDANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE; AND

(III) COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

(b) THE LANDOWNER HAS THE BURDEN OF PROOF REGARDING COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS.

(3) FOR THE PURPOSE OF REVIEWING APPLICATIONS AND MAKING DETERMINATIONS REGARDING THE ISSUANCE OF TAX CREDIT CERTIFICATES, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT CERTIFICATE TO BE ISSUED:

(a) DIVISION STAFF SHALL REVIEW EACH APPLICATION AND ADVISE AND MAKE RECOMMENDATIONS TO THE DIRECTOR AND THE COMMISSION REGARDING THE APPLICATION;

(b) THE DIRECTOR HAS AUTHORITY AND RESPONSIBILITY TO DETERMINE THE CREDIBILITY OF THE APPRAISAL. IN DETERMINING CREDIBILITY, THE DIRECTOR SHALL CONSIDER, AT A MINIMUM, COMPLIANCE WITH THE FOLLOWING REQUIREMENTS:

(I) THE APPRAISAL FOR A CONSERVATION EASEMENT DONATION FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S., IS A QUALIFIED APPRAISAL FROM A QUALIFIED APPRAISER, AS DEFINED IN SECTION 170 (f) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH SECTION;

(II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER PROVISION OF LAW;

(III) THE APPRAISER HOLDS A VALID LICENSE AS A CERTIFIED GENERAL APPRAISER IN ACCORDANCE WITH THIS PART 7; AND

(IV) THE APPRAISER MEETS ANY EDUCATION AND EXPERIENCE REQUIREMENTS ESTABLISHED BY THE BOARD OF REAL ESTATE APPRAISERS IN ACCORDANCE WITH SECTION 12-61-704 (1) (k).

(c) THE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION 12-61-724.

(d) THE COMMISSION HAS THE AUTHORITY AND RESPONSIBILITY TO DETERMINE WHETHER A CONSERVATION EASEMENT DONATION FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S., IS A QUALIFIED CONSERVATION CONTRIBUTION AS DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH SECTION.

(4) THE DEPARTMENT OF REVENUE IS NOT AUTHORIZED TO DISALLOW A CONSERVATION EASEMENT TAX CREDIT BASED ON ANY REQUIREMENTS THAT ARE UNDER THE JURISDICTION OF THE DIVISION, THE DIRECTOR, OR THE COMMISSION PURSUANT TO THIS SECTION.

(5) A COMPLETE TAX CREDIT CERTIFICATE APPLICATION MUST BE MADE BY THE LANDOWNER TO THE DIVISION AND MUST INCLUDE:

(a) A COPY OF THE FINAL CONSERVATION EASEMENT APPRAISAL;

(b) A COPY OF THE RECORDED DEED GRANTING THE CONSERVATION EASEMENT;

(c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE OF THE EASEMENT;

(d) ANY OTHER INFORMATION OR DOCUMENTATION THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL DETERMINATION REGARDING THE APPLICATION; AND

(e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION (14) OF THIS SECTION SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY THE DIVISION. THE APPLICATION FEE FOR AN OPTIONAL PRELIMINARY ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT THAN THE APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES MUST COVER THE COSTS OF THE DIVISION AND THE COMMISSION IN ADMINISTERING THE REQUIREMENTS OF THIS SECTION. THE STATE TREASURER SHALL CREDIT THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE CONSERVATION EASEMENT TAX CREDIT CERTIFICATE REVIEW FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS IN THE FUND TO THE DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS SECTION. THE MONEYS SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S. ON OR BEFORE JANUARY 1, 2014, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF ANY FEES PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (6).

(7) (a) IF, DURING THE REVIEW OF AN APPLICATION FOR A TAX CREDIT CERTIFICATE, THE DIRECTOR OR THE COMMISSION IDENTIFIES ANY POTENTIAL DEFICIENCIES, THE DIRECTOR OR COMMISSION SHALL DOCUMENT THE POTENTIAL DEFICIENCIES IN A LETTER SENT TO THE LANDOWNER BY FIRST CLASS MAIL. THE DIVISION SHALL SEND LETTERS DOCUMENTING POTENTIAL DEFICIENCIES TO LANDOWNERS IN A TIMELY MANNER SO THAT

THE AVERAGE NUMBER OF DAYS BETWEEN THE DATE A COMPLETED APPLICATION IS RECEIVED BY THE DIVISION AND THE MAILING DATE OF THE DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED ONE HUNDRED TWENTY DAYS.

(b) THE LANDOWNER HAS SIXTY DAYS AFTER THE MAILING DATE OF THE DIVISION'S LETTER TO ADDRESS THE POTENTIAL DEFICIENCIES IDENTIFIED BY THE DIRECTOR AND THE COMMISSION AND PROVIDE ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL DETERMINATION REGARDING THE APPLICATION.

(c) THE DIRECTOR AND THE COMMISSION HAVE NINETY DAYS AFTER THE DATE OF RECEIPT OF ANY ADDITIONAL INFORMATION OR DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW THE INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION REGARDING THE APPLICATION.

(d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE DIRECTOR AND THE COMMISSION AND THE LANDOWNER.

(8) THE DIRECTOR OR THE COMMISSION MAY DENY AN APPLICATION IF THE LANDOWNER:

(a) HAS NOT DEMONSTRATED TO THE SATISFACTION OF THE DIRECTOR OR THE COMMISSION THAT THE APPLICATION COMPLIES WITH ANY REQUIREMENT OF THIS PART 7;

(b) DOES NOT PROVIDE THE INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO THIS PART 7; OR

(c) FAILS TO TIMELY RESPOND TO ANY WRITTEN REQUEST OR NOTICE FROM THE DIVISION, THE DIRECTOR, OR THE COMMISSION.

(9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE DIRECTOR, AFTER CONSULTATION WITH THE COMMISSION, MAY REQUIRE THE LANDOWNER, AT THE LANDOWNER'S EXPENSE, TO OBTAIN EITHER A REVISED APPRAISAL OR A SECOND APPRAISAL FROM AN APPRAISER WHO MEETS THE



REQUIREMENTS OF THIS PART 7 AND IS IN GOOD STANDING WITH THE BOARD BEFORE MAKING A FINAL DETERMINATION REGARDING THE APPLICATION.

(10) IF THE DIRECTOR AND THE COMMISSION DO NOT IDENTIFY ANY POTENTIAL DEFICIENCIES WITH AN APPLICATION, THE DIRECTOR AND THE COMMISSION SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION 12-61-726 IN A TIMELY MANNER SO THAT THE AVERAGE NUMBER OF DAYS BETWEEN THE DATE A COMPLETED APPLICATION IS RECEIVED BY THE DIVISION AND THE DATE THE TAX CREDIT CERTIFICATE IS ISSUED DOES NOT EXCEED ONE HUNDRED TWENTY DAYS. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE PROCEDURES AND REQUIREMENTS UNDER TITLE 39, C.R.S.

(11) (a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE DIRECTOR AND THE COMMISSION, THE DIRECTOR AND THE COMMISSION SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION 12-61-726. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE PROCEDURES AND REQUIREMENTS UNDER TITLE 39, C.R.S.

(b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE DIVISION SHALL DATE THE WRITTEN DENIAL AND SEND IT BY FIRST CLASS MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE LANDOWNER ON THE APPLICATION. THE DIRECTOR MAY ACT ON BEHALF OF THE COMMISSION FOR PURPOSES OF ADMINISTERING THE PROCESS FOR ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR ADMINISTERING SUBSECTION (12) OF THIS SECTION.

(12) (a) THE LANDOWNER MAY APPEAL TO THE DIRECTOR EITHER THE DIRECTOR'S OR THE COMMISSION'S DENIAL OF AN APPLICATION, IN WRITING, WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE DENIAL. THIS WRITTEN APPEAL CONSTITUTES A REQUEST FOR AN ADMINISTRATIVE

HEARING.

(b) IF THE LANDOWNER FAILS TO APPEAL THE DENIAL OF AN APPLICATION WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE DENIAL, THE DENIAL BECOMES FINAL, AND THE DIVISION SHALL NOT ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER.

(c) ADMINISTRATIVE HEARINGS MUST BE CONDUCTED IN ACCORDANCE WITH SECTION 24-4-105, C.R.S. AT THE DISCRETION OF THE DIRECTOR, HEARINGS MAY BE CONDUCTED BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR OR THE COMMISSION OR AN ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL. ALL HEARINGS MUST BE HELD IN THE COUNTY WHERE THE DIVISION IS LOCATED UNLESS THE DIRECTOR DESIGNATES OTHERWISE. THE DECISION OF THE DIRECTOR OR THE COMMISSION IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS AND IS SUBJECT TO THE PROVISIONS OF SECTION 24-4-106, C.R.S.

(d) IN CONDUCTING SETTLEMENT DISCUSSIONS WITH A LANDOWNER, THE DIRECTOR AND THE COMMISSION MAY COMPROMISE ON ANY OF THE DEFICIENCIES IDENTIFIED IN THE APPLICATION AND SUPPORTING DOCUMENTATION, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT CERTIFICATE TO BE ISSUED. THE DIRECTOR SHALL PLACE ON FILE IN THE DIVISION A RECORD OF ANY COMPROMISE AND THE REASONS FOR THE COMPROMISE.

(e) THE DIRECTOR MAY PROMULGATE RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., TO EFFECTUATE THE PURPOSES OF THIS SUBSECTION (12).

(13) (a) COMMENCING WITH THE 2014 CALENDAR YEAR, AND FOR EACH CALENDAR YEAR THEREAFTER, THE DIVISION SHALL CREATE A REPORT, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC, CONTAINING THE FOLLOWING AGGREGATE INFORMATION:

(I) THE TOTAL NUMBER OF TAX CREDIT CERTIFICATE APPLICATIONS RECEIVED, APPROVED, AND DENIED IN ACCORDANCE WITH THIS SECTION, ALONG WITH AVERAGE PROCESSING TIMES;

(II) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS

SECTION:

(A) THE TOTAL ACREAGE UNDER EASEMENT SUMMARIZED BY THE ALLOWABLE CONSERVATION PURPOSES AS DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH SECTION;

(B) THE TOTAL APPRAISED VALUE OF THE EASEMENTS;

(C) THE TOTAL DONATED VALUE OF THE EASEMENTS; AND

(D) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES ISSUED.

(b) THE DIVISION MAY INCLUDE ADDITIONAL EASEMENT-SPECIFIC INFORMATION IN THE PUBLIC REPORT THAT, NOTWITHSTANDING THE PROVISIONS OF THIS PART 7 OR ANY OTHER LAW TO THE CONTRARY, WOULD OTHERWISE BE PUBLICLY AVAILABLE.

(14) (a) IN ADDITION TO THE TAX CREDIT CERTIFICATE APPLICATION PROCESS SET FORTH IN THIS SECTION, A LANDOWNER MAY SUBMIT A PROPOSED CONSERVATION EASEMENT DONATION TO THE DIVISION TO OBTAIN AN OPTIONAL PRELIMINARY ADVISORY OPINION REGARDING THE TRANSACTION. THE OPINION MAY ADDRESS THE PROPOSED DEED OF CONSERVATION EASEMENT, APPRAISAL, CONSERVATION PURPOSE, OR OTHER RELEVANT ASPECT OF THE TRANSACTION.

(b) THE DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL REVIEW THE INFORMATION AND DOCUMENTATION PROVIDED IN A MANNER CONSISTENT WITH THE SCOPE OF THEIR AUTHORITY AND RESPONSIBILITIES FOR REVIEWING TAX CREDIT CERTIFICATE APPLICATIONS AS OUTLINED IN SUBSECTION (3) OF THIS SECTION AND ISSUE EITHER A FAVORABLE OPINION OR A NONFAVORABLE OPINION.

(c) THE DIRECTOR OR THE COMMISSION MAY REQUEST THAT THE LANDOWNER SUBMIT ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO COMPLETE THE REVIEW AND ISSUE AN OPINION.

(d) A NONFAVORABLE OPINION SHALL SET FORTH ANY POTENTIAL DEFICIENCIES IDENTIFIED BY THE DIRECTOR OR THE COMMISSION AND THAT FALL WITHIN THE SCOPE OF THE DIRECTOR'S AND THE COMMISSION'S REVIEW OF THE CONSERVATION EASEMENT TRANSACTION. THE PRELIMINARY OPINION IS ADVISORY ONLY AND IS NOT BINDING FOR ANY PURPOSE UPON THE DIVISION, THE DIRECTOR, THE COMMISSION, OR THE DEPARTMENT OF REVENUE.

(15) THE DIVISION MAY PROMULGATE RULES TO EFFECTUATE THE PURPOSE, IMPLEMENTATION, AND ADMINISTRATION OF THIS SECTION PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S. THE AUTHORITY TO PROMULGATE RULES INCLUDES THE AUTHORITY TO DEFINE FURTHER IN RULE THE ADMINISTRATIVE PROCESSES AND REQUIREMENTS, INCLUDING APPLICATION PROCESSING AND REVIEW TIME FRAMES, FOR OBTAINING AND ISSUING AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION (14) OF THIS SECTION.

(16) NOTWITHSTANDING THE PROVISIONS OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL DENY THE RIGHT OF PUBLIC INSPECTION OF ANY DOCUMENTATION OR OTHER RECORD RELATED TO INFORMATION OBTAINED AS PART OF AN INDIVIDUAL LANDOWNER'S APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO THE REQUIREMENTS OF THIS SECTION, INCLUDING DOCUMENTATION OR OTHER RECORDS RELATED TO ADMINISTRATIVE HEARINGS AND SETTLEMENT DISCUSSIONS HELD PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE DIVISION, THE DIRECTOR, AND THE COMMISSION MAY SHARE DOCUMENTATION OR OTHER RECORDS RELATED TO INFORMATION OBTAINED PURSUANT TO THIS SECTION WITH THE DEPARTMENT OF REVENUE.

(17) NOTHING IN THIS SECTION AFFECTS ANY TAX CREDIT THAT IS CLAIMED OR USED PURSUANT TO SECTION 39-22-522, C.R.S., FOR CONSERVATION EASEMENT DONATIONS OCCURRING PRIOR TO JANUARY 1, 2014.

**SECTION 2.** In Colorado Revised Statutes, 11-105-401, **amend** (1) (d) as follows:

**11-105-401. Acquisition of property to satisfy indebtedness.**

(1) A state bank may take property of any kind to satisfy, in whole or in part, or to protect indebtedness previously created in good faith by it. Property acquired by a state bank to apply on an indebtedness to a state bank shall be held subject to the following limitations:

(d) The property shall be entered on the books at not more than cost or fair market value, whichever is less, except as otherwise provided by the banking board. Each bank maintaining property acquired to satisfy indebtedness will obtain an initial written appraisal and subsequent appraisals as to fair market value by a qualified independent appraiser or such other person as the banking board may approve. Such subsequent appraisals shall be obtained pursuant to rules of the state banking board; except that, for purposes of this paragraph (d), an appraisal, as defined in section 12-61-702 (1), C.R.S., by an appraiser certified, licensed, or registered pursuant to section ~~12-61-708~~ 12-61-711, C.R.S., shall not be required on properties initially valued pursuant to this paragraph (d) at two hundred fifty thousand dollars or less. If such appraiser or other person approved by the banking board certifies in writing such appraiser's or other person's opinion that the fair market value has not declined, this opinion may be substituted for a subsequent appraisal.

**SECTION 3.** In Colorado Revised Statutes, 12-61-113, **amend** (1) (y) (III) as follows:

**12-61-113. Investigation - revocation - actions against licensee - repeal.** (1) The commission, upon its own motion, may, and, upon the complaint in writing of any person, shall, investigate the activities of any licensee or any person who assumes to act in such capacity within the state, and the commission, after the holding of a hearing pursuant to section 12-61-114, has the power to impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense and to censure a licensee, to place the licensee on probation and to set the terms of probation, or to temporarily suspend or permanently revoke a license when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:

(y) Within the last five years, having a license, registration, or certification issued by Colorado or another state revoked or suspended for fraud, deceit, material misrepresentation, theft, or the breach of a fiduciary duty, and such discipline denied the person authorization to practice as:

(III) A real estate appraiser, as defined by section 12-61-702 ~~(5)~~ (11);

**SECTION 4.** In Colorado Revised Statutes, 12-61-905, **amend** (1) (c) (IV) as follows:

**12-61-905. Powers and duties of the board.** (1) The board may deny an application for a license, refuse to renew, or revoke the license of an applicant or licensee who has:

(c) Except as otherwise set forth in this part 9, within the last five years, had a license, registration, or certification issued by Colorado or another state revoked or suspended for fraud, deceit, material misrepresentation, theft, or the breach of a fiduciary duty, and such discipline denied the person authorization to practice as:

(IV) A real estate appraiser, as defined by section 12-61-702 ~~(5)~~ (11);

**SECTION 5.** In Colorado Revised Statutes, 12-61-1010, **amend** (1) (p) (III) as follows:

**12-61-1010. Investigation - revocation - actions against licensee.** (1) The director, upon the director's own motion, may, and, upon the complaint in writing of any person, shall, investigate the activities of any community association manager or any person who assumes to act in such capacity within the state. The director, after holding a hearing in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., may impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense, censure a licensee, place the licensee on probation and set the terms of probation, or temporarily suspend or permanently revoke a license when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:

(p) Within the last five years, having a license, registration, or certification issued by Colorado or another state revoked or suspended for fraud, deceit, material misrepresentation, theft, or breach of a fiduciary duty, and such discipline denied the person authorization to practice as:

(III) A real estate appraiser, as defined by section 12-61-702 ~~(5)~~ (11);

**SECTION 6.** In Colorado Revised Statutes, 24-34-104, **amend** (49) (b) as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (49) The following agencies, functions, or both, shall terminate on July 1, 2018:

(b) The conservation easement oversight commission, created in ~~section 12-61-721~~ SECTION 12-61-725, C.R.S.;

**SECTION 7.** In Colorado Revised Statutes, 39-21-113, **amend** (17) as follows:

**39-21-113. Reports and returns - rule - repeal.** (17) Notwithstanding any other provision of this section, the executive director may require that such detailed information regarding a claim for a credit for the donation of a conservation easement in gross pursuant to section 39-22-522 and any appraisal submitted in support of the credit claimed be given to the division of real estate in the department of regulatory agencies and the conservation easement oversight commission created pursuant to ~~section 12-61-721~~ (1) SECTION 12-61-725 (1), C.R.S., as the executive director determines is necessary in the performance of the department's functions relating to the credit. The executive director may provide copies of any appraisal and may file a complaint regarding any appraisal as authorized pursuant to section 39-22-522 (3.3). Notwithstanding the provisions of part 2 of article 72 of title 24, C.R.S., in order to protect the confidential financial information of a taxpayer, the executive director shall deny the right to inspect any information or appraisal required in accordance with the provisions of this subsection (17).

**SECTION 8.** In Colorado Revised Statutes, 39-22-522, **amend** (2.5), (2.7), (3) (e), (3) (f) introductory portion, (3.3), (3.5), (3.6) (a) (I), and (3.6) (b) as follows:

**39-22-522. Credit against tax - conservation easements.** (2.5) Notwithstanding any other provision of this section and the requirements of ~~section 12-61-723~~ SECTION 12-61-727, C.R.S., for income

tax years commencing on or after January 1, 2011, a taxpayer conveying a conservation easement and claiming a credit pursuant to this section shall, in addition to any other requirements of this section and the requirements of ~~section 12-61-723~~ SECTION 12-61-727, C.R.S., submit a claim for the credit to the division of real estate in the department of regulatory agencies. The division shall issue a certificate for the claims received in the order submitted. After certificates have been issued for credits that exceed an aggregate of twenty-two million dollars for all taxpayers for the 2011 and 2012 calendar years, thirty-four million dollars for the 2013 calendar year, and forty-five million dollars for each calendar year thereafter, any claims that exceed the amount allowed for a specified calendar year shall be placed on a wait list in the order submitted and a certificate shall be issued for use of the credit in the next year for which the division has not issued credit certificates in excess of the amounts specified in this subsection (2.5); except that no more than fifteen million dollars in claims shall be placed on the wait list in any given calendar year. The division shall not issue credit certificates that exceed twenty-two million dollars in each of the 2011 and 2012 calendar years, thirty-four million dollars for the 2013 calendar year, and forty-five million dollars for each calendar year thereafter. No claim for a credit is allowed for any income tax year commencing on or after January 1, 2011, unless a certificate has been issued by the division. If all other requirements under ~~section 12-61-723~~ SECTION 12-61-727, C.R.S., and this section are met, the right to claim the credit is vested in the taxpayer at the time a credit certificate is issued.

(2.7) Notwithstanding any other provision, for income tax years commencing on or after January 1, 2014, no claim for a credit shall be allowed unless a tax credit certificate is issued by the division of real estate in accordance with ~~sections 12-61-722 and 12-61-723~~ SECTIONS 12-61-726 AND 12-61-727, C.R.S., and the taxpayer files the tax credit certificate with the income tax return filed with the department of revenue.

(3) For conservation easements donated prior to January 1, 2014, in order for any taxpayer to qualify for the credit provided for in subsection (2) of this section, the taxpayer shall submit the following in a form approved by the executive director to the department of revenue at the same time as the taxpayer files a return for the taxable year in which the credit is claimed:

(e) A copy of the appraisal and accompanying affidavit from the



appraiser submitted to the division of real estate in the department of regulatory agencies in accordance with the provisions of section 12-61-719, C.R.S., AS SAID SECTION EXISTED PRIOR TO ITS REPEAL ON JULY 1, 2013;

(f) If the holder of the conservation easement is an organization to which the certification program in ~~section 12-61-720~~ SECTION 12-61-724, C.R.S., applies, a sworn affidavit from the holder of the conservation easement in gross that includes the following:

(3.3) The appraisal for a conservation easement in gross donated prior to January 1, 2014, and for which a credit is claimed shall be a qualified appraisal from a qualified appraiser, as those terms are defined in section 170 (f) (11) of the internal revenue code. The appraisal shall be in conformance with the uniform standards of professional appraisal practice promulgated by the appraisal standards board of the appraisal foundation and any other provision of law. The appraiser shall hold a valid license as a certified general appraiser in accordance with the provisions of part 7 of article 61 of title 12, C.R.S. The appraiser shall also meet any education and experience requirements established by the board of real estate appraisers in accordance with ~~section 12-61-719 (7)~~ SECTION 12-61-704 (1) (k), C.R.S. If there is a final determination, other than by settlement of the taxpayer, that an appraisal submitted in connection with a claim for a credit pursuant to this section is a substantial or gross valuation misstatement as such misstatements are defined in section 1219 of the federal "Pension Protection Act of 2006", Pub.L. 109-280, the department shall submit a complaint regarding the misstatement to the board of real estate appraisers for disciplinary action in accordance with the provisions of part 7 of article 61 of title 12, C.R.S.

(3.5) (a) For conservation easements donated prior to January 1, 2014:

(I) The executive director shall have the authority, pursuant to subsection (8) of this section, to require additional information from the taxpayer or transferee regarding the appraisal value of the easement, the amount of the credit, and the validity of the credit. In resolving disputes regarding the validity or the amount of a credit allowed pursuant to subsection (2) of this section, including the value of the conservation easement for which the credit is granted, the executive director shall have the authority, for good cause shown and in consultation with the division

of real estate and the conservation easement oversight commission created in ~~section 12-61-721 (1)~~ SECTION 12-61-725 (1), C.R.S., to review and accept or reject, in whole or in part, the appraisal value of the easement, the amount of the credit, and the validity of the credit based upon the internal revenue code and federal regulations in effect at the time of the donation. If the executive director reasonably believes that the appraisal represents a gross valuation misstatement, receives notice of such a valuation misstatement from the division of real estate, or receives notice from the division of real estate that an enforcement action has been taken by the board of real estate appraisers against the appraiser, the executive director shall have the authority to require the taxpayer to provide a second appraisal at the expense of the taxpayer. The second appraisal shall be conducted by a certified general appraiser in good standing and not affiliated with the first appraiser that meets qualifications established by the division of real estate. In the event the executive director rejects, in whole or in part, the appraisal value of the easement, the amount of the credit, or the validity of the credit, the procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and 39-21-105 shall apply.

(II) In consultation with the division of real estate and the conservation easement oversight commission created in ~~section 12-61-721 (1)~~ SECTION 12-61-725 (1), C.R.S., the executive director shall develop and implement a separate process for the review by the department of revenue of gross conservation easements. The review process shall be consistent with the statutory obligations of the division and the commission and shall address gross conservation easements for which the department of revenue has been informed that an audit is being performed by the internal revenue service. The executive director shall share information used in the review of gross conservation easements with the division. Notwithstanding part 2 of article 72 of title 24, C.R.S., in order to protect the confidential financial information of a taxpayer, the division and the commission shall deny the right to inspect any information provided by the executive director in accordance with this subparagraph (II).

(b) For conservation easements donated on or after January 1, 2014, and subject to the restrictions of ~~section 12-61-723 (4)~~ SECTION 12-61-727 (4), C.R.S., the executive director shall have the authority, pursuant to subsection (8) of this section, to require additional information from the taxpayer or transferee regarding the amount of the credit and the validity of the credit. In resolving disputes regarding the validity or the amount of

a credit allowed pursuant to subsection (2) of this section, the executive director shall have the authority, for good cause shown, to review and accept or reject, in whole or in part, the amount of the credit and the validity of the credit based upon the internal revenue code and federal regulations in effect at the time of the donation, except those requirements for which authority is granted to the division of real estate, the director of the division of real estate, or the conservation easement oversight commission pursuant to ~~section 12-61-723~~ SECTION 12-61-727, C.R.S.

(3.6) For conservation easements donated on or after January 1, 2014, in order for any taxpayer to qualify for the credit provided for in subsection (2) of this section, the taxpayer must submit the following in a form, approved by the executive director, to the department of revenue at the same time as the taxpayer files a return for the taxable year in which the credit is claimed:

(a) (I) A tax credit certificate issued under ~~section 12-61-723~~ SECTION 12-61-727, C.R.S.; and

(b) Notwithstanding any other provisions of law, the executive director retains the authority to administer all issues related to the claim or use of a tax credit for the donation of a conservation easement that are not granted to the director of the division of real estate or the conservation easement oversight commission under ~~section 12-61-723~~ SECTION 12-61-727, C.R.S.

**SECTION 9.** In Colorado Revised Statutes, 39-22-522.5, **amend** (8), (12) (a) (II), and (12) (a) (III) as follows:

**39-22-522.5. Conservation easement tax credits - dispute resolution - legislative declaration.** (8) On or before August 1, 2011, the conservation easement oversight commission created in ~~section 12-61-721~~ ~~(1)~~ SECTION 12-61-725 (1), C.R.S., shall review conservation easements for which a tax credit is claimed pursuant to sections 39-22-522 (3.5) (a) and ~~12-61-721~~ ~~(3)~~ 12-61-725 (3), C.R.S., and for which a notice of deficiency, notice of rejection of refund claim, or notice of disallowance issued on or before May 1, 2011, but for which a final determination has not been issued before May 19, 2011, and for which the commission has not already reviewed the credit. For each conservation easement tax credit claim so reviewed, the commission shall issue an initial recommendation to the

executive director on whether each credit claimed by a taxpayer who is eligible to waive a hearing and appeal a notice of deficiency, notice of rejection of refund claim, or notice of disallowance may be denied or accepted. No other information shall be required of the commission on or before such date.

(12) (a) On or before July 1, 2011, and on a quarterly basis thereafter, the executive director shall provide a report to the joint budget committee and the finance committees of the general assembly describing:

(II) The number of such cases sent to the conservation easement oversight commission for review pursuant to ~~section 12-61-721~~ SECTION 12-61-725, C.R.S.;

(III) The number of such cases returned to the executive director with the advice of the conservation easement oversight commission created in ~~section 12-61-721~~ (1) SECTION 12-61-725 (1), C.R.S., and the action, if any, taken by the department of revenue on the cases returned by the commission;

**SECTION 10.** In Colorado Revised Statutes, 43-1-210, **amend** (5) (a) (V) as follows:

**43-1-210. Acquisition and disposition of property - department of transportation renovation fund - repeal.** (5) (a) (V) For property or interest therein subject to disposition that the department determines has an approximate value of less than five thousand dollars, the department shall dispose of such property or interest by means of a sale or exchange at not less than its fair market value in the manner set forth in this subsection (5); except that the department may employ a right-of-way acquisition agent as specified in ~~section 12-61-702~~ (5) (11), C.R.S., to provide an estimate of the fair market value of such property or interest and to determine to whom such property or interest is of use.

**SECTION 11. Effective date.** This act takes effect July 1, 2014.

**SECTION 12. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Morgan Carroll  
PRESIDENT OF  
THE SENATE

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Mark Ferrandino  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO