

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 14-0749.01 Christy Chase x2008

SENATE BILL 14-117

SENATE SPONSORSHIP

Jahn,

HOUSE SPONSORSHIP

Fischer,

Senate Committees
Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 U.S.C. SECS. 3331 TO 3351.

2 **12-61-702. Definitions.** AS USED IN THIS PART 7, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

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

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

1 LICENSED OR CERTIFIED AS AN APPRAISER UNDER THIS PART 7.

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

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

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

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

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

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

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

1 (5) **[Formerly 12-61-702 (2.3)]** "COMMISSION" MEANS THE
2 CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED IN SECTION
3 12-61-725 (1).

4 (6) **[Formerly 12-61-702 (2.5)]** "CONSULTING SERVICES" MEANS
5 SERVICES PERFORMED BY AN APPRAISER THAT DO NOT FALL WITHIN THE
6 DEFINITION OF AN "INDEPENDENT APPRAISAL" IN SUBSECTION (10) OF THIS
7 SECTION. "CONSULTING SERVICES" INCLUDES MARKETING, FINANCING AND
8 FEASIBILITY STUDIES, VALUATIONS, ANALYSES, AND OPINIONS AND
9 CONCLUSIONS GIVEN IN CONNECTION WITH REAL ESTATE BROKERAGE,
10 MORTGAGE BANKING, AND COUNSELING AND ADVOCACY IN REGARD TO
11 PROPERTY TAX ASSESSMENTS AND APPEALS THEREOF; EXCEPT THAT, IF IN
12 RENDERING SUCH SERVICES THE APPRAISER ACTS AS A DISINTERESTED
13 THIRD PARTY, THE WORK IS DEEMED AN INDEPENDENT APPRAISAL AND NOT
14 A CONSULTING SERVICE. NOTHING IN THIS SUBSECTION (6) PRECLUDES A
15 PERSON FROM ACTING AS AN EXPERT WITNESS IN VALUATION APPEALS.

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

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

20 (9) **[Formerly 12-61-702 (4.3)]** "FINANCIAL INSTITUTION" MEANS
21 ANY "BANK" OR "SAVINGS ASSOCIATION", AS SUCH TERMS ARE DEFINED IN
22 12 U.S.C. SEC. 1813, ANY STATE BANK INCORPORATED UNDER TITLE 11,
23 C.R.S., ANY STATE OR FEDERALLY CHARTERED CREDIT UNION, OR ANY
24 COMPANY THAT HAS DIRECT OR INDIRECT CONTROL OVER ANY OF THOSE
25 ENTITIES.

26 (10) **[Formerly 12-61-702 (4.5)]** "INDEPENDENT APPRAISAL"
27 MEANS AN ENGAGEMENT FOR WHICH AN APPRAISER IS EMPLOYED OR

1 RETAINED TO ACT AS A DISINTERESTED THIRD PARTY IN RENDERING AN
2 UNBIASED ANALYSIS, OPINION, OR CONCLUSION RELATING TO THE NATURE,
3 QUALITY, VALUE, OR UTILITY OF SPECIFIED INTERESTS IN OR ASPECTS OF
4 IDENTIFIED REAL ESTATE.

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

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

12 (I) A PERSON WHO CONDUCTS APPRAISALS STRICTLY OF PERSONAL
13 PROPERTY;

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

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

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

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

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

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

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

19 (IX) [Formerly 12-61-712 (3)] A PERSON WHO REPRESENTS
20 PROPERTY OWNERS AS AN ADVOCATE IN TAX OR VALUATION PROTESTS
21 AND APPEALS PURSUANT TO TITLE 39, C.R.S.

22 **12-61-703. Board of real estate appraisers - creation -**
23 **compensation - immunity - legislative declaration - repeal of part.**

24 (1) (a) THERE IS HEREBY CREATED IN THE DIVISION A BOARD OF REAL
25 ESTATE APPRAISERS CONSISTING OF SEVEN MEMBERS APPOINTED BY THE
26 GOVERNOR WITH THE CONSENT OF THE SENATE. OF THE MEMBERS, THREE
27 SHALL BE LICENSED OR CERTIFIED APPRAISERS, ONE OF WHOM SHALL HAVE

1 EXPERTISE IN EMINENT DOMAIN MATTERS; ONE SHALL BE A COUNTY
2 ASSESSOR IN OFFICE; ONE SHALL BE AN OFFICER OR EMPLOYEE OF A
3 COMMERCIAL BANK EXPERIENCED IN REAL ESTATE LENDING; ONE SHALL
4 BE AN OFFICER OR EMPLOYEE OF AN APPRAISAL MANAGEMENT COMPANY;
5 AND ONE SHALL BE A MEMBER OF THE PUBLIC AT LARGE NOT ENGAGED IN
6 ANY OF THE BUSINESSES REPRESENTED BY THE OTHER MEMBERS OF THE
7 BOARD.

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

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

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

1 GOVERNMENT.

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

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

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

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

21 **12-61-704. Powers and duties of the board - rules.** (1) IN
22 ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW,
23 THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

24 (a) (I) TO PROMULGATE AND AMEND, AS NECESSARY, RULES
25 PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., FOR THE IMPLEMENTATION
26 AND ADMINISTRATION OF THIS PART 7 AND AS REQUIRED TO COMPLY WITH
27 THE FEDERAL "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE

1 XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND
2 ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO
3 3351, AND WITH ANY REQUIREMENTS IMPOSED BY AMENDMENTS TO THAT
4 FEDERAL LAW.

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

8 (III) LICENSED AD VALOREM APPRAISERS ARE NOT REGULATED BY
9 THE FEDERAL "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE
10 XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND
11 ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO
12 3351, BUT THE BOARD SHALL ADOPT RULES REGARDING MINIMUM
13 QUALIFICATIONS AND STANDARDS OF PRACTICE FOR LICENSED AD
14 VALOREM APPRAISERS.

15 (b) TO CHARGE APPLICATION, EXAMINATION, AND LICENSE AND
16 CERTIFICATE RENEWAL FEES ESTABLISHED PURSUANT TO SECTION
17 12-61-111.5 FROM ALL APPLICANTS FOR LICENSURE, CERTIFICATION,
18 EXAMINATION, AND RENEWAL UNDER THIS PART 7. THE BOARD SHALL NOT
19 REFUND ANY FEES RECEIVED FROM APPLICANTS SEEKING LICENSURE,
20 CERTIFICATION, EXAMINATION, OR RENEWAL.

21 (c) **[Formerly 12-61-704 (1) (d)]** THROUGH THE DEPARTMENT OF
22 REGULATORY AGENCIES AND SUBJECT TO APPROPRIATIONS MADE TO THE
23 DEPARTMENT OF REGULATORY AGENCIES, TO EMPLOY ADMINISTRATIVE
24 LAW JUDGES, APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE
25 24, C.R.S., ON A FULL-TIME OR PART-TIME BASIS TO CONDUCT ANY
26 HEARINGS REQUIRED BY THIS PART 7;

27 (d) **[Formerly 12-61-704 (1) (e)]** TO ISSUE, DENY, OR REFUSE TO

1 RENEW A LICENSE OR CERTIFICATE PURSUANT TO THIS PART 7;

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

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

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

14 (II) IF STUDY MATERIALS ARE DEVELOPED BY A TESTING COMPANY
15 OR OTHER ENTITY, THE BOARD SHALL MAKE THE MATERIALS AVAILABLE
16 TO PERSONS DESIRING TO TAKE EXAMINATIONS PURSUANT TO THIS PART
17 7. THE BOARD MAY CHARGE FEES FOR THE MATERIALS TO DEFRAY ANY
18 COSTS ASSOCIATED WITH MAKING THE MATERIALS AVAILABLE.

19 (h) **[Formerly 12-61-704 (1) (i)]** IN COMPLIANCE WITH ARTICLE
20 4 OF TITLE 24, C.R.S., TO MAKE INVESTIGATIONS; SUBPOENA PERSONS AND
21 DOCUMENTS, WHICH SUBPOENAS MAY BE ENFORCED BY A COURT OF
22 COMPETENT JURISDICTION IF NOT OBEYED; HOLD HEARINGS; AND TAKE
23 EVIDENCE IN ALL MATTERS RELATING TO THE EXERCISE OF THE BOARD'S
24 POWER UNDER THIS PART 7;

25 (i) **[Formerly 12-61-704 (1) (j)]** PURSUANT TO SEC. 1119 (b) OF
26 TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS REFORM,
27 RECOVERY, AND ENFORCEMENT ACT OF 1989", PUB.L. 101-73, TO APPLY,

1 IF NECESSARY, FOR A FEDERAL WAIVER OF THE REQUIREMENT RELATING
2 TO CERTIFICATION OR LICENSING OF A PERSON TO PERFORM APPRAISALS
3 AND TO MAKE THE NECESSARY WRITTEN DETERMINATIONS SPECIFIED IN
4 SAID SECTION FOR PURPOSES OF MAKING THE APPLICATION;

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

10 (k) **[Formerly 12-61-704 (1) (l)]** TO ESTABLISH CLASSROOM
11 EDUCATION AND EXPERIENCE REQUIREMENTS FOR AN APPRAISER WHO
12 PREPARES AN APPRAISAL FOR A CONSERVATION EASEMENT FOR WHICH A
13 TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE
14 REQUIREMENTS MUST ENSURE THAT APPRAISERS HAVE A SUFFICIENT
15 AMOUNT OF TRAINING AND EXPERTISE TO ACCURATELY PREPARE
16 APPRAISALS THAT COMPLY WITH THE UNIFORM STANDARDS OF
17 PROFESSIONAL APPRAISAL PRACTICE AND ANY OTHER PROVISION OF LAW
18 RELATED TO THE APPRAISAL OF CONSERVATION EASEMENTS FOR WHICH A
19 TAX CREDIT IS CLAIMED. A TAX CREDIT CERTIFICATE FOR A CONSERVATION
20 EASEMENT SHALL NOT BE GIVEN IN ACCORDANCE WITH SECTIONS
21 12-61-726 AND 12-61-727 UNLESS THE APPRAISER WHO PREPARED THE
22 APPRAISAL OF THE EASEMENT MET ALL REQUIREMENTS ESTABLISHED IN
23 ACCORDANCE WITH THIS PARAGRAPH (k) IN EFFECT AT THE TIME THE
24 APPRAISAL WAS COMPLETED.

25 (2) **[Formerly 12-61-704 (1) (c) (II)]** THE BOARD SHALL
26 MAINTAIN OR PRESERVE, FOR SEVEN YEARS, LICENSING HISTORY RECORDS
27 OF A PERSON LICENSED OR CERTIFIED UNDER THIS PART 7. COMPLAINTS OF

1 RECORD IN THE OFFICE OF THE BOARD AND BOARD INVESTIGATIONS,
2 INCLUDING BOARD INVESTIGATIVE FILES, ARE CLOSED TO PUBLIC
3 INSPECTION. STIPULATIONS AND FINAL AGENCY ORDERS ARE PUBLIC
4 RECORD AND ARE SUBJECT TO SECTIONS 24-72-203 AND 24-72-204, C.R.S.

5 **12-61-705. Fees, penalties, and fines collected under part 7.**

6 ALL FEES, PENALTIES, AND FINES COLLECTED PURSUANT TO THIS PART 7,
7 NOT INCLUDING FEES RETAINED BY CONTRACTORS PURSUANT TO
8 CONTRACTS ENTERED INTO IN ACCORDANCE WITH SECTION 12-61-103,
9 12-61-706, OR 24-34-101, C.R.S., SHALL BE TRANSMITTED TO THE STATE
10 TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF REAL
11 ESTATE CASH FUND, CREATED IN SECTION 12-61-111.5.

12 **12-61-706. Qualifications for licensing and certification of**

13 **appraisers - continuing education - definitions - rules.** (1) (a) THE
14 BOARD SHALL, BY RULE, PRESCRIBE REQUIREMENTS FOR THE INITIAL
15 LICENSING OR CERTIFICATION OF PERSONS UNDER THIS PART 7 TO MEET
16 THE REQUIREMENTS OF THE "REAL ESTATE APPRAISAL REFORM
17 AMENDMENTS", TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS
18 REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED, 12
19 U.S.C. SECS. 3331 TO 3351, AND SHALL DEVELOP, PURCHASE, OR
20 CONTRACT FOR EXAMINATIONS TO BE PASSED BY APPLICANTS. THE BOARD
21 SHALL NOT ESTABLISH ANY REQUIREMENTS FOR INITIAL LICENSING OR
22 CERTIFICATION THAT ARE MORE STRINGENT THAN THE REQUIREMENTS OF
23 ANY APPLICABLE FEDERAL LAW; EXCEPT THAT ALL APPLICANTS SHALL
24 PASS AN EXAMINATION OFFERED BY THE BOARD. IF THERE IS NO
25 APPLICABLE FEDERAL LAW, THE BOARD SHALL CONSIDER AND MAY USE AS
26 GUIDELINES THE MOST RECENT AVAILABLE CRITERIA PUBLISHED BY THE
27 APPRAISER QUALIFICATIONS BOARD OF THE APPRAISAL FOUNDATION OR ITS

1 SUCCESSOR ORGANIZATION.

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

5 (I) "CERTIFIED GENERAL APPRAISER" MEANS AN APPRAISER
6 MEETING THE REQUIREMENTS SET BY THE BOARD FOR GENERAL
7 CERTIFICATION;

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

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

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

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

22 (d) THE BOARD SHALL TRANSFER PERSONS EMPLOYED IN A COUNTY
23 ASSESSOR'S OFFICE OR IN THE DIVISION OF PROPERTY TAXATION IN THE
24 DEPARTMENT OF LOCAL AFFAIRS WHO ARE REGISTERED APPRAISERS AS OF
25 JULY 1, 2013, TO THE CATEGORY OF LICENSED AD VALOREM APPRAISER.
26 THE BOARD SHALL ALLOW THESE PERSONS, UNTIL DECEMBER 31, 2015, TO
27 MEET ANY ADDITIONAL REQUIREMENTS IMPOSED BY THE BOARD

1 PURSUANT TO SECTION 12-61-704 (1) (a), AS AMENDED.

2 (2) (a) THE BOARD SHALL, BY RULE, PRESCRIBE CONTINUING
3 EDUCATION REQUIREMENTS FOR PERSONS LICENSED OR CERTIFIED AS
4 CERTIFIED GENERAL APPRAISERS, CERTIFIED RESIDENTIAL APPRAISERS, OR
5 LICENSED APPRAISERS AS NEEDED TO MEET THE REQUIREMENTS OF THE
6 "REAL ESTATE APPRAISAL REFORM AMENDMENTS", TITLE XI OF THE
7 FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND
8 ENFORCEMENT ACT OF 1989", AS AMENDED, 12 U.S.C. SECS. 3331 TO
9 3351. THE BOARD SHALL NOT ESTABLISH ANY CONTINUING EDUCATION
10 REQUIREMENTS THAT ARE MORE STRINGENT THAN THE REQUIREMENTS OF
11 ANY APPLICABLE LAW; EXCEPT THAT ALL PERSONS LICENSED OR CERTIFIED
12 UNDER THIS PART 7 ARE SUBJECT TO CONTINUING EDUCATION
13 REQUIREMENTS. IF THERE IS NO APPLICABLE FEDERAL LAW, THE BOARD
14 SHALL CONSIDER AND MAY USE AS GUIDELINES THE MOST RECENT
15 AVAILABLE CRITERIA PUBLISHED BY THE APPRAISER QUALIFICATIONS
16 BOARD OF THE APPRAISAL FOUNDATION OR ITS SUCCESSOR ORGANIZATION.

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

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

24 (4) **[Formerly 12-61-706 (5)]** (a) SUBJECT TO SECTION 12-61-719
25 (2), ALL APPRAISER EMPLOYEES OF COUNTY ASSESSORS SHALL BE
26 LICENSED OR CERTIFIED AS PROVIDED IN SUBSECTIONS (1) AND (2) OF THIS
27 SECTION. OBTAINING AND MAINTAINING A LICENSE OR CERTIFICATE UNDER

1 EITHER OF SAID SUBSECTIONS (1) AND (2) ENTITLES AN APPRAISER
2 EMPLOYEE OF A COUNTY ASSESSOR TO PERFORM ALL REAL ESTATE
3 APPRAISALS REQUIRED TO FULFILL THE PERSON'S OFFICIAL DUTIES.

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

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

20 (5) **[Formerly 12-61-706 (9)]** THE BOARD SHALL NOT ISSUE AN
21 APPRAISER'S LICENSE AS REFERENCED IN SUBPARAGRAPH (IV) OF
22 PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION UNLESS THE
23 APPLICANT HAS AT LEAST TWELVE MONTHS' APPRAISAL EXPERIENCE.

24 (6) **[Formerly 12-61-706 (10)]** (a) THE BOARD SHALL NOT ISSUE
25 A LICENSE OR CERTIFICATION UNTIL THE APPLICANT DEMONSTRATES THAT
26 HE OR SHE MEETS THE FITNESS STANDARDS ESTABLISHED BY BOARD RULE
27 AND SUBMITS A SET OF FINGERPRINTS TO THE COLORADO BUREAU OF

1 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL
2 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
3 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
4 FEDERAL BUREAU OF INVESTIGATION. EACH PERSON SUBMITTING A SET OF
5 FINGERPRINTS SHALL PAY THE FEE ESTABLISHED BY THE COLORADO
6 BUREAU OF INVESTIGATION FOR CONDUCTING THE FINGERPRINT-BASED
7 CRIMINAL HISTORY RECORD CHECK TO THE BUREAU. UPON COMPLETION
8 OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD
9 THE RESULTS TO THE BOARD. THE BOARD MAY REQUIRE A NAME-BASED
10 CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT WHO HAS TWICE
11 SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
12 AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. THE BOARD MAY DENY
13 AN APPLICATION FOR LICENSURE OR CERTIFICATION BASED ON THE
14 OUTCOME OF THE CRIMINAL HISTORY RECORD CHECK AND MAY ESTABLISH
15 CRIMINAL HISTORY REQUIREMENTS MORE STRINGENT THAN THOSE
16 ESTABLISHED BY ANY APPLICABLE FEDERAL LAW. AT A MINIMUM, THE
17 BOARD SHALL ADOPT THE CRIMINAL HISTORY REQUIREMENTS
18 ESTABLISHED BY ANY APPLICABLE FEDERAL LAW.

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

23 **12-61-707. [Formerly 12-61-706.3] Appraisal management**
24 **companies - application for license - exemptions.** (1) AN APPLICANT
25 SHALL APPLY FOR A LICENSE AS AN APPRAISAL MANAGEMENT COMPANY,
26 OR AS A CONTROLLING APPRAISER, TO THE BOARD IN A MANNER
27 PRESCRIBED BY THE BOARD.

1 (2) THE BOARD MAY GRANT APPRAISAL MANAGEMENT COMPANY
2 LICENSES TO INDIVIDUALS, PARTNERSHIPS, LIMITED LIABILITY COMPANIES,
3 OR CORPORATIONS. A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
4 CORPORATION, IN ITS APPLICATION FOR A LICENSE, SHALL DESIGNATE A
5 CONTROLLING APPRAISER WHO IS ACTIVELY CERTIFIED IN A STATE
6 RECOGNIZED BY THE APPRAISAL SUBCOMMITTEE OF THE FEDERAL
7 FINANCIAL INSTITUTIONS EXAMINATIONS COUNCIL OR ITS SUCCESSOR
8 ENTITY. THE CONTROLLING APPRAISER IS RESPONSIBLE FOR THE LICENSED
9 PRACTICES OF THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
10 CORPORATION AND ALL PERSONS EMPLOYED BY THE ENTITY. THE
11 APPLICATION OF THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
12 CORPORATION AND THE APPLICATION OF THE APPRAISER DESIGNATED BY
13 IT AS THE CONTROLLING APPRAISER SHALL BE FILED WITH THE BOARD. THE
14 BOARD HAS JURISDICTION OVER THE APPRAISER SO DESIGNATED AND OVER
15 THE PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION.

16 (3) THE BOARD SHALL NOT ISSUE A LICENSE TO ANY PARTNERSHIP,
17 LIMITED LIABILITY COMPANY, OR CORPORATION UNLESS AND UNTIL THE
18 APPRAISER DESIGNATED BY THE PARTNERSHIP, LIMITED LIABILITY
19 COMPANY, OR CORPORATION AS CONTROLLING APPRAISER AND EACH
20 INDIVIDUAL WHO OWNS MORE THAN TEN PERCENT OF THE ENTITY
21 DEMONSTRATES THAT HE OR SHE MEETS THE FITNESS STANDARDS
22 ESTABLISHED BY BOARD RULE AND SUBMITS A SET OF FINGERPRINTS TO
23 THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF
24 CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL
25 HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU
26 OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. EACH
27 PERSON SUBMITTING A SET OF FINGERPRINTS SHALL PAY THE FEE

1 ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR
2 CONDUCTING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
3 TO THE BUREAU. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD
4 CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE BOARD. THE
5 BOARD MAY REQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK
6 FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED
7 CRIMINAL HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE
8 UNCLASSIFIABLE. THE BOARD MAY DENY AN APPLICATION FOR LICENSURE
9 OR REFUSE TO RENEW A LICENSE BASED ON THE OUTCOME OF THE
10 CRIMINAL HISTORY RECORD CHECK. THE BOARD MAY REQUIRE CRIMINAL
11 HISTORY REQUIREMENTS MORE STRINGENT THAN THOSE ESTABLISHED BY
12 ANY APPLICABLE FEDERAL LAW. AT A MINIMUM, THE BOARD SHALL ADOPT
13 THE CRIMINAL HISTORY REQUIREMENTS ESTABLISHED BY ANY APPLICABLE
14 FEDERAL LAW.

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

27 (5) THE BOARD SHALL NOT ISSUE A LICENSE TO ANY PARTNERSHIP,

1 LIMITED LIABILITY COMPANY, OR CORPORATION IF IT IS OWNED, IN WHOLE
2 OR IN PART, DIRECTLY OR INDIRECTLY, BY ANY PERSON WHO HAS HAD, IN
3 ANY STATE, AN APPRAISER LICENSE, REGISTRATION, OR CERTIFICATE
4 REFUSED, DENIED, CANCELLED, SURRENDERED IN LIEU OF REVOCATION, OR
5 REVOKED. A DISCIPLINARY ACTION RESULTING IN REFUSAL, DENIAL,
6 CANCELLATION, SURRENDER IN LIEU OF REVOCATION, OR REVOCATION
7 RELATING TO A LICENSE, REGISTRATION, OR CERTIFICATION AS AN
8 APPRAISER LICENSED, REGISTERED, OR CERTIFIED UNDER THIS PART 7 OR
9 ANY RELATED OCCUPATION IN ANY OTHER STATE, TERRITORY, OR
10 COUNTRY FOR DISCIPLINARY REASONS IS PRIMA FACIE EVIDENCE OF
11 GROUNDS FOR DENIAL OF A LICENSE BY THE BOARD.

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

22 (7) EACH APPRAISAL MANAGEMENT COMPANY MUST MAINTAIN A
23 DEFINITE PLACE OF BUSINESS. IF THE APPRAISAL MANAGEMENT COMPANY
24 IS DOMICILED IN ANOTHER STATE, THE APPRAISER DESIGNATED BY THE
25 APPRAISAL MANAGEMENT COMPANY AS CONTROLLING APPRAISER IS
26 RESPONSIBLE FOR SUPERVISING ALL LICENSED ACTIVITIES THAT OCCUR IN
27 COLORADO. ALL LICENSED ACTIONS OCCURRING WITHIN THE STATE OF

1 COLORADO MUST OCCUR UNDER THE NAME UNDER WHICH THE APPRAISAL
2 MANAGEMENT COMPANY IS LICENSED OR ITS TRADE NAME ADOPTED IN
3 ACCORDANCE WITH COLORADO LAW.

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

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

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

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

26 (9) FINANCIAL INSTITUTIONS AND APPRAISAL MANAGEMENT
27 COMPANY SUBSIDIARIES THAT ARE OWNED AND CONTROLLED BY THE

1 FINANCIAL INSTITUTION AND REGULATED BY A FEDERAL FINANCIAL
2 INSTITUTION REGULATORY AGENCY ARE NOT REQUIRED TO REGISTER WITH
3 OR BE LICENSED BY THE BOARD. THIS EXEMPTION INCLUDES A PANEL OF
4 APPRAISERS WHO ARE ENGAGED TO PROVIDE APPRAISAL SERVICES AND
5 ARE ADMINISTERED BY A FINANCIAL INSTITUTION REGULATED BY A
6 FEDERAL FINANCIAL REGULATORY AGENCY.

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

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

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

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

13 (4) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED
14 UPON THE BOARD BY THIS PART 7, THE BOARD IS AUTHORIZED AND
15 DIRECTED TO ADOPT RULES IT DEEMS NECESSARY OR PROPER TO CARRY
16 OUT THE REQUIREMENTS OF THIS SECTION.

17 **12-61-709. [Formerly 12-61-706.7] Bond required.** (1) BEFORE
18 THE BOARD ISSUES A LICENSE TO AN APPLICANT FOR AN APPRAISAL
19 MANAGEMENT COMPANY LICENSE, THE APPLICANT SHALL POST WITH THE
20 BOARD A SURETY BOND IN THE AMOUNT OF TWENTY-FIVE THOUSAND
21 DOLLARS. A LICENSED APPRAISAL MANAGEMENT COMPANY SHALL
22 MAINTAIN THE REQUIRED BOND AT ALL TIMES.

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

26 **12-61-710. [Formerly 12-61-707] Expiration of licenses -**
27 **renewal - penalties - fees - rules.** (1) (a) ALL LICENSES OR CERTIFICATES

1 EXPIRE PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR AND
2 MAY BE RENEWED OR REINSTATED PURSUANT TO THIS SECTION. UPON
3 COMPLIANCE WITH THIS SECTION AND ANY APPLICABLE RULES OF THE
4 BOARD REGARDING RENEWAL, INCLUDING THE PAYMENT OF A RENEWAL
5 FEE PLUS A REINSTATEMENT FEE ESTABLISHED PURSUANT TO PARAGRAPH
6 (b) OF THIS SUBSECTION (1), THE EXPIRED LICENSE OR CERTIFICATE SHALL
7 BE REINSTATED. A REAL ESTATE APPRAISER'S LICENSE OR CERTIFICATE
8 THAT HAS NOT BEEN RENEWED FOR A PERIOD GREATER THAN TWO YEARS
9 SHALL NOT BE REINSTATED, AND THE PERSON MUST SUBMIT A NEW
10 APPLICATION FOR LICENSURE OR CERTIFICATION.

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

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

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

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

25 (2) IF THE FEDERAL REGISTRY FEE COLLECTED BY THE BOARD AND
26 TRANSMITTED TO THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION
27 COUNCIL IS INCREASED PRIOR TO EXPIRATION OF A LICENSE OR

1 CERTIFICATE, THE BOARD SHALL COLLECT THE AMOUNT OF THE INCREASE
2 IN THE FEE FROM THE HOLDER OF THE LICENSE OR CERTIFICATE AND
3 FORWARD THE AMOUNT TO THE COUNCIL ANNUALLY. THE FEDERAL
4 REGISTRY FEE DOES NOT APPLY TO LICENSED AD VALOREM APPRAISERS
5 LICENSED UNDER THIS ARTICLE.

6 (3) (a) IF THE APPLICANT HAS COMPLIED WITH THIS SECTION AND
7 ANY APPLICABLE RULES OF THE BOARD REGARDING RENEWAL, EXCEPT FOR
8 THE CONTINUING EDUCATION REQUIREMENTS PURSUANT TO SECTION
9 12-61-706, THE LICENSEE MAY RENEW THE LICENSE ON INACTIVE STATUS.
10 AN INACTIVE LICENSE MAY BE ACTIVATED IF THE LICENSEE SUBMITS
11 WRITTEN CERTIFICATION OF COMPLIANCE WITH SECTION 12-61-706 FOR
12 THE PREVIOUS LICENSING PERIOD. THE BOARD MAY ADOPT RULES
13 ESTABLISHING PROCEDURES TO FACILITATE REACTIVATION OF LICENSES.

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

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

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

1 EACH PERSON SUBMITTING A SET OF FINGERPRINTS SHALL PAY THE FEE
2 ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR
3 CONDUCTING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
4 TO THE BUREAU. THE BUREAU SHALL FORWARD THE RESULTS TO THE
5 BOARD. THE BOARD MAY REQUIRE A NAME-BASED CRIMINAL HISTORY
6 RECORD CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A
7 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE
8 FINGERPRINTS ARE UNCLASSIFIABLE. THE BOARD MAY REFUSE TO RENEW
9 OR REINSTATE A LICENSE OR CERTIFICATION BASED ON THE OUTCOME OF
10 THE CRIMINAL HISTORY RECORD CHECK.

11 **12-61-711. [Formerly 12-61-708] Licensure or certification by**
12 **endorsement - temporary practice.** (1) THE BOARD MAY ISSUE A
13 LICENSE OR CERTIFICATION TO AN APPRAISER BY ENDORSEMENT TO
14 ENGAGE IN THE OCCUPATION OF REAL ESTATE APPRAISAL TO ANY
15 APPLICANT WHO HAS A LICENSE OR CERTIFICATION IN GOOD STANDING AS
16 A REAL ESTATE APPRAISER UNDER THE LAWS OF ANOTHER JURISDICTION
17 IF:

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

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

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

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

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

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

14 **12-61-712. [Formerly 12-61-709] Denial of license or**
15 **certificate - renewal - definition.** (1) THE BOARD MAY DETERMINE
16 WHETHER AN APPLICANT FOR LICENSURE OR CERTIFICATION POSSESSES
17 THE NECESSARY QUALIFICATIONS FOR LICENSURE OR CERTIFICATION
18 REQUIRED BY THIS PART 7. THE BOARD MAY CONSIDER SUCH QUALITIES AS
19 THE APPLICANT'S FITNESS AND PRIOR PROFESSIONAL LICENSURE AND
20 WHETHER THE APPLICANT HAS BEEN CONVICTED OF A CRIME. AS USED IN
21 THIS SUBSECTION (1), "APPLICANT" INCLUDES ANY INDIVIDUAL WHO OWNS,
22 IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, AN APPRAISAL
23 MANAGEMENT COMPANY AND ANY APPRAISER DESIGNATED AS A
24 CONTROLLING APPRAISER BY A PARTNERSHIP, LIMITED LIABILITY
25 COMPANY, OR CORPORATION ACTING AS AN APPRAISAL MANAGEMENT
26 COMPANY.

27 (2) IF THE BOARD DETERMINES THAT AN APPLICANT DOES NOT

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

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

15 (a) HAS BEEN CONVICTED OF A FELONY OR HAS HAD ACCEPTED BY
16 A COURT A PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY IF THE
17 FELONY IS RELATED TO THE ABILITY TO ACT AS A REAL PROPERTY
18 APPRAISER. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
19 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE
20 EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
21 DISCIPLINARY ACTION, THE BOARD SHALL BE GOVERNED BY THE
22 PROVISIONS OF SECTION 24-5-101, C.R.S.

23 (b) HAS VIOLATED, OR ATTEMPTED TO VIOLATE, DIRECTLY OR
24 INDIRECTLY, OR ASSISTED IN OR ABETTED THE VIOLATION OF, OR
25 CONSPIRED TO VIOLATE THIS PART 7, A RULE PROMULGATED PURSUANT TO
26 THIS PART 7, OR AN ORDER OF THE BOARD ISSUED PURSUANT TO THIS PART
27 7;

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

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

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

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

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

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

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

1 ACTS OR OMISSIONS IN THE OTHER STATE, TERRITORY, OR COUNTRY THAT
2 ARE ALSO VIOLATIONS OF THIS PART 7.

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

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

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

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

27 (4) **[Formerly 12-61-710 (3)]** THE BOARD MAY START A

1 PROCEEDING FOR DISCIPLINE OF A LICENSEE OR CERTIFIED PERSON WHEN
2 THE BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A LICENSEE OR
3 CERTIFIED PERSON HAS COMMITTED ANY ACT OR FAILED TO ACT PURSUANT
4 TO THE GROUNDS ESTABLISHED IN SUBSECTION (1) OF THIS SECTION OR
5 WHEN A REQUEST FOR A HEARING IS TIMELY MADE UNDER SUBSECTION (3)
6 OF THIS SECTION.

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

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

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

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

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

26 (c) **Probationary status.** THE BOARD MAY IMPOSE PROBATIONARY
27 STATUS ON A LICENSEE OR CERTIFIED PERSON. IF THE BOARD PLACES A

1 LICENSEE OR CERTIFIED PERSON ON PROBATION, THE BOARD MAY INCLUDE
2 CONDITIONS FOR CONTINUED PRACTICE THAT THE BOARD DEEMS
3 APPROPRIATE TO ASSURE THAT THE LICENSEE OR CERTIFIED PERSON IS
4 OTHERWISE QUALIFIED TO PRACTICE IN ACCORDANCE WITH GENERALLY
5 ACCEPTED PROFESSIONAL STANDARDS OF PROFESSIONAL APPRAISAL
6 PRACTICE, AS SPECIFIED IN BOARD RULES, INCLUDING ANY OR ALL OF THE
7 FOLLOWING:

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

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

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

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

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

27 (a) IN THE FIRST ADMINISTRATIVE PROCEEDING AGAINST A PERSON,

1 A FINE OF NOT LESS THAN THREE HUNDRED DOLLARS BUT NOT MORE THAN
2 FIVE HUNDRED DOLLARS PER VIOLATION;

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

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

13 (9) [Formerly 12-61-710 (10)] A LICENSEE OR CERTIFIED PERSON
14 WHO HAS DIRECT KNOWLEDGE THAT A PERSON HAS VIOLATED THIS PART
15 7 SHALL REPORT HIS OR HER KNOWLEDGE TO THE BOARD.

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

24 **12-61-714. [Formerly 12-61-710.5)] Appraisal management**
25 **companies - prohibited activities - grounds for disciplinary actions -**
26 **procedures - rules. (1) THE BOARD, UPON ITS OWN MOTION, MAY, AND**
27 **UPON A COMPLAINT SUBMITTED TO THE BOARD IN WRITING BY ANY**

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

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

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

23 (c) INFLUENCING OR ATTEMPTING TO INFLUENCE THE
24 DEVELOPMENT, REPORTING, RESULT, OR REVIEW OF A REAL ESTATE
25 APPRAISAL OR THE ENGAGEMENT OF AN APPRAISER THROUGH COERCION,
26 EXTORTION, COLLUSION, COMPENSATION, INDUCEMENT, INTIMIDATION,
27 BRIBERY, OR IN ANY OTHER MANNER. THIS PROHIBITION DOES NOT

1 PROHIBIT AN APPRAISAL MANAGEMENT COMPANY FROM REQUESTING AN
2 APPRAISER TO:

3 (I) CONSIDER ADDITIONAL, APPROPRIATE PROPERTY INFORMATION;

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

6 (III) CORRECT ERRORS IN THE APPRAISAL REPORT;

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

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

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

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

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

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

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

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

23 (l) FAILING TO MAINTAIN POSSESSION OF, FOR FUTURE USE OR
24 INSPECTION BY THE BOARD, FOR A PERIOD OF AT LEAST FIVE YEARS OR AT
25 LEAST TWO YEARS AFTER FINAL DISPOSITION OF ANY JUDICIAL
26 PROCEEDING IN WHICH A REPRESENTATIVE OF THE APPRAISAL
27 MANAGEMENT COMPANY PROVIDED TESTIMONY RELATED TO THE

1 ASSIGNMENT, WHICHEVER PERIOD EXPIRES LAST, THE DOCUMENTS OR
2 RECORDS PRESCRIBED BY THE RULES OF THE BOARD OR TO PRODUCE THE
3 DOCUMENTS OR RECORDS UPON REASONABLE REQUEST BY THE BOARD;

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

14 (n) HAVING BEEN THE SUBJECT OF AN ADVERSE OR DISCIPLINARY
15 ACTION IN ANOTHER STATE, TERRITORY, OR COUNTRY RELATING TO A
16 LICENSE, REGISTRATION, CERTIFICATION, OR OTHER AUTHORIZATION TO
17 PRACTICE AS AN APPRAISAL MANAGEMENT COMPANY. A DISCIPLINARY
18 ACTION RELATING TO A REGISTRATION, LICENSE, OR CERTIFICATE AS AN
19 APPRAISAL MANAGEMENT COMPANY UNDER THIS PART 7 OR ANY RELATED
20 OCCUPATION IN ANY OTHER STATE, TERRITORY, OR COUNTRY FOR
21 DISCIPLINARY REASONS IS PRIMA FACIE EVIDENCE OF GROUNDS FOR
22 DISCIPLINARY ACTION OR DENIAL OF A LICENSE BY THE BOARD. THIS
23 PARAGRAPH (n) APPLIES ONLY TO VIOLATIONS BASED UPON ACTS OR
24 OMISSIONS IN THE OTHER STATE, TERRITORY, OR COUNTRY THAT WOULD
25 VIOLATE THIS PART 7 IF COMMITTED IN COLORADO.

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

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

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

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

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

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

27 (3) DISCIPLINARY PROCEEDINGS MUST BE CONDUCTED IN THE

1 MANNER PRESCRIBED BY THE "STATE ADMINISTRATIVE PROCEDURE ACT",
2 ARTICLE 4 OF TITLE 24, C.R.S.

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

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

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

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

27 **12-61-715. [Formerly 12-61-711)] Judicial review of final**

1 **board actions and orders.** FINAL ACTIONS AND ORDERS OF THE BOARD
2 UNDER SECTIONS 12-61-712, 12-61-713, AND 12-61-714 APPROPRIATE FOR
3 JUDICIAL REVIEW ARE SUBJECT TO JUDICIAL REVIEW IN THE COURT OF
4 APPEALS IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

5 **12-61-716. [Formerly 12-61-712] Unlawful acts - penalties.**

6 (1) IT IS UNLAWFUL FOR A PERSON TO:

7 (a) VIOLATE SECTION 12-61-713 (1) (c), (1) (e), OR (1) (f) OR
8 PERFORM A REAL ESTATE APPRAISAL WITHOUT FIRST HAVING OBTAINED A
9 LICENSE OR CERTIFICATE FROM THE BOARD PURSUANT TO THIS PART 7;

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

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

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

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

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

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

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

1 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401,
2 C.R.S.

3 **12-61-717. [Formerly 12-61-712.5] Appraisal management**
4 **company license required - violations - injunction.** (1) EXCEPT AS
5 PROVIDED IN SECTION 12-61-707 (9), IT IS UNLAWFUL FOR ANY PERSON,
6 PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION TO ENGAGE
7 IN THE BUSINESS OF APPRAISAL MANAGEMENT IN THIS STATE WITHOUT
8 FIRST HAVING OBTAINED A LICENSE FROM THE BOARD. THE BOARD SHALL
9 NOT GRANT A LICENSE TO A PERSON, PARTNERSHIP, LIMITED LIABILITY
10 COMPANY, OR CORPORATION UNTIL THE PERSON, PARTNERSHIP, LIMITED
11 LIABILITY COMPANY, OR CORPORATION DEMONSTRATES COMPLIANCE WITH
12 THIS PART 7.

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

24 (3) ANY PERSON, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
25 CORPORATION VIOLATING THIS PART 7 BY ACTING AS AN APPRAISAL
26 MANAGEMENT COMPANY WITHOUT HAVING OBTAINED A LICENSE OR
27 ACTING AS AN APPRAISAL MANAGEMENT COMPANY AFTER THE APPRAISAL

1 MANAGEMENT COMPANY'S LICENSE HAS BEEN REVOKED OR DURING ANY
2 PERIOD FOR WHICH THE LICENSE WAS SUSPENDED IS GUILTY OF A
3 MISDEMEANOR AND, UPON CONVICTION THEREOF:

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

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

14 **12-61-718. [Formerly 12-61-713] Injunctive proceedings.**

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

21 (2) INJUNCTIVE PROCEEDINGS UNDER THIS SECTION ARE IN
22 ADDITION TO AND NOT IN LIEU OF PENALTIES AND OTHER REMEDIES
23 PROVIDED IN THIS PART 7.

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

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

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

15 **12-61-720. [Formerly 12-61-715] Duties of board under**
16 **federal law.** (1) THE BOARD SHALL:

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

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

1 ANNUAL BASIS; AND

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

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

9 **12-61-721. [Formerly 12-61-716] Business entities.** (1) A
10 CORPORATION, PARTNERSHIP, BANK, SAVINGS AND LOAN ASSOCIATION,
11 SAVINGS BANK, CREDIT UNION, OR OTHER BUSINESS ENTITY MAY PROVIDE
12 APPRAISAL SERVICES IF THE APPRAISAL IS PREPARED BY A CERTIFIED
13 GENERAL APPRAISER, A CERTIFIED RESIDENTIAL APPRAISER, OR A LICENSED
14 APPRAISER. AN INDIVIDUAL WHO IS NOT A CERTIFIED GENERAL APPRAISER,
15 A CERTIFIED RESIDENTIAL APPRAISER, OR A LICENSED APPRAISER MAY
16 ASSIST IN THE PREPARATION OF AN APPRAISAL IF:

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

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

21 **12-61-722. [Formerly 12-61-717] Provisions found not to**
22 **comply with federal law null and void - severability.** (1) IF ANY
23 PROVISION OF THIS PART 7 IS FOUND BY A COURT OF COMPETENT
24 JURISDICTION OR BY THE APPROPRIATE FEDERAL AGENCY NOT TO COMPLY
25 WITH THE FEDERAL "FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND
26 ENFORCEMENT ACT OF 1989", AS AMENDED, PUB.L. 101-73, THE
27 PROVISION IS NULL AND VOID, BUT THE REMAINING PROVISIONS OF THIS

1 PART 7 ARE VALID UNLESS THE REMAINING PROVISIONS ALONE ARE
2 INCOMPLETE AND ARE INCAPABLE OF BEING EXECUTED IN ACCORDANCE
3 WITH THE LEGISLATIVE INTENT OF THIS PART 7.

4 (2) IF THE REGULATION OF APPRAISAL MANAGEMENT COMPANIES
5 IS REPEALED FROM TITLE XI OF THE FEDERAL "FINANCIAL INSTITUTIONS
6 REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989", AS AMENDED,
7 PUB.L. 101-73, THE BOARD'S JURISDICTION OVER THESE ENTITIES IS ALSO
8 REPEALED. BEFORE THE REPEAL, THE DIVISION SHALL REVIEW THE
9 REGULATION OF APPRAISAL MANAGEMENT COMPANIES AS PROVIDED IN
10 SECTION 24-34-104, C.R.S. IF THE BOARD'S JURISDICTION IS REPEALED,
11 THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES OF THE DATE OF
12 THE REPEAL.

13 **12-61-723. [Formerly 12-61-718] Scope of article - regulated**
14 **financial institutions - de minimis exemption.** (1) (a) THIS ARTICLE
15 DOES NOT APPLY TO AN APPRAISAL RELATING TO ANY REAL
16 ESTATE-RELATED TRANSACTION OR LOAN MADE OR TO BE MADE BY A
17 FINANCIAL INSTITUTION OR ITS AFFILIATE IF THE REAL ESTATE-RELATED
18 TRANSACTION OR LOAN IS EXCEPTED FROM APPRAISAL REGULATIONS
19 ESTABLISHED BY THE PRIMARY FEDERAL REGULATOR OF THE FINANCIAL
20 INSTITUTION AND THE APPRAISAL IS PERFORMED BY:

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

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

26 (b) THE APPRAISAL MUST NOT BE REPRESENTED OR DEEMED TO BE
27 AN APPRAISAL EXCEPT TO THE FINANCIAL INSTITUTION, THE AGENCIES

1 REGULATING THE FINANCIAL INSTITUTION, AND ANY SECONDARY MARKETS
2 THAT PURCHASE REAL ESTATE SECURED LOANS. THE APPRAISAL MUST
3 CONTAIN A WRITTEN NOTICE THAT THE PREPARER IS NOT LICENSED OR
4 CERTIFIED AS AN APPRAISER UNDER THIS PART 7. NOTHING IN THIS
5 SUBSECTION (1) EXEMPTS A PERSON LICENSED OR CERTIFIED AS AN
6 APPRAISER UNDER THIS PART 7 FROM REGULATION AS PROVIDED IN THIS
7 PART 7.

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

12 **12-61-724. [Formerly 12-61-720] Certification of conservation**
13 **easement holders - fund created - rules - repeal - definition.** (1) THE
14 DIVISION SHALL, IN CONSULTATION WITH THE COMMISSION CREATED IN
15 SECTION 12-61-725, ESTABLISH AND ADMINISTER A CERTIFICATION
16 PROGRAM FOR QUALIFIED ORGANIZATIONS UNDER SECTION 170(h) OF THE
17 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT HOLD
18 CONSERVATION EASEMENTS FOR WHICH A TAX CREDIT IS CLAIMED
19 PURSUANT TO SECTION 39-22-522, C.R.S. THE PURPOSES OF THE PROGRAM
20 ARE TO:

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

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

27 (2) THE DIVISION SHALL ESTABLISH AND ACCEPT APPLICATIONS

1 FOR CERTIFICATION. THE DIVISION SHALL CONDUCT A REVIEW OF EACH
2 APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION
3 BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY
4 CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING
5 CERTIFICATION, THE DIVISION AND THE COMMISSION MAY CONSIDER:

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

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

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

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

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

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

26 (3) AT THE TIME OF SUBMISSION OF AN APPLICATION, AND EACH
27 YEAR THE ENTITY IS CERTIFIED PURSUANT TO THIS SECTION, THE

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

19 (4) THE CERTIFICATION PROGRAM APPLIES TO:

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

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

26 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND
27 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE

1 STATE THAT HOLDS AN EASEMENT.

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

7 (6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND
8 MAKE RECOMMENDATIONS TO THE DIVISION REGARDING THE
9 CERTIFICATION PROGRAM. THE DIVISION IS AUTHORIZED TO DETERMINE
10 WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE NECESSARY
11 QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES ADOPTED
12 BY THE DIVISION. IF THE DIVISION DETERMINES THAT AN APPLICANT DOES
13 NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR
14 THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 7, THE
15 RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE
16 DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE
17 RENEWAL OF A CERTIFICATION, AND, IN SUCH INSTANCE, THE DIVISION
18 SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING
19 FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE APPLICANT MAY
20 REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION
21 24-4-104 (9), C.R.S. THE DIVISION SHALL NOTIFY SUCCESSFUL
22 APPLICANTS IN WRITING. AN APPLICANT THAT IS NOT CERTIFIED MAY
23 REAPPLY FOR CERTIFICATION IN ACCORDANCE WITH PROCEDURES
24 ESTABLISHED BY THE DIVISION.

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

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

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

8 (8) A CONSERVATION EASEMENT TAX CREDIT CERTIFICATE
9 APPLICATION MAY BE SUBMITTED PURSUANT TO SECTION 12-61-727 ONLY
10 IF THE ENTITY HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS SECTION AT
11 THE TIME THE DONATION OF THE EASEMENT IS MADE. THE DIVISION SHALL
12 MAKE INFORMATION AVAILABLE TO THE PUBLIC CONCERNING THE DATE
13 THAT IT COMMENCES ACCEPTING APPLICATIONS FOR ENTITIES THAT HOLD
14 CONSERVATION EASEMENTS AND THE REQUIREMENTS OF THIS SUBSECTION
15 (8).

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

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

1 FOR THE CERTIFICATION PROGRAM AND DISCIPLINE AUTHORIZED BY THIS
2 SECTION.

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

8 (12) NOTHING IN THIS SECTION:

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

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

15 (13) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018. PRIOR
16 TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL
17 REVIEW THE CERTIFICATION REQUIREMENT AS PROVIDED FOR IN SECTION
18 24-34-104, C.R.S.

19 **12-61-725. [Formerly 12-61-721] Conservation easement**
20 **oversight commission - created - repeal.** (1) THERE IS HEREBY CREATED
21 IN THE DIVISION A CONSERVATION EASEMENT OVERSIGHT COMMISSION.
22 THE COMMISSION SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES
23 AND FUNCTIONS UNDER THE DIVISION AS IF TRANSFERRED THERETO BY A
24 **TYPE 2** TRANSFER, AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION
25 ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S. THE COMMISSION CONSISTS
26 OF NINE MEMBERS AS FOLLOWS:

27 (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS

1 COLORADO PROGRAM, APPOINTED BY AND SERVING AT THE PLEASURE OF
2 THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND
3 ESTABLISHED IN ARTICLE XXVII OF THE STATE CONSTITUTION;

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

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

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

13 (I) A LAND TRUST CERTIFIED IN ACCORDANCE WITH SECTION
14 12-61-724;

15 (II) A LAND TRUST OR LOCAL GOVERNMENT OPEN SPACE OR LAND
16 CONSERVATION AGENCY CERTIFIED IN ACCORDANCE WITH SECTION
17 12-61-724;

18 (III) A LOCAL GOVERNMENT OPEN SPACE OR LAND CONSERVATION
19 AGENCY CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF SECTION
20 12-61-724;

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

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

27 (VI) A LANDOWNER THAT HAS DONATED A CONSERVATION

1 EASEMENT IN COLORADO.

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

17 (3) (a) AT THE REQUEST OF THE DIVISION OR THE DEPARTMENT OF
18 REVENUE, THE COMMISSION SHALL ADVISE THE DIVISION AND THE
19 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR
20 WHICH A STATE INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION
21 39-22-522, C.R.S.

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

26 (4) THE COMMISSION SHALL MEET NOT LESS THAN ONCE EACH
27 QUARTER. THE DIVISION SHALL CONVENE THE MEETINGS OF THE

1 COMMISSION AND PROVIDE STAFF SUPPORT AS REQUESTED BY THE
2 COMMISSION. A MAJORITY OF THE MEMBERS OF THE COMMISSION
3 CONSTITUTES A QUORUM FOR THE TRANSACTION OF ALL BUSINESS, AND
4 ACTIONS OF THE COMMISSION REQUIRE A VOTE OF A MAJORITY OF THE
5 MEMBERS PRESENT IN FAVOR OF THE ACTION TAKEN. THE COMMISSION
6 MAY DELEGATE TO THE DIRECTOR THE AUTHORITY TO ACT ON BEHALF OF
7 THE COMMISSION ON OCCASIONS AND IN CIRCUMSTANCES THAT THE
8 COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE
9 ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES
10 UNDER THIS PART 7.

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

17 (6) (a) THE COMMISSION SHALL ADVISE AND MAKE
18 RECOMMENDATIONS TO THE DIRECTOR REGARDING THE CERTIFICATION OF
19 CONSERVATION EASEMENT HOLDERS IN ACCORDANCE WITH SECTION
20 12-61-724. THE DIVISION MAY DETERMINE WHETHER AN APPLICANT FOR
21 CERTIFICATION POSSESSES THE NECESSARY QUALIFICATIONS FOR
22 CERTIFICATION REQUIRED BY THE RULES ADOPTED BY THE DIVISION.

23 (b) IF THE DIVISION DETERMINES THAT AN APPLICANT DOES NOT
24 POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR THAT
25 THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 7, THE RULES
26 PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE DIVISION
27 MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE RENEWAL OF A

1 CERTIFICATION. IN SUCH INSTANCE, THE DIVISION SHALL PROVIDE THE
2 APPLICANT WITH A STATEMENT IN WRITING SETTING FORTH THE BASIS OF
3 THE DIVISION'S DETERMINATION. THE APPLICANT MAY REQUEST A
4 HEARING ON THE DETERMINATION AS PROVIDED IN SECTION 24-4-104(9),
5 C.R.S.

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

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

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

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

19 **12-61-726. [Formerly 12-61-722] Conservation easement tax**
20 **credit certificates - rules.** (1) THE DIVISION SHALL RECEIVE TAX CREDIT
21 CERTIFICATE APPLICATIONS FROM AND ISSUE CERTIFICATES TO
22 LANDOWNERS FOR INCOME TAX CREDITS FOR CONSERVATION EASEMENTS
23 DONATED ON OR AFTER JANUARY 1, 2011, IN ACCORDANCE WITH SECTION
24 39-22-522 (2.5), C.R.S., AND THIS PART 7. NOTHING IN THIS SECTION
25 RESTRICTS OR LIMITS THE AUTHORITY OF THE DIVISION TO ENFORCE THIS
26 PART 7. THE DIVISION MAY PROMULGATE RULES IN ACCORDANCE WITH
27 ARTICLE 4 OF TITLE 24, C.R.S., FOR THE ISSUANCE OF THE CERTIFICATES.

1 IN PROMULGATING RULES, THE DIVISION MAY INCLUDE PROVISIONS
2 GOVERNING:

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

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

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

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

13 (e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION
14 39-22-522 (2.5), C.R.S., OR THIS PART 7.

15 (2) THE DIVISION SHALL APPLY THE AMOUNT CLAIMED IN A
16 COMPLETED TAX CREDIT CERTIFICATE APPLICATION AGAINST THE ANNUAL
17 TAX CREDIT LIMIT IN THE ORDER THAT COMPLETED APPLICATIONS ARE
18 RECEIVED. THE DIVISION SHALL APPLY CLAIMED TAX CREDIT AMOUNTS
19 THAT EXCEED THE ANNUAL LIMIT IN ANY YEAR AGAINST THE LIMIT FOR
20 THE NEXT AVAILABLE YEAR AND ISSUE TAX CREDIT CERTIFICATES FOR USE
21 IN THE YEAR IN WHICH THE AMOUNT WAS APPLIED TO THE ANNUAL LIMIT.

22 (3) THE DIVISION SHALL NOT ISSUE TAX CREDIT CERTIFICATES
23 THAT IN AGGREGATE EXCEED THE LIMIT SET FORTH IN SECTION 39-22-522
24 (2.5), C.R.S., DURING A PARTICULAR CALENDAR YEAR.

25 **12-61-727. [Formerly 12-61-723] Conservation easement tax**
26 **credit certificate application process - conservation easement tax**
27 **credit certificate review fund - created - definitions - rules. (1) FOR**

1 PURPOSES OF THIS SECTION:

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

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

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

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

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

19 (f) "LANDOWNER" MEANS THE RECORD OWNER OF THE SURFACE OF
20 THE LAND AND, IF APPLICABLE, OWNER OF THE WATER OR WATER RIGHTS
21 BENEFICIALLY USED THEREON WHO CREATES A CONSERVATION EASEMENT
22 IN GROSS PURSUANT TO SECTION 38-30.5-104, C.R.S.

23 (g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION
24 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION
25 12-61-726 AND THIS SECTION.

26 (2) (a) THE DIVISION SHALL ESTABLISH AND ADMINISTER A
27 PROCESS BY WHICH A LANDOWNER SEEKING TO CLAIM AN INCOME TAX

1 CREDIT FOR ANY CONSERVATION EASEMENT DONATION MADE ON OR AFTER
2 JANUARY 1, 2014, MUST APPLY FOR A TAX CREDIT CERTIFICATE AS
3 REQUIRED BY SECTION 39-22-522 (2.5) AND (2.7), C.R.S. THE PURPOSE OF
4 THE APPLICATION PROCESS IS TO DETERMINE WHETHER A CONSERVATION
5 EASEMENT DONATION FOR WHICH A TAX CREDIT WILL BE CLAIMED:

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

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

12 (III) COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

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

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

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

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

26 (I) THE APPRAISAL FOR A CONSERVATION EASEMENT DONATION
27 FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522,

1 C.R.S., IS A QUALIFIED APPRAISAL FROM A QUALIFIED APPRAISER, AS
2 DEFINED IN SECTION 170 (f) OF THE FEDERAL "INTERNAL REVENUE CODE
3 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
4 IN CONNECTION WITH SUCH SECTION;

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

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

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

14 (c) THE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY TO
15 DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION
16 12-61-724.

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

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

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

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

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

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

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

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

13 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX
14 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR
15 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION
16 (14) OF THIS SECTION SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY
17 THE DIVISION. THE APPLICATION FEE FOR AN OPTIONAL PRELIMINARY
18 ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT THAN THE
19 APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES MUST COVER
20 THE COSTS OF THE DIVISION AND THE COMMISSION IN ADMINISTERING THE
21 REQUIREMENTS OF THIS SECTION. THE STATE TREASURER SHALL CREDIT
22 THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE
23 CONSERVATION EASEMENT TAX CREDIT CERTIFICATE REVIEW FUND, WHICH
24 FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL
25 ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS IN THE FUND TO THE
26 DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS
27 SECTION. THE MONEYS SHALL NOT REVERT TO THE GENERAL FUND AT THE

1 END OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN
2 ACCORDANCE WITH SECTION 24-75-402, C.R.S. ON OR BEFORE JANUARY
3 1, 2014, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION
4 SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF ANY FEES
5 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (6).

6 (7) (a) IF, DURING THE REVIEW OF AN APPLICATION FOR A TAX
7 CREDIT CERTIFICATE, THE DIRECTOR OR THE COMMISSION IDENTIFIES ANY
8 POTENTIAL DEFICIENCIES, THE DIRECTOR OR COMMISSION SHALL
9 DOCUMENT THE POTENTIAL DEFICIENCIES IN A LETTER SENT TO THE
10 LANDOWNER BY FIRST CLASS MAIL. THE DIVISION SHALL SEND LETTERS
11 DOCUMENTING POTENTIAL DEFICIENCIES TO LANDOWNERS IN A TIMELY
12 MANNER SO THAT THE AVERAGE NUMBER OF DAYS BETWEEN THE DATE A
13 COMPLETED APPLICATION IS RECEIVED BY THE DIVISION AND THE MAILING
14 DATE OF THE DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED
15 ONE HUNDRED TWENTY DAYS.

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

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

27 (d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE

1 EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE DIRECTOR AND THE
2 COMMISSION AND THE LANDOWNER.

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

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

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

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

12 (9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL
13 SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE
14 DIRECTOR, AFTER CONSULTATION WITH THE COMMISSION, MAY REQUIRE
15 THE LANDOWNER, AT THE LANDOWNER'S EXPENSE, TO OBTAIN EITHER A
16 REVISED APPRAISAL OR A SECOND APPRAISAL FROM AN APPRAISER WHO
17 MEETS THE REQUIREMENTS OF THIS PART 7 AND IS IN GOOD STANDING
18 WITH THE BOARD BEFORE MAKING A FINAL DETERMINATION REGARDING
19 THE APPLICATION.

20 (10) IF THE DIRECTOR AND THE COMMISSION DO NOT IDENTIFY ANY
21 POTENTIAL DEFICIENCIES WITH AN APPLICATION, THE DIRECTOR AND THE
22 COMMISSION SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL
23 ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO
24 SECTION 12-61-726 IN A TIMELY MANNER SO THAT THE AVERAGE NUMBER
25 OF DAYS BETWEEN THE DATE A COMPLETED APPLICATION IS RECEIVED BY
26 THE DIVISION AND THE DATE THE TAX CREDIT CERTIFICATE IS ISSUED DOES
27 NOT EXCEED ONE HUNDRED TWENTY DAYS. ONCE A TAX CREDIT

1 CERTIFICATE IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE TAX
2 CREDIT SUBJECT TO ANY OTHER APPLICABLE PROCEDURES AND
3 REQUIREMENTS UNDER TITLE 39, C.R.S.

4 (11) (a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN
5 IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
6 DIRECTOR AND THE COMMISSION, THE DIRECTOR AND THE COMMISSION
7 SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL ISSUE A TAX
8 CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION
9 12-61-726. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER
10 MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE
11 PROCEDURES AND REQUIREMENTS UNDER TITLE 39, C.R.S.

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

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

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

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

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

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

25 (13)(a) COMMENCING WITH THE 2014 CALENDAR YEAR, AND FOR
26 EACH CALENDAR YEAR THEREAFTER, THE DIVISION SHALL CREATE A
27 REPORT, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC, CONTAINING

1 THE FOLLOWING AGGREGATE INFORMATION:

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

5 (II) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS
6 SECTION:

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

12 (B) THE TOTAL APPRAISED VALUE OF THE EASEMENTS;

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

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

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

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

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

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

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

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

26 (16) NOTWITHSTANDING THE PROVISIONS OF THE "COLORADO
27 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE

1 DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL DENY THE RIGHT
2 OF PUBLIC INSPECTION OF ANY DOCUMENTATION OR OTHER RECORD
3 RELATED TO INFORMATION OBTAINED AS PART OF AN INDIVIDUAL
4 LANDOWNER'S APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN
5 OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO THE
6 REQUIREMENTS OF THIS SECTION, INCLUDING DOCUMENTATION OR OTHER
7 RECORDS RELATED TO ADMINISTRATIVE HEARINGS AND SETTLEMENT
8 DISCUSSIONS HELD PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE
9 DIVISION, THE DIRECTOR, AND THE COMMISSION MAY SHARE
10 DOCUMENTATION OR OTHER RECORDS RELATED TO INFORMATION
11 OBTAINED PURSUANT TO THIS SECTION WITH THE DEPARTMENT OF
12 REVENUE.

13 (17) NOTHING IN THIS SECTION AFFECTS ANY TAX CREDIT THAT IS
14 CLAIMED OR USED PURSUANT TO SECTION 39-22-522, C.R.S., FOR
15 CONSERVATION EASEMENT DONATIONS OCCURRING PRIOR TO JANUARY 1,
16 2014.

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

19 **11-105-401. Acquisition of property to satisfy indebtedness.**

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

24 (d) The property shall be entered on the books at not more than
25 cost or fair market value, whichever is less, except as otherwise provided
26 by the banking board. Each bank maintaining property acquired to satisfy
27 indebtedness will obtain an initial written appraisal and subsequent

1 appraisals as to fair market value by a qualified independent appraiser or
2 such other person as the banking board may approve. Such subsequent
3 appraisals shall be obtained pursuant to rules of the state banking board;
4 except that, for purposes of this paragraph (d), an appraisal, as defined in
5 section 12-61-702 (1), C.R.S., by an appraiser certified, licensed, or
6 registered pursuant to section ~~12-61-708~~ 12-61-711, C.R.S., shall not be
7 required on properties initially valued pursuant to this paragraph (d) at
8 two hundred fifty thousand dollars or less. If such appraiser or other
9 person approved by the banking board certifies in writing such appraiser's
10 or other person's opinion that the fair market value has not declined, this
11 opinion may be substituted for a subsequent appraisal.

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

14 **12-61-113. Investigation - revocation - actions against licensee**
15 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
16 complaint in writing of any person, shall, investigate the activities of any
17 licensee or any person who assumes to act in such capacity within the
18 state, and the commission, after the holding of a hearing pursuant to
19 section 12-61-114, has the power to impose an administrative fine not to
20 exceed two thousand five hundred dollars for each separate offense and
21 to censure a licensee, to place the licensee on probation and to set the
22 terms of probation, or to temporarily suspend or permanently revoke a
23 license when the licensee has performed, is performing, or is attempting
24 to perform any of the following acts and is guilty of:

25 (y) Within the last five years, having a license, registration, or
26 certification issued by Colorado or another state revoked or suspended for
27 fraud, deceit, material misrepresentation, theft, or the breach of a

1 fiduciary duty, and such discipline denied the person authorization to
2 practice as:

3 (III) A real estate appraiser, as defined by section 12-61-702 ~~(5)~~
4 (11);

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

7 **12-61-905. Powers and duties of the board.** (1) The board may
8 deny an application for a license, refuse to renew, or revoke the license
9 of an applicant or licensee who has:

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

15 (IV) A real estate appraiser, as defined by section 12-61-702 ~~(5)~~
16 (11);

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

19 **12-61-1010. Investigation - revocation - actions against**
20 **licensee.** (1) The director, upon the director's own motion, may, and,
21 upon the complaint in writing of any person, shall, investigate the
22 activities of any community association manager or any person who
23 assumes to act in such capacity within the state. The director, after
24 holding a hearing in accordance with the "State Administrative Procedure
25 Act", article 4 of title 24, C.R.S., may impose an administrative fine not
26 to exceed two thousand five hundred dollars for each separate offense,
27 censure a licensee, place the licensee on probation and set the terms of

1 probation, or temporarily suspend or permanently revoke a license when
2 the licensee has performed, is performing, or is attempting to perform any
3 of the following acts and is guilty of:

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

8 (III) A real estate appraiser, as defined by section 12-61-702 ~~(5)~~
9 (11);

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

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for termination, continuation, or reestablishment.**

14 (49) The following agencies, functions, or both, shall terminate on July
15 1, 2018:

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

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

20 **39-21-113. Reports and returns - rule - repeal.**

21 (17) Notwithstanding any other provision of this section, the executive
22 director may require that such detailed information regarding a claim for
23 a credit for the donation of a conservation easement in gross pursuant to
24 section 39-22-522 and any appraisal submitted in support of the credit
25 claimed be given to the division of real estate in the department of
26 regulatory agencies and the conservation easement oversight commission
27 created pursuant to ~~section 12-61-721 (1)~~ SECTION 12-61-725 (1), C.R.S.,

1 as the executive director determines is necessary in the performance of
2 the department's functions relating to the credit. The executive director
3 may provide copies of any appraisal and may file a complaint regarding
4 any appraisal as authorized pursuant to section 39-22-522 (3.3).
5 Notwithstanding the provisions of part 2 of article 72 of title 24, C.R.S.,
6 in order to protect the confidential financial information of a taxpayer, the
7 executive director shall deny the right to inspect any information or
8 appraisal required in accordance with the provisions of this subsection
9 (17).

10 **SECTION 8.** In Colorado Revised Statutes, 39-22-522, **amend**
11 (2.5), (2.7), (3) (e), (3) (f) introductory portion, (3.3), (3.5), (3.6) (a) (I),
12 and (3.6) (b) as follows:

13 **39-22-522. Credit against tax - conservation easements.**
14 (2.5) Notwithstanding any other provision of this section and the
15 requirements of ~~section 12-61-723~~ SECTION 12-61-727, C.R.S., for
16 income tax years commencing on or after January 1, 2011, a taxpayer
17 conveying a conservation easement and claiming a credit pursuant to this
18 section shall, in addition to any other requirements of this section and the
19 requirements of ~~section 12-61-723~~ SECTION 12-61-727, C.R.S., submit a
20 claim for the credit to the division of real estate in the department of
21 regulatory agencies. The division shall issue a certificate for the claims
22 received in the order submitted. After certificates have been issued for
23 credits that exceed an aggregate of twenty-two million dollars for all
24 taxpayers for the 2011 and 2012 calendar years, thirty-four million dollars
25 for the 2013 calendar year, and forty-five million dollars for each
26 calendar year thereafter, any claims that exceed the amount allowed for
27 a specified calendar year shall be placed on a wait list in the order

1 submitted and a certificate shall be issued for use of the credit in the next
2 year for which the division has not issued credit certificates in excess of
3 the amounts specified in this subsection (2.5); except that no more than
4 fifteen million dollars in claims shall be placed on the wait list in any
5 given calendar year. The division shall not issue credit certificates that
6 exceed twenty-two million dollars in each of the 2011 and 2012 calendar
7 years, thirty-four million dollars for the 2013 calendar year, and forty-five
8 million dollars for each calendar year thereafter. No claim for a credit is
9 allowed for any income tax year commencing on or after January 1, 2011,
10 unless a certificate has been issued by the division. If all other
11 requirements under ~~section 12-61-723~~ SECTION 12-61-727, C.R.S., and
12 this section are met, the right to claim the credit is vested in the taxpayer
13 at the time a credit certificate is issued.

14 (2.7) Notwithstanding any other provision, for income tax years
15 commencing on or after January 1, 2014, no claim for a credit shall be
16 allowed unless a tax credit certificate is issued by the division of real
17 estate in accordance with ~~sections 12-61-722 and 12-61-723~~ SECTIONS
18 12-61-726 AND 12-61-727, C.R.S., and the taxpayer files the tax credit
19 certificate with the income tax return filed with the department of
20 revenue.

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

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

1 appraiser submitted to the division of real estate in the department of
2 regulatory agencies in accordance with the provisions of section
3 12-61-719, C.R.S., AS SAID SECTION EXISTED PRIOR TO ITS REPEAL ON
4 JULY 1, 2013;

5 (f) If the holder of the conservation easement is an organization
6 to which the certification program in ~~section 12-61-720~~ SECTION
7 12-61-724, C.R.S., applies, a sworn affidavit from the holder of the
8 conservation easement in gross that includes the following:

9 (3.3) The appraisal for a conservation easement in gross donated
10 prior to January 1, 2014, and for which a credit is claimed shall be a
11 qualified appraisal from a qualified appraiser, as those terms are defined
12 in section 170 (f) (11) of the internal revenue code. The appraisal shall be
13 in conformance with the uniform standards of professional appraisal
14 practice promulgated by the appraisal standards board of the appraisal
15 foundation and any other provision of law. The appraiser shall hold a
16 valid license as a certified general appraiser in accordance with the
17 provisions of part 7 of article 61 of title 12, C.R.S. The appraiser shall
18 also meet any education and experience requirements established by the
19 board of real estate appraisers in accordance with ~~section 12-61-719 (7)~~
20 SECTION 12-61-704 (1) (k), C.R.S. If there is a final determination, other
21 than by settlement of the taxpayer, that an appraisal submitted in
22 connection with a claim for a credit pursuant to this section is a
23 substantial or gross valuation misstatement as such misstatements are
24 defined in section 1219 of the federal "Pension Protection Act of 2006",
25 Pub.L. 109-280, the department shall submit a complaint regarding the
26 misstatement to the board of real estate appraisers for disciplinary action
27 in accordance with the provisions of part 7 of article 61 of title 12, C.R.S.

1 (3.5) (a) For conservation easements donated prior to January 1,
2 2014:

3 (I) The executive director shall have the authority, pursuant to
4 subsection (8) of this section, to require additional information from the
5 taxpayer or transferee regarding the appraisal value of the easement, the
6 amount of the credit, and the validity of the credit. In resolving disputes
7 regarding the validity or the amount of a credit allowed pursuant to
8 subsection (2) of this section, including the value of the conservation
9 easement for which the credit is granted, the executive director shall have
10 the authority, for good cause shown and in consultation with the division
11 of real estate and the conservation easement oversight commission
12 created in ~~section 12-61-721(1)~~ SECTION 12-61-725(1), C.R.S., to review
13 and accept or reject, in whole or in part, the appraisal value of the
14 easement, the amount of the credit, and the validity of the credit based
15 upon the internal revenue code and federal regulations in effect at the
16 time of the donation. If the executive director reasonably believes that the
17 appraisal represents a gross valuation misstatement, receives notice of
18 such a valuation misstatement from the division of real estate, or receives
19 notice from the division of real estate that an enforcement action has been
20 taken by the board of real estate appraisers against the appraiser, the
21 executive director shall have the authority to require the taxpayer to
22 provide a second appraisal at the expense of the taxpayer. The second
23 appraisal shall be conducted by a certified general appraiser in good
24 standing and not affiliated with the first appraiser that meets
25 qualifications established by the division of real estate. In the event the
26 executive director rejects, in whole or in part, the appraisal value of the
27 easement, the amount of the credit, or the validity of the credit, the

1 procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and
2 39-21-105 shall apply.

3 (II) In consultation with the division of real estate and the
4 conservation easement oversight commission created in ~~section~~
5 ~~12-61-721 (1)~~ SECTION 12-61-725 (1), C.R.S., the executive director shall
6 develop and implement a separate process for the review by the
7 department of revenue of gross conservation easements. The review
8 process shall be consistent with the statutory obligations of the division
9 and the commission and shall address gross conservation easements for
10 which the department of revenue has been informed that an audit is being
11 performed by the internal revenue service. The executive director shall
12 share information used in the review of gross conservation easements
13 with the division. Notwithstanding part 2 of article 72 of title 24, C.R.S.,
14 in order to protect the confidential financial information of a taxpayer, the
15 division and the commission shall deny the right to inspect any
16 information provided by the executive director in accordance with this
17 subparagraph (II).

18 (b) For conservation easements donated on or after January 1,
19 2014, and subject to the restrictions of ~~section 12-61-723 (4)~~ SECTION
20 12-61-727 (4), C.R.S., the executive director shall have the authority,
21 pursuant to subsection (8) of this section, to require additional
22 information from the taxpayer or transferee regarding the amount of the
23 credit and the validity of the credit. In resolving disputes regarding the
24 validity or the amount of a credit allowed pursuant to subsection (2) of
25 this section, the executive director shall have the authority, for good cause
26 shown, to review and accept or reject, in whole or in part, the amount of
27 the credit and the validity of the credit based upon the internal revenue

1 code and federal regulations in effect at the time of the donation, except
2 those requirements for which authority is granted to the division of real
3 estate, the director of the division of real estate, or the conservation
4 easement oversight commission pursuant to ~~section 12-61-723~~ SECTION
5 12-61-727, C.R.S.

6 (3.6) For conservation easements donated on or after January 1,
7 2014, in order for any taxpayer to qualify for the credit provided for in
8 subsection (2) of this section, the taxpayer must submit the following in
9 a form, approved by the executive director, to the department of revenue
10 at the same time as the taxpayer files a return for the taxable year in
11 which the credit is claimed:

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

14 (b) Notwithstanding any other provisions of law, the executive
15 director retains the authority to administer all issues related to the claim
16 or use of a tax credit for the donation of a conservation easement that are
17 not granted to the director of the division of real estate or the conservation
18 easement oversight commission under ~~section 12-61-723~~ SECTION
19 12-61-727, C.R.S.

20 **SECTION 9.** In Colorado Revised Statutes, 39-22-522.5, **amend**
21 (8), (12) (a) (II), and (12) (a) (III) as follows:

22 **39-22-522.5. Conservation easement tax credits - dispute**
23 **resolution - legislative declaration.** (8) On or before August 1, 2011,
24 the conservation easement oversight commission created in ~~section~~
25 ~~12-61-721 (1)~~ SECTION 12-61-725 (1), C.R.S., shall review conservation
26 easements for which a tax credit is claimed pursuant to sections
27 39-22-522 (3.5) (a) and ~~12-61-721 (3)~~ 12-61-725 (3), C.R.S., and for

1 which a notice of deficiency, notice of rejection of refund claim, or notice
2 of disallowance issued on or before May 1, 2011, but for which a final
3 determination has not been issued before May 19, 2011, and for which the
4 commission has not already reviewed the credit. For each conservation
5 easement tax credit claim so reviewed, the commission shall issue an
6 initial recommendation to the executive director on whether each credit
7 claimed by a taxpayer who is eligible to waive a hearing and appeal a
8 notice of deficiency, notice of rejection of refund claim, or notice of
9 disallowance may be denied or accepted. No other information shall be
10 required of the commission on or before such date.

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

15 (II) The number of such cases sent to the conservation easement
16 oversight commission for review pursuant to ~~section 12-61-721~~ SECTION
17 12-61-725, C.R.S.;

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

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

25 **43-1-210. Acquisition and disposition of property -**
26 **department of transportation renovation fund - repeal.** (5) (a) (V) For
27 property or interest therein subject to disposition that the department

1 determines has an approximate value of less than five thousand dollars,
2 the department shall dispose of such property or interest by means of a
3 sale or exchange at not less than its fair market value in the manner set
4 forth in this subsection (5); except that the department may employ a
5 right-of-way acquisition agent as specified in section 12-61-702 ~~(5)~~ (11),
6 C.R.S., to provide an estimate of the fair market value of such property
7 or interest and to determine to whom such property or interest is of use.

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

9 **SECTION 12. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.