



COLORADO

GENERAL ASSEMBLY

**THE JOINT LEGISLATIVE
SUNRISE AND SUNSET
REVIEW COMMITTEE**

**SUNRISE AND SUNSET
RECOMMENDATIONS**

NOVEMBER, 1988

RECOMMENDATIONS FOR 1989

**JOINT LEGISLATIVE SUNRISE SUNSET
REVIEW COMMITTEE**

**Report to the
Colorado General Assembly**

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COLORADO GENERAL ASSEMBLY



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To Members of the Fifty-seventh Colorado General Assembly:

Submitted herewith is the final report of the Joint Legislative Sunrise/Sunset Review Committee. The committee was created pursuant to section 2-3-1201, C.R.S., (House Bill 1087, 1985 session), and Rule 35 of the Joint Rules of the Senate and House Representatives.

The purpose of the committee is to review the termination of divisions, boards or agencies pursuant to the statutory sunset provisions (section 24-34-104, C.R.S.) and to review requests for new regulation of occupations and professions pursuant to the statutory sunrise provisions (section 24-3-104.1, C.R.S.).

At its meeting on October 24 the Legislative Council reviewed this report and approved a motion to forward the committee's recommendations to the Fifty-seventh General Assembly.

Respectfully submitted,

/s/ Senator Ted L. Strickland
Chairman
Colorado Legislative Council

TS/pn

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**JOINT LEGISLATIVE
SUNRISE SUNSET REVIEW COMMITTEE**

Members of the Committee

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Chairman
Senator Robert DeNier
Senator Robert Martinez

Representative Jerry Kopel
Representative Bill Owens
Representative Mary Anne Tebedo

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SUMMARY OF RECOMMENDATIONS

The Joint Legislative Sunrise and Sunset Review Committee was established in 1985 to perform the functions and duties relating to the termination of specified commissions, divisions, agencies, and citizens advisory committees and to consider proposals for the new regulation of occupations and professions not presently regulated (section 2-3-1201, et seq., C.R.S., and Rule 35 of the Joint Rules of the Senate and House of Representatives).

In carrying out its directives, the committee held eight days of meetings during the 1988 interim. Findings and recommendations prepared by the Department of Regulatory Agencies (DORA) were reviewed, and the committee heard public testimony from concerned citizens, interest groups, and where appropriate, representatives of licensing boards and advisory committees. The committee conducted three sunset reviews of boards and commissions, five sunrise reviews of applications for occupational licensure, and eleven sunset reviews of advisory committees. Fourteen bills are recommended for action in the 1989 session.

A. Sunset Review of Existing Commissions, Divisions, and Boards

The statutory directive for review of these commissions and divisions is found in section 24-34-104, C.R.S.

Colorado Real Estate Commission And Division

RECOMMENDATION: Bill 1 -- Concerning the Real Estate Industry, and, in Connection Therewith, Providing for the Continuation of the Real Estate Commission.

Colorado Mobile Home Licensing Board

RECOMMENDATION: Bill 2 -- Concerning the Manufactured Housing Industry, and, in Connection Therewith, Providing for the Continuation of the Colorado Mobile Home Licensing Board While Changing its Name to the Colorado Manufactured Housing Licensing Board.

Colorado Civil Rights Commission And Division

RECOMMENDATION: Bill 3 -- Concerning the Continuation of the Civil Rights Division, Including the Colorado Civil Rights Commission, and in Connection Therewith, Changing Certain Provisions of the Law Relating to the Commission.

B. Sunrise Review of Occupations Requesting Licensure

Applications for licensure were submitted pursuant to section 2-3-1202, C.R.S.

Underground Storage Tank Installers And Inspectors

RECOMMENDATION: Bill 4 -- Concerning the Regulation of Underground Storage Tanks, and, in Connection Therewith, Providing for the Licensing of Underground Storage Tank Installers and Inspectors and Requiring the Inspection of New or Upgraded Underground Storage Tanks.

Acupuncturists

RECOMMENDATION: Although the committee does not recommend licensure of acupuncturists, the following bill is recommended. Bill 5 -- Concerning Unlawful Acts Relating to the Provision of Acupuncture Services, and, in Connection Therewith, Providing Remedies to Recipients of Such Services and Further Providing that the Rendering of Such Services Shall Not Require a Medical License.

Professional Repossessors Of Collateral

RECOMMENDATION: Although the committee does not recommend licensure of reposseors, the following bill is recommended. Bill 6 -- Concerning Repossession of Collateral, and, in Connection Therewith, Allocating Responsibility for the Actions of Reposseors and Changing Law Enforcement Notification Requirements.

Boxing/Athletic Commission

RECOMMENDATION: Although the committee does not recommend the establishment of a boxing commission, the following bill is recommended. Bill 7 -- Concerning the Inclusion of Certain Boxing Activities in the Definition of Child Abuse.

Creative Arts Therapists

RECOMMENDATION: The committee does not recommend the licensure of creative arts therapists.

C. Sunset Review of Advisory Committees

The statutory directive for the sunset review of advisory committees is found in section 2-3-1203, C.R.S.

Advisory Committee on River Outfitters -- the committee recommends that the statute creating this advisory committee be repealed (Bill 8).

Colorado Volunteerism Board of Advisors -- the committee recommends that this advisory committee be allowed to terminate (Bill 8).

The committee recommends the continuation of the following advisory committees (Bills 8 and 9 listed below).

Advisory Commission on Family Medicine

Advisory Committee to the Colorado Commission on Higher Education

Advisory Committee to the School of Medicine Concerning the Hemophilia Treatment Center

Capital Development Advisory Committee

Colorado Recreational Trails Committee

Medical Advisory Board

Radiation Advisory Committee

Sickle Cell Anemia Advisory Committee

State Advisory Council on Emergency Medical Services

Correctional Industries Advisory Committee

RECOMMENDATION: Bill 8 -- Concerning Certain Advisory Committees, and, Relating to the Sunset Review Thereof, Changing the Name of One of Said Committees, and Changing the Ex Officio Membership on One of Said Committees.

RECOMMENDATION: Bill 9 -- Concerning the Correctional Industries Advisory Committee.

D. Review of Amendments to the Mental Health Act of 1988

The Joint Sunrise Sunset Review Committee considered amendments proposed by the State Grievance Board to 5 the mental health statutes enacted in House Bill 1026, a bill recommended by the committee for action in the 1988 session.

RECOMMENDATION: Bill 10 -- Concerning Prohibited Activities Related to Orders of Boards Established Pursuant to the Mental Health Law.

RECOMMENDATION: Bill 11 -- Concerning the Appointment of Marriage And Family Therapists to the Boards Established Under the Mental Health Law.

RECOMMENDATION: Bill 12 -- Concerning the Definition of "Unlicensed Psychotherapist" Under the Mental Health Law.

E. Review of the Necessity of Rules

House Bill 1009, 1987 session, directed the Office of Regulatory Reform (ORR) to notify the committee of any proposed rules which ORR believes are unnecessary for the administrative function of a particular agency. The committee then reviews such rules and prepares legislation to rescind such rules in whole or in part.

RECOMMENDATION: Bill 13 -- Concerning the Deletion, Pursuant to 2-34-913 (4.5), Colorado Revised Statutes, as Amended, of Provisions in Administrative Rules and Regulations Which are Unnecessary for the Administrative Functions of the Affected Agencies.

RECOMMENDATION: Bill 14 -- Concerning Rules Reviewed by the Joint Legislative Sunrise and Sunset Review Committee.

A. SUNSET REVIEWS OF EXISTING COMMISSIONS, DIVISIONS, AND BOARDS

Statutory Authority and Responsibility

The General Assembly, finding that the state had produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations, established a system for the termination, continuation, or reestablishment of such agencies. The process had developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The Joint Legislative Sunrise Sunset Review Committee was created in 1985 and was given the responsibility for such a system. The committee is charged with providing for the analysis and evaluation of such agencies to determine the least restrictive regulation consistent with the public interest.

The Department of Regulatory Agencies (DORA) is required by section 24-34-104, C.R.S., to conduct an analysis and evaluation of the performance of each division, board, or agency or each function of an agency that is scheduled for termination. The DOR ^ report is completed one year before the termination date and sent to the Joint Legislative Sunrise Sunset Review Committee.

Two commissions, along with the administrative agencies related to these commissions, and one board were reviewed during the 1988 legislative interim:

- Colorado Real Estate Commission and the Real Estate Division;
- Colorado Mobile Home Licensure Board; and
- Colorado Civil Rights Commission and the Civil Rights Division.

Committee Recommendations

Colorado Real Estate Commission and the Real Estate Division

The Colorado Real Estate Commission (CREC) is established under section 12-61-105, Colorado Revised Statutes (C.R.S.). The commission consists of five members appointed by the Governor for three-year terms. Three commissioners must be real estate brokers with not less than five years experience in the real estate industry in Colorado. One commissioner must have expertise in subdivision development and the fifth person must be a public member. The Governor may fill unexpired terms in the case of death, resignation or removal. The commission licenses real estate brokers and salesmen, and registers subdivision developers and home warranty service companies.

In its sunset review, DORA recommended the continuation of the commission and that a number of statutes and CREC regulations be amended. Committee discussion and public testimony focused not on whether the CREC should be continued but on the various recommendations for statutory changes.

The committee's proposed legislation, Bill 1, continues CREC through July 1, 1999, and changes statutes concerning the licensure and the practices of real estate brokers and salesmen, and subdivision developers. In addition, the bill proposes the deregulation of home warranty service companies except for two related prohibitions.

In the licensure statutes, Bill 1 exempts those persons who act as finders for buyers or sellers but do not participate in real estate negotiations. The commission is required to set the minimum passing score for the salesman's or broker's license examination to reflect a minimum level of competency. Also, the reciprocity requirements and the requirement that non-resident sales agents be licensed in their resident state are eliminated from the out-of-state licensee section.

In regard to the commission itself, the bill allows the Governor to remove any member for misconduct, neglect of duty, or incompetence. Also, the commission's powers in actions against a licensee are extended to include probation for the licensee and terms of the probation.

Regarding disciplinary actions, Bill 1 removes the requirement that a misrepresentation by a licensee be substantial and willful, and that there be a continued and flagrant course of misrepresentation. The term "actual" is substituted for the term "guilty" to describe the broker's knowledge of a salesman's or employee's unlawful activities. Under this bill, the following actions are grounds for disciplinary actions:

- violating any provision of the Colorado Consumer Protection Act;
- violating or aiding and abetting in the violation of any provision of Colorado or federal fair housing laws, or lawful commission orders;
- entering a plea of guilty or nolo contendere to any offense;
- making use of false or misleading advertising; or
- being subject to any disciplinary action in another jurisdiction if that action would be grounds for disciplinary action in Colorado.

With respect to statutes concerning subdivisions, Bill 1 makes approximately 25 changes. In the definitions section, homebuilders are excluded from the definition of "developer." The definition of "subdivision" is shortened to mean "any division of real property into ten or more interests not intended for commercial or industrial use and offered for sale, lease, or transfer." (Currently the definition of "subdivision" is complex and lacks clarity as to what is regulated.) The selling of memberships in

campgrounds, and bulk sales and transfers between developers are excluded from the definition of "subdivision."

The requirements for registration of subdivision developers are modified and expanded. The following are a number of key provisions recommended:

- Developers must be registered before commencing any sales-related activities, except for the period of time between their application to the commission and the time the commission grants or denies the application. Developers must also be registered at the time contracts for the sale or lease of subdivision property are made. Otherwise, the contracts are void and unenforceable by the developer. Beneficial owners of a subdivision, as well as sellers and lessors who will sign contracts, must register prior to sales-related activities.
- The commission is authorized to deny application for registration if the required information is incomplete. Applicants must also notify the commission within ten days of any change in the information submitted for registration. Failure to do so will be a cause for disciplinary action.
- Applicants for licensure must inform the commission if the applicant or any person with a financial interest in the applicant's business has engaged in any activity which violates subdivision law.
- Applicants must provide documentary evidence that any mortgagee or trustee of a deed of trust will release any lot or time share from the blanket encumbrance; they must also disclose the existence of any homeowners' association and whether they control funds in the association.
- Applicants must state that standard commission-approved sale or lease documents will be used in subdivision transactions unless the forms used are prepared by an attorney representing the developer.
- The expiration date for registration is changed from January 1 to December 31, and expired registrations may be reinstated within two years after expiration upon payment of the fee if the applicant still meets all the requirements.

Some aspects of the existing grounds for disciplinary action against subdivision developers are changed and additional grounds for disciplinary action or denial of registration are added to the statutes. Among the additions is a provision that disciplinary actions occurring in other jurisdictions shall be prima facie evidence of grounds for disciplinary action under the law.

In expanding the powers and duties of the commission, Bill 1 authorizes the commission to: apply to a court for appointment of a receiver under certain circumstances; promulgate rules and regulations requiring the retention of business records for seven years; require written disclosures by developers to purchasers; audit the accounts of homeowners' associations whose funds are controlled by the developer; and

require that standardized forms be used by subdivision developers in connection with the sale or lease of subdivision property.

The bill repeals the laws requiring home warranty service companies to register and deposit a bond with the commission, submit an annual statement, and report any receipt of service of process. An addition to the statutes requires certain disclosures in home warranty service contracts.

Colorado Mobile Home Licensing Board

The Colorado Mobile Home Licensing Board (CMHLB) consists of seven members: two are public members, one of whom must be a mobile home owner and resident at the time of appointment; four are licensed mobile home dealers; and one is a person from a financial institution engaged in financing mobile homes. The board is currently in its wind-up year, as the termination date was July 1, 1988.

In its 1987 sunset review of CMHLB, the Department of Regulatory Agencies recommended that the board be continued but said it would study the feasibility of merging the board with the Real Estate Commission. The department considered a merger because of the decreasing number of dealers, the increasing cost of licensure, similarities of mobile home law and real estate law, and the increasing percentage of mobile home licensees who are also licensed by the commission. The Sunrise Sunset Committee's bill to continue the board until July 1, 1989, was postponed indefinitely at the request of the sponsor during the 1988 session (Senate Bill 24).

After extensive public hearings with mobile home industry representatives who support continuation, the committee recommends continuing the board until July 1, 1992. Bill 2 not only continues the board but also stipulates that the committee shall retain continuing jurisdiction, at any time and at its own discretion, to review and recommend termination, continuation, or reestablishment of the board.

The new bill changes the name of the Colorado Mobile Home Licensing Board to the Colorado Manufactured Housing Licensing Board and changes the term "mobile home" to "manufactured housing" or "manufactured home" and modifies its definition. Manufactured home park owners will not need a license to sell manufactured homes that have been abandoned in their parks.

The board's powers are amended under Bill 2. The board may require and prescribe standardized forms for use by licensees in transactions involving manufactured housing. The board and other persons participating in investigative proceedings are given good faith immunity from liability in civil actions if certain conditions are met. In addition, the board may audit the business records of manufactured housing dealers, may place licensees on probationary status, may issue cease and desist orders, and may issue letters of admonition without prior hearing if the licensee does not request formal disciplinary proceedings. The board's actions involving the denial,

suspension, or revocation of licenses may be judicially reviewed in the court of appeals.

Bill 2 also continues provisions relating to the Mobile Home Recovery Fund with some modifications, while renaming it the Manufactured Housing Recovery Fund. The grounds for eligibility for payment from the fund are amended to include misuse of trust or escrow account monies. In addition, the bill makes license revocation automatic upon a final court order awarding a judgment from the recovery fund.

The statutes concerning titles to manufactured homes (section 38-29-112 et seq., C.R.S.) are also amended to eliminate the requirement to obtain title for a manufactured home that will be permanently affixed to the ground and thus become real property.

Colorado Civil Rights Commission and Division

The Colorado Civil Rights Commission is part of the Colorado Civil Rights Division, both of which were established in the Department of Regulatory Agencies through a Type 1 transfer (section 24-1-122, C.R.S.). The commission is composed of seven members appointed for four-year terms by the Governor with the consent of the Senate. The Governor may remove members for cause.

Two commission members must be from the business community, including at least one representative of small business, two members representing state or local government, and three members from the community at large. At least four members must be part of a group who have been or could be discriminated against on the basis of physical handicap, race, creed, color, sex, national origin, ancestry, marital status, or age. No more than four of the members may belong to the same political party, and the Governor is to attempt to provide geographical representation to the extent possible.

The DORA sunset review of the commission recommended its continuation and that several statutes be amended to promote the effectiveness and efficiency of the commission and the division. Twenty three persons, including Governor Romer, testified for continuation of the commission. Much of the public testimony, and committee discussion which followed, centered on the DORA recommendation that mental impairment be added to the definition of "handicapped" as a class of persons protected by civil rights statutes.

The committee's proposed legislation, Bill 3, continues the Civil Rights Commission and Civil Rights Division through July 1, 1999. The definition of "handicapped" is amended to include mental impairment in section 24-34-301, C.R.S. The committee agreed that including the mentally impaired as a protected class in fair housing would be necessary to comply with recent federal fair housing laws.

Several changes are made by Bill 3 in regard to commission members. The Governor is authorized to remove any commissioner for misconduct, incompetence, or neglect of duty. Rather than serving without compensation, commission members are authorized to receive a per diem allowance and to be reimbursed for actual and necessary expenses. In addition, commission members, witnesses, and complainants are provided good faith immunity from civil lawsuits arising out of testimony in civil rights cases.

Witnesses in civil rights hearings are provided "use immunity," not "transactional immunity" as given by the current statute. Use immunity ensures that testimony compelled by the commission and information derived from such testimony cannot be used in a subsequent prosecution unless the witness commits perjury.

Under current statutes, the Civil Rights Commission and Division is one of only five regulatory agencies within DORA without investigative subpoena power; 23 agencies have that power. The committee's proposed bill extends investigative subpoena power to the commission and the director to compel the attendance and testimony of witnesses and the production of documents in cases of alleged unfair housing practices.

Bill 3 also adds the following provisions to the statutes regarding charges and remedies:

- No person may file a civil action in a state district court unless the charging party has exhausted all processes available through the commission. Such action must be filed within 90 days of the completion of commission action on the charges.
- Upon determination of probable cause for a discrimination case, the director will order charging parties and respondents to pursue mediation with the commission.
- Discrimination against a person who files a charge or otherwise participates in commission proceedings constitutes an additional unfair employment practice, unfair housing practice, or discriminatory practice with respect to places of public accommodation.
- Charges of an unfair employment practice not filed within six months of the alleged occurrence are barred.
- The commission may award back pay in cases of unfair employment practices and may order back pay and the alternate existing methods of relief singly or in any combination.
- In cases of unfair housing practices, the commission may order a respondent to reimburse any person who was discriminated against for actual expenses in-

curred in obtaining alternate comparable housing, storage, moving, or illegally charged fees.

B. SUNRISE REVIEW OF OCCUPATIONS REQUESTING LICENSURE

Statutory Authority and Responsibility

The Joint Legislative Sunrise Sunset Review Committee is responsible for reviewing the necessity of regulating an occupation or profession when such occupation or profession, any individual, or any other interested party requests new regulation. Any professional or occupational group or organization, any individual, or any other interested party which proposes the regulation of any unregulated professional or occupational group is required to submit the following information to the committee:

- a description of the group proposed for regulation including a list of associations, organizations, and other groups representing the practitioners in this state, and an estimate of the number of practitioners in each group;
- a definition of the problem and the reasons why regulation is deemed necessary;
- the reasons why certification, registration, licensure, or other type of regulation is being proposed and why that regulation and that regulatory alternative was chosen;
- the benefit to the public that would result from the proposed regulation; and
- the cost of the proposed regulation.

The committee received five applications for new regulation

Underground Storage Tank Installers and Inspectors

The Oil Inspection Section (OIS) of the Colorado Department of Labor and Employment submitted an application for the licensure of underground storage tank (UST) installers and inspectors. In its sunrise review of the application, DORA found that serious harm to the environment and people resulting from leaking USTs has occurred in Colorado and that 25 percent of the problems are caused by improper installation of tanks. The report stated that the most cost-effective way to reduce the number of improper installations and the associated costs may be to require state inspection of all new installations and to license installers. The committee recommends a bill requiring the licensure of installers and inspectors of USTs.

Bill 4 requires the State Inspector of Oils to promulgate regulations for the licensing of installers and inspectors and for the inspection of new or upgraded USTs. Among the exclusions to the definition of "underground storage tank" are farm and residential motor fuel tanks of 1,100 gallons or less capacity, residential tanks used for storing heating oil, and septic tanks.

The State Inspector of Oils is authorized to determine the course of study for training programs for installers and inspectors, conduct the licensing programs, set license fees, and enforce the OIS regulations and the provisions of this bill. He may also approve private training and testing programs sponsored by manufacturers or owners of USTs. Owners or operators of new or upgraded underground storage tanks must submit plans to OIS and to have installations or upgradings inspected by a licensed inspector. Fees are required for submitting plans and for on-site inspections. The bill also creates the Underground Storage Tank Cash Fund in the state treasury.

Acupuncturists

The Acupuncture Association of Colorado (AAC) submitted an application to the Sunrise Sunset Committee for the establishment of a state board of acupuncture and for the licensure of acupuncturists. The application stated that AAC was seeking: 1) to establish basic standards of competence and training for acupuncturists in order to protect and serve the public; 2) to establish the status of the profession and the practice of acupuncture; and 3) to halt the practice of sub-standard and inadequate acupuncture.

In its sunrise review, DORA recognized the potential for harm from the incompetent practice of acupuncture, including improper cleaning and sterilization of needles. However, DORA could not document harm to the public from the practice of acupuncture in Colorado and did not recommend licensure.

After two hearings with testimony from acupuncturists, the committee agreed to not recommend the establishment of a board of acupuncture or the licensure of acupuncturists. Instead, the committee recommends a bill to address some of the concerns expressed during testimony.

Bill 5 provides that the rendering of acupuncture services, as long as that service meets the requirements of this bill, will not require a license under the Colorado Medical Practice Act. During the initial patient contact, an acupuncturist must provide a written disclosure of certain information including statements of the acupuncturist's training, an explanation of methods used to sterilize needles in acupuncture, and whether the acupuncturist regularly uses such methods. In addition, certain acts in connection with acupuncture services will become illegal. For example, an acupuncturist must refer a patient to another practitioner when the problem of the patient is beyond the training, experience, or competence of the acupuncturist. The bill also provides penalties for violations of its provisions.

Professional Repossessors

The Colorado Association of Professional Repossessors, Inc., submitted an application to the committee for the licensure of repossessors. In its report, DORA did not recommend licensure because information obtained by the department did not indicate that the public is being harmed by the lack of regulation. Also, DORA stated that current statutes provide adequate consumer and creditor remedies in cases of default in secured transactions. However, the department did recommend that the General Assembly may want to consider changes in the statute requiring the reporting of repossessions to assist local law enforcement agencies.

In two separate hearings, professional repossessors testified that incompetent repossessors damage repossessed property, commit illegal acts during repossessions, and defraud both the creditors and debtors. As a result, the committee voted to recommend legislation to address these issues, rather than to recommend the regulation of repossessors.

Bill 6 makes a creditor or his assignee responsible as a principal for the acts of repossessors whom he hires or contracts for a repossession of collateral. The bill also requires repossessors of a motor vehicle to notify the local law enforcement agency one hour before a repossession, rather than within twelve hours after the repossession, as the law currently reads.

Boxing/Athletic Commission

In 1977, Senate Bill 418 repealed the state boxing commission and all boxing and wrestling regulation, except the prohibition against persons under 18 years of age participating in professional boxing, sparring, or wrestling. That action came after the sunset review in 1976 found that the commission had used arbitrary standards to limit licensure to only two promoters and two referees, held unannounced meetings at a commissioner's place of business in violation of the state sunshine law, and had been sued on the basis of racial discrimination.

In its application for the regulation of professional boxing, the Mile High Professional Boxing Association called for the reestablishment of a state athletic commission which would regulate boxing matches and license promoters, managers, referees, judges, matchmakers, scorekeepers, timekeepers, trainers, and seconds. According to the applicants, regulation by a commission would protect the safety of boxers and assure a higher degree of integrity in the sport. In addition, events featuring well-known boxers would create local revenue by attracting out of state spectators.

In its sunrise review, however, DORA stated that the application provided insufficient documentation of harm to the public, including boxers, from the absence of state regulation of boxing. The report concluded that since there is no evidence of strong public demand for professional boxing, the establishment of an athletic com-

mission would not necessarily benefit state tourism. DORA did not recommend establishing a state athletic commission.

After hearing testimony at two meetings, the committee voted to not recommend legislation establishing an athletic commission. In the course of testimony, however, the committee heard statements that underage boxers were participating in professional matches without benefit of insurance or the protection of doctors at ringside. As a result, the committee does recommend legislation to include certain boxing activities in the definition of child abuse or neglect.

Bill 7 defines any case in which a child engages in a boxing or sparring match as child abuse unless that match is sponsored by an educational institution where the child is a student, or is sanctioned by a recognized amateur sporting organization that enforces safety standards for the participants.

Creative Arts Therapists

The Colorado Coalition for Creative Arts Therapies Association (CCCATA), an affiliate of the National Coalition for Creative Arts Associations, applied for the licensure of creative arts therapists. According to CCCATA, approximately 200 creative arts therapists practice in Colorado.

Creative arts therapists are psychotherapists who use art, dance/movement, or music therapy techniques to diagnose and treat clients. Nationally, approximately 20 percent work in academic settings, 50 percent in other institutional settings, and 30 percent in private practice. They work with psychotic patients, neurotic patients, autistic children, and others, as individuals, families, or groups.

Each of the three groups of therapists has private credentialing. In addition, as of July 1, 1988, creative arts therapists will be regulated as unlicensed psychotherapists by the State Grievance Board (House Bill 1026, 1988 session). The board can seek an injunction against the practice of any psychotherapist who commits any prohibited act, such as committing health insurance fraud, using misleading advertising, practicing outside his or her area of training, or exploiting a client financially or sexually. The law also requires all unlicensed psychotherapists and most licensees to disclose their qualifications to clients and inform them of various clients' rights.

The CCCATA applied for licensure of creative arts therapists to ensure accountability on the part of practitioners. The application also stated that regulation would prohibit unqualified practitioners from identifying themselves to the public as creative arts therapists. The applicants, in effect, were asking for title protection. In its sunrise review of the application, DORA nonetheless concluded that CCCATA had not proven the harm to the public resulting from the lack of title protection for creative arts therapists. The department also reported that regulation would be costly,

since the number of certificants would be small and examination development costs would be high.

During the public hearing, committee members questioned the applicants as to whether regulation would ensure third party insurance reimbursement to creative arts therapists. Representatives of CCCATA testified that therapists in states with regulation are not able to get higher rates as a result of regulation. Concluding that creative arts therapists pose no threat to the public health and safety, the committee voted unanimously against recommending a licensure bill.

C. SUNSET REVIEW OF ADVISORY COMMITTEES

Statutory Authority

The duty of reviewing advisory committees to state agencies was assigned to the Sunrise Sunset Committee by House Bill 1101, 1986 session (section 2-3-1203, C.R.S.). The committee is responsible for the review of advisory committees to ascertain which committees may have outlived their usefulness or may have failed to perform the functions for which they were created. The Sunrise Sunset Committee is further authorized to recommend the continuation of advisory committees and to recommend amendments to the relevant statutes.

Each advisory committee is required to submit the following information to the committee:

- the names of the current members of the advisory committee;
- all revenues and all expenditures, including advisory committee expenses, per diem paid to members, and any travel expenses;
- the dates all advisory committee meetings were held and the number of members attending the meetings;
- a listing of all advisory proposals made by the advisory committee together with an indication as to whether or not each proposal has been acted on, implemented, or enacted into statute; and
- the reasons why the advisory committee should be continued.

The following eleven advisory committees were reviewed this year:

- Capital Development Advisory Committee;
- Advisory Committee to the Colorado Commission on Higher Education;

- Sickle Cell Anemia Advisory Committee;
- Advisory Committee to the University of Colorado Health Sciences Center Hemophilia Treatment Center;
- Colorado Volunteerism Board of Advisors;
- State Advisory Council on Emergency Medical Services;
- Radiation Advisory Committee;
- Colorado Recreational Trails Committee;
- Advisory Committee Concerning River Outfitters and River Activities;
- Colorado Medical Advisory Board; and
- Advisory Commission on Family Medicine.

The committee also elected to remedy a problem created by Senate Bill 21, 1986 session, which concerned the Correctional Industries Advisory Committee. Senate Bill 21 required a change in the membership of the committee as of July 1, 1988, and extended a repealer date for one subsection from July 1, 1988, to July 1, 1994. Two other subsections, however, with repealer dates of July 1, 1988, remained unamended. The Sunrise Sunset Committee recommends in Bill 9 that these two repealer dates be changed to July 1, 1994, to ensure the continuation of the Correctional Industries Advisory Committee.

Capital Development Advisory Committee

The Capital Development Advisory Committee assists the General Assembly's Capital Development Committee in providing for and managing the state's capital assets. Advisory committee members are appointed by the Capital Development Committee from among professionals in the private sector to include such areas of expertise as real estate, architecture, finance, construction and engineering, and planning and development. Currently, 17 members serve without reimbursement. The advisory committee met seven times from September 1985 to February 1988 and made nine recommendations to the Capital Development Committee for legislation.

Senator Claire Traylor, Chairman, Capital Development Committee, and Jerry Kempf, Chairman, Capital Development Advisory Committee, spoke on behalf of the advisory committee and requested that it be continued. The Sunrise Sunset Committee recommends continuation of the advisory committee (Bill 8).

Advisory Committee to the Colorado Commission on Higher Education

The Advisory Committee to the Colorado Commission on Higher Education functions to suggest solutions for the problems and needs of higher education and to be a liaison with the General Assembly, higher education institutions, and the institutions' governing boards. The committee consists of 13 members, of whom six are legislators and seven are students, faculty, and citizens. Between 1985 and 1987, members attended monthly meetings of the commission and met with the designated commission staff liaison before each commission meeting. Beginning in October 1987, advisory committee members met quarterly with the commission. Expenditures of the advisory committee from July 1986 to March 1988 totaled \$5,638.53.

During the public hearing, Senator McCormick suggested that the advisory committee should be composed of more members from rural areas in order to balance the geographical membership. The Sunrise Sunset Committee recommended the continuation of the advisory committee (Bill 8).

Sickle Cell Anemia Advisory Committee

Members of the Sickle Cell Anemia Advisory Committee are appointed by the Governor to consult with the Sickle Cell Anemia Treatment and Research Center of the University of Colorado School of Medicine. The committee's eleven members represent hospitals, voluntary agencies interested in sickle cell anemia, medical specialists in sickle cell anemia patient care, and the general public. Eight meetings were held between April 1986 and April 1988, and no revenues or expenditures for the committee were reported.

Representatives of the committee reported that, because the advisory committee works with all sickle cell organizations as well as the treatment center, the state gets the most from each dollar appropriated for the treatment center. Also, the committee had recently begun a program to inform military personnel in Colorado about the disease. The Sunrise Sunset Committee recommends continuation of the advisory committee (Bill 8).

Advisory Committee to the University of Colorado Health Sciences Center Hemophilia Treatment Center

The Hemophilia Advisory Committee has the same kinds of mission and membership as the Sickle Cell Anemia Advisory Committee, except that it counsels the Hemophilia Treatment Center. The Hemophilia Advisory Committee meets once yearly with the Dean of the School of Medicine and the Program Director of the Hemophilia Treatment Center. Topics of discussion have included the impact of Human Immunodeficiency Virus on the hemophilia population and reviews of the goals and objectives of the treatment center. The committee has always functioned

without any official expenditures. The Sunrise Sunset Committee recommends the continuation of this committee (Bill 8).

Colorado Volunteerism Board of Advisors

The Colorado Volunteerism Board of Advisors was created in 1985 to counsel the Colorado Office of Volunteerism within the Department of Local Affairs. The committee was asked to provide information about programs, activities, and resources of value to members of the volunteer community statewide who are operating or planning volunteer programs.

The Deputy Director of the Department of Local Affairs informed the Sunrise Sunset Committee that the Colorado Office of Volunteerism had not been funded since 1986. Consequently, the advisory board had not met since 1986 and the terms of all members expired on June 30, 1987. The Sunrise Sunset Committee recommends that this advisory committee not be continued.

State Advisory Council on Emergency Medical Services

The State Advisory Council on Emergency Medical Services, created within the Colorado Department of Health (CDH), is composed of sixteen members appointed by the Governor. Dr. William Metcalf, Director, CDH, Emergency Medical Services Division, reported that the council serves as the focal point for citizen recommendations to the emergency medical services program at the state level and is especially effective in obtaining information from rural areas. Dr. Metcalf stated that council member physicians work with the Emergency Medical Services Division almost daily, contributing approximately three full time equivalents in physician time to the division.

Dr. Thomas Vernon, Executive Director, CDH, requested that the composition of the ex-officio members of the advisory council be amended. He asked that ex-officio members from the Division of Telecommunications and the State Patrol be replaced with one member from the Division of Disaster Emergency Services in the Department of Public Safety and one member from the Division of Highway Safety within the Department of Highways. Bill 8 provides for the continuation of the advisory council and the requested change in the ex-officio membership of the council.

Radiation Advisory Committee

The Radiation Advisory Committee's primary function is to provide technical advice to the Colorado Department of Health (CDH) regarding radiation matters not included in the state radiation regulations and changes to the state regulations. The committee consists of nine members, three each from industry, higher education, and the medical field, who serve without compensation. As members did not request the

available per diem for the four meetings of the committee in 1987 and 1988, no expenses were incurred.

The Director of the Radiation Control Division, CDH, reported that the division will update the state radiation regulations by 1990 and will depend on the advisory committee for information that would otherwise come from paid consultants. The Sunrise Sunset Committee recommends continuation of the Radiation Advisory Committee (Bill 8).

Colorado Recreational Trails Advisory Committee

The Colorado Recreational Trails Advisory Committee advises the State Parks Board, within the Division of Parks and Recreation, concerning the funding of recreational trails in the state. The committee met nine times between February 1987 and April 1988; they reported meeting expenses of approximately \$96 per year.

Ron Holiday, Director, Division of Parks and Recreation, stated that upon the recommendation of the advisory committee, the division created a state trails grant program to help local governments fund trails. Mr. Holiday reported that among its many valuable services to the division, the advisory committee reviews the applications, recommends the disposition of the grants, and develops and maintains the criteria for making the allocations. Continuation of the advisory committee is recommended (Bill 8).

Advisory Committee on River Outfitters and River Activities

The Advisory Committee Concerning River Outfitters was created by the river outfitters licensure statute, Title 33, Article 32, C.R.S., enacted in 1984. Created to develop proposals for the licensing program and the regulations for river outfitters, the committee was scheduled to terminate on January 1, 1989. The committee held three meetings between July 1984 and October 1984, expending approximately \$150 for travel expenses.

House Bill 1138, 1988 session, amended the river outfitters licensure law and extended the termination date for the advisory committee to July 1, 1994. The paragraph which set the termination date, however, does not become effective until October 1, 1988. Since the January 1, 1989 termination date was still in effect during the 1988 interim, the Sunrise Sunset Committee reviewed the advisory committee.

Because the advisory committee has not met since 1984, and the terms of office of all members expired in 1985, the Sunrise Sunset Committee recommends that the advisory committee be terminated (Bill 8).

Colorado Medical Advisory Board

The Colorado Medical Advisory Board provides medical expertise to the Motor Vehicle Division, Department of Revenue. Appointed by the Governor, the nine member board is composed of one licensed optometrist and eight licensed physicians who serve the following functions: advise the department concerning medical criteria and vision standards relating to the licensing of drivers; review cases involving driver license actions resulting from involvement with alcohol or drugs; and recommend alcohol or drug rehabilitative treatment as a requirement for conditional, probationary, or restrictive driver's licenses. The committee meets once a year for an annual cost to the department of less than \$300.

Officials of the Motor Vehicle Division testified that the continuance of the board is critical to the department's effective response to federal requirements for a testing program for commercial motor vehicle operators. Division officials also estimated that the cost of professional expertise available to the division from the board would be prohibitive if contracted through individual consultants. Continuation of the Medical Advisory Board is recommended by the Sunrise Sunset Committee (Bill 8).

Advisory Commission on Family Medicine

The Advisory Commission on Family Medicine, under the Department of Health, is composed of 17 members, one from each congressional district and 11 from the medical profession. The commission's legislative charge (section 25-1-901, C.R.S.) is to:

- assure that family medicine residency training program standards are equal to or more stringent than the standards established by the accreditation council on graduate medical education of the American Medical Association or the American Osteopathic Association for residency training in family medicine;
- approve and recommend allocation of any funds, in cooperation with the Dean of the University of Colorado School of Medicine, which are identified and appropriated in the general appropriation bill as a line item for any community family medicine residency training program;
- monitor the state's family medicine residency programs and recommend that the General Assembly appropriate funds for said programs; and
- locate specific areas of the state which are underserved by family physicians and determine the priority of need among such areas.

This commission functions differently than other advisory commissions in that it is advisory in nature as well as being the funding vehicle for the programs which it monitors. Each community family medicine residency program contributes money to the commission every year for operation of the functions of the commission. The

amount contributed by each program was approximately \$13,000 in FY 1988. In 1987, the commission hired a Coordinator of Family Practice Residency Programs, who maintains a central office and coordinates the work of the commission. For 1987, the commission reported an income of \$107,485.11 and expenses of \$39,996.29, leaving a balance of \$67,488.82 on June 30, 1987. The 1988 income was \$162,948.92, expenses were \$94,623.24, and the balance as of May 31, 1988, was \$68,325.58.

Sheila Schiel, Program Coordinator, explained the commission's efforts to provide family medical services in rural or medically underserved areas of the state. Community programs receiving funds from the commission will require members of their graduating classes of 1989 to complete a one month rotation in a rural or medically underserved area.

The Sunrise Sunset Committee recommends the continuation of the commission and the deletion of the word "advisory" from its name to reflect more accurately the function of the commission (Bill 8).

D. REVIEW OF AMENDMENTS TO THE MENTAL HEALTH ACT OF 1988

The Sunrise Sunset Committee also considered a request from the State Grievance Board, DORA, for amendments to mental health laws enacted by House Bill 1026 recommended by the committee for the 1988 session. The committee recommends amendments to three sections of Title 12, Article 43, C.R.S., to alleviate problems which have arisen after the establishment of mental health boards. Each amendment was drafted as a separate bill to ensure narrow bill titles. Bill 10 prohibits the violation of, attempting to violate, assisting or abetting in the violation of, or conspiring to violate any order of a board established under the mental health law. Bill 11 extends the time during which initial appointees to the State Board of Marriage and Family Therapist Examiners must become licensed from 12 to 18 months; makes conforming amendments with respect to the appointment of certain members of the State Grievance Board; and clarifies that such appointees shall have practiced five years prior to appointment. Bill 12 clarifies the definition of "unlicensed psychotherapist" to exclude any person who is licensed to practice psychotherapy under Title 12.

E. REVIEW OF THE NECESSITY OF RULES

House Bill 1009, 1987 session, directed the Office of Regulatory Reform (ORR) to notify the committee of any proposed rules which the ORR believes are unneces-

sary for the administrative functions of a particular agency. The committee then reviews such rules and prepares legislation to rescind those rules or portions of them.

Bill 13 is recommended to delete the address of the Department of Revenue from certain rules. Bill 14 specifies that only that portion of any rule specifically rescinded by the General Assembly shall be ineffective and that the remainder of the rule shall continue as an administrative rule. The Sunrise Sunset Committee shall notify the Secretary of State whenever a rule published in the Code of Colorado Regulations is rescinded or a portion is deleted by legislation, and the Secretary of State is to direct the removal of such material from the code.

A BILL FOR AN ACT

1 CONCERNING THE REAL ESTATE INDUSTRY, AND, IN CONNECTION
2 THEREWITH, PROVIDING FOR THE CONTINUATION OF THE REAL
3 ESTATE COMMISSION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Excludes persons who act as finder's from having to have a real estate broker's or salesman's license. Empowers the real estate commission to set a minimum passing score for the real estate examination and requires that said score shall reflect the minimum level of competence required to be a broker or salesman. Allows the commission to place a licensee on probation and to set the terms of probation.

Continues the real estate commission until July 1, 1999. Allows the governor to remove any commission member for misconduct, neglect of duty, or incompetence. Provides the members of the commission, consultants, expert witnesses, and complainants with immunity in civil suits based upon any disciplinary proceeding or other official act performed in good faith. Removes requirements of the nonresident broker exception that he be licensed in his resident state and that his resident state offer the same privileges to licensed Colorado brokers, if the broker maintains a definite place of business in his resident state.

In disciplinary actions, removes requirements that a misrepresentation be substantial and willful, and that there be a continued and flagrant course of misrepresentation. Allows the commission to take disciplinary action if the licensee violates any provision of the "Colorado Consumer Protection Act", violates or aids and abets in the violation

of any provision of Colorado or federal fair housing laws, any lawful board orders, enters a plea of guilty or nolo contendere to any offense against a person, makes use of false or misleading advertising, or has had a disciplinary action taken against him in another jurisdiction and his actions would have been grounds for disciplinary action in Colorado.

Requires that the real estate broker have actual knowledge of the real estate salesman's, employee's, officer's, or member's unlawful act instead of guilty knowledge before the broker's license may be suspended or revoked.

Requires that the real estate commission adopt rules and regulations to require the provision of written disclosures to purchasers and the use of standardized forms for all transactions associated with the sale or lease of subdivisions or parts thereof, except if the forms used were prepared by an attorney representing one of the parties to the transaction. Makes use of unapproved forms grounds for fines or refusal, revocation, or suspension of registration.

Repeals the provision that made the use of a trade name or insignia of membership in a real estate organization of which the licensee is not a member grounds for disciplinary action.

With respect to the law concerning subdivisions, changes the definition of "subdivision" and excludes from such definition certain property, the selling of memberships in campgrounds, and bulk sales and transfers between developers. Requires all developers to be registered before commencing any sales-related activities, except for offering certain reservations during the period of time between their application to the commission and the time the commission grants or denies the application.

Authorizes the commission to deny registration to a subdivision developer if an applicant fails to submit the required information. Requires applicants to notify the commission of any change in the information submitted at the time of application within ten days of such change and makes a failure to do so a cause for disciplinary action. Requires an applicant to inform the commission if the applicant or any person with a financial interest in the applicant's business has engaged in any activity violative of the law regulating subdivisions. Extends to time shares the requirement of notification of encumbrances with agreement to subordinate.

Requires a subdivision developer to disclose the existence of any homeowners association and whether he controls funds in such association. Allows the commission to disapprove the form of any sales or lease documents and to deny registration until satisfactory forms are submitted. Eliminates the requirement that applications be notarized. Provides that the commission will register all applicants who meet the legal requirements.

Requires registration by the beneficial owner as well as sellers or lessors of subdivisions prior to sales-related

activities, including offerings for sale. Makes the developer responsible for the actions of his agents and employees. Changes the annual expiration date for registration from January 1 to December 31 and allows reinstatement of expired registrations for two years after such expiration. Allows the commission to place registrants on probation. Changes some aspects of the existing grounds for disciplinary action and adds additional grounds for disciplinary action or denial of registration, including any failure to comply with the provisions of the law requiring registration.

Includes buyers of subdivision lots in the provision allowing buyers to cancel a sales contract within five calendar days after execution and prohibits the developer from using a contract that includes waiver of such right of cancellation.

Provides that disciplinary actions against subdivision developers occurring in other jurisdictions shall be prima facie evidence of grounds for disciplinary action under the law. Allows the commission to issue letters of admonition. Authorizes the commission to apply to a court for appointment of a receiver under certain circumstances. Allows the commission to promulgate rules requiring the retention of business records for seven years. Extends to all developers the commission's authority to require written disclosures to purchasers.

Authorizes the commission to audit the accounts of homeowners associations whose funds are controlled by a subdivision developer. Makes a contract for the sale or lease of lots in a subdivision voidable by the purchaser and unenforceable by the developer unless such developer was registered at the time the contract was made.

Repeals the law requiring that preowned home warranty service companies register with the real estate commission. Eliminates the requirement that such companies deposit a bond with the real estate commission, that they submit an annual statement to the commission, and that they report any receipt of service of process. Requires that preowned home warranty service contracts contain certain disclosures. Eliminates certain grounds for the imposing of a criminal penalty.

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

2 SECTION 1. 12-61-101 (4), Colorado Revised Statutes,
3 1985 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
4 to read:

5 12-61-101. Definitions. (4) (p) Any person engaged in
6 the act of introducing two parties to a real estate

1 transaction, finding a buyer or seller for a piece of real
2 property, or furnishing information concerning the
3 availability of real property provided that said person does
4 not otherwise take part in negotiating the purchase, sale, or
5 exchange of real estate, or interest therein, or improvements
6 affixed thereon.

7 SECTION 2. 12-61-103 (6) (a), Colorado Revised Statutes,
8 1985 Repl. Vol., as amended, is amended to read:

9 12-61-103. Application for license. (6) (a) The
10 applicant for either a broker's license or a salesman's
11 license shall submit to and pass an examination designated to
12 determine the competency of the applicant and prepared by or
13 under the supervision of the commission. THE COMMISSION SHALL
14 HAVE THE AUTHORITY TO SET THE MINIMUM PASSING SCORE THAT AN
15 APPLICANT MUST RECEIVE ON THE EXAMINATION AND SAID SCORE SHALL
16 REFLECT THE MINIMUM LEVEL OF COMPETENCY REQUIRED TO BE A
17 BROKER OR SALESMAN. Said examination shall be given at such
18 times and places as the commission prescribes. The
19 examination shall include, BUT NOT BE LIMITED TO, ethics,
20 reading, spelling, basic mathematics, principles of land
21 economics, appraisal, financing, a knowledge of the statutes
22 and law of this state relating to deeds, trust deeds,
23 mortgages, listing contracts, contracts of sale, bills of
24 sale, leases, agency, brokerage, trust accounts, closings,
25 securities, the provisions of this part 1, and the rules of
26 the commission; but the examination for a broker's license
27 shall be more exacting and call for a higher degree of

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1 proficiency than the examination for a salesman's license.
2 The examination for a broker's license shall also include the
3 preparation of a real estate closing statement.

4 SECTION 3. 12-61-105 (1), Colorado Revised Statutes,
5 1985 Repl. Vol., is amended, and the said 12-61-105 is further
6 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

7 12-61-105. Commission - compensation - immunity -
8 subject to termination. (1) There shall be a commission of
9 five members appointed by the governor which shall administer
10 ~~this--part~~ PARTS 1, 3, AND 4 OF THIS ARTICLE. This commission
11 shall be known as the real estate commission, referred to in
12 this part 1 as the "commission", and shall consist of three
13 real estate brokers who have had not less than five years'
14 experience in the real estate business in Colorado, one person
15 with expertise in subdivision development, and one person
16 representative of the public at large. Members of the
17 commission shall hold office for a period of three years. Upon
18 the death, resignation, removal, or otherwise of any member of
19 the commission, the governor shall appoint a member to fill
20 out the unexpired term. THE GOVERNOR SHALL HAVE THE AUTHORITY
21 TO REMOVE ANY MEMBER FOR MISCONDUCT, NEGLIGENCE OF DUTY, OR
22 INCOMPETENCE.

23 (2.5) Members of the commission, consultants, expert
24 witnesses, and complainants shall be immune from suit in any
25 civil action based upon any disciplinary proceedings or other
26 official acts they performed in good faith.

27 SECTION 4. 12-61-107 (1), Colorado Revised Statutes,

1 1985 Repl. Vol., is amended to read:

2 12-61-107. Resident licensee - nonresident licensee -
3 consent to service. (1) A nonresident of the state may
4 become a real estate broker or real estate salesman in this
5 state by conforming to all the conditions of this part 1;
6 except that the nonresident broker shall not be required to
7 maintain a place of business within this state if he is
8 ~~regularly-engaged-in-the-real-estate-business-as-a-vocation-in~~
9 ~~another--state,--and~~ maintains a definite place of business in
10 ~~that~~ ANOTHER state. ~~and-is-licensed-in-that-state-and-if-that~~
11 ~~state-offers-the-same-privilege-to--the--licensed--brokers--of~~
12 ~~this-state.~~

13 SECTION 5. 12-61-111.5 (1) and (2)(a), Colorado Revised
14 Statutes, 1985 Repl. Vol., is amended to read:

15 12-61-111.5. Fee adjustments. (1) This section shall
16 apply to all activities of the commission under ~~this-part-1~~
17 PARTS 1, 3, AND 4 OF THIS ARTICLE.

18 (2) (a) The commission shall propose, as part of its
19 annual budget request, an adjustment in the amount of each fee
20 which it is authorized by law to collect under ~~this-part-1~~
21 PARTS 1, 3, AND 4 OF THIS ARTICLE. The budget request and the
22 adjusted fees for the commission shall reflect direct and
23 indirect costs.

24 SECTION 6. The introductory portion to 12-61-113 (1) and
25 12-61-113 (1) (a), (1) (c), (1) (k), (1) (m), (1) (s), and (1)
26 (v), Colorado Revised Statutes, 1985 Repl. Vol., as amended,
27 are amended, and the said 12-61-113 (1) is further amended BY

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1 THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

2 12-61-113. Investigation - revocation - actions against
3 licensee. (1) The commission, upon its own motion, may, and,
4 upon the complaint in writing of any person, shall,
5 investigate the activities of any licensee or any person who
6 assumes to act in such capacity within the state, and the
7 commission, after the holding of a hearing pursuant to section
8 12-61-114, has the power to impose an administrative fine not
9 to exceed two thousand five hundred dollars for each separate
10 offense and to censure a licensee, TO PLACE THE LICENSEE ON
11 PROBATION AND TO SET THE TERMS OF PROBATION, or to temporarily
12 suspend or permanently revoke a license when the licensee has
13 performed, is performing, or is attempting to perform any of
14 the following acts and is guilty of:

15 (a) Making any ~~substantial-and-willful~~ misrepresentation
16 OR MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;

17 (c) ~~Pursuing--a--continued--and--flagrant--course--of~~
18 ~~misrepresentation~~ MISREPRESENTING or making false promises
19 through agents, salesmen, advertising, or otherwise;

20 (c.5) Violating any provision of the "Colorado Consumer
21 Protection Act", article 1 of title 6, C.R.S.;

22 (k) Disregarding or violating any provision of this part
23 1, ~~or~~ violating any reasonable rule or regulation promulgated
24 by the commission in the interests of the public and in
25 conformance with the provisions of this part 1; VIOLATING ANY
26 LAWFUL COMMISSION ORDERS; OR AIDING AND ABETTING A VIOLATION
27 OF ANY RULE, REGULATION, COMMISSION ORDER, OR PROVISION OF

1 THIS PART 1;

2 (m) Conviction of, ENTERING A PLEA OF GUILTY TO, OR
3 ENTERING A PLEA OF NOLO CONTENDERE TO any crime IN ARTICLE 3
4 OF TITLE 18, C.R.S., in part 4 of article 4 of title 18,
5 C.R.S., or in part 1, 2, 3, or 5 of article 5 of title 18,
6 C.R.S., or any other like crime under Colorado law, federal
7 law, or the laws of other states. A certified copy of the
8 judgment of a court of competent jurisdiction of such
9 conviction OR OTHER OFFICIAL RECORD INDICATING THAT SUCH PLEA
10 WAS ENTERED shall be conclusive evidence of such conviction OR
11 PLEA in any hearing under this part 1.

12 (m.5) Violating or aiding and abetting in the violation
13 of the Colorado or federal fair housing laws;

14 (s) Fraud, willful misrepresentation, deceit, or
15 conversion of trust funds which results in the payment of any
16 claim from the real estate recovery fund, pursuant to part 3
17 of this article;

18 (v) Having had a real estate broker's or salesman's
19 license or a subdivision developer's license suspended or
20 revoked in any jurisdiction, OR HAVING HAD ANY DISCIPLINARY
21 ACTION TAKEN AGAINST THE BROKER, SALESMAN, OR SUBDIVISION
22 DEVELOPER IN ANY OTHER JURISDICTION IF THE BROKER'S,
23 SALESMAN'S, OR SUBDIVISION DEVELOPER'S ACTION WOULD CONSTITUTE
24 A VIOLATION OF THIS SUBSECTION (1). A certified copy of the
25 order of ~~suspension-or-revocation~~ DISCIPLINARY ACTION shall be
26 prima facie evidence of such ~~suspension--or--revocation~~
27 DISCIPLINARY ACTION.

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1 SECTION 7. 12-61-114 (1) and (4), Colorado Revised
2 Statutes, 1985 Repl. Vol., as amended, is amended to read:

3 12-61-114. Hearing - administrative law judge - review.
4 (1) Except as otherwise provided in this section, all
5 proceedings before the commission with respect to ~~the--denial,~~
6 ~~suspension--or--revocation--of--licenses--issued~~ DISCIPLINARY
7 ACTIONS AND DENIAL OF LICENSURE under this part 1 and
8 certifications issued under part 4 of this article shall be
9 conducted by an administrative law judge pursuant to the
10 provisions of sections 24-4-104 and 24-4-105, C.R.S.

11 (4) The decision of the commission in ~~denying,~~
12 ~~suspending--or--revoking~~ any ~~license~~ DISCIPLINARY ACTION under
13 this section is subject to review by the court of appeals by
14 appropriate proceedings under section 24-4-106 (11), C.R.S.
15 In order to effectuate the purposes of parts 1, and 3, AND 4
16 of this article, the commission has the power to promulgate
17 rules and regulations pursuant to article 4 of title 24,
18 C.R.S. The commission may appear in court by its own
19 attorney.

20 SECTION 8. 12-61-118, Colorado Revised Statutes, 1985
21 Repl. Vol., is amended to read:

22 12-61-118. Acts of salesmen - broker's liability. Any
23 unlawful act or violation of any of the provisions of this
24 part 1 upon the part of any real estate salesman or employee
25 or any officer or member of a licensed real estate broker
26 shall not be cause for ~~the--suspension--or--revocation--of--a~~
27 ~~license--of~~ DISCIPLINARY ACTION AGAINST a real estate broker,

1 unless it appears to the satisfaction of the commission that
2 the real estate broker had guilty ACTUAL knowledge thereof or
3 had been negligent in the supervision of his salesmen or
4 employees.

5 SECTION 9. 12-61-121, Colorado Revised Statutes, 1985
6 Repl. Vol., is amended to read:

7 12-61-121. Failure to obey subpoena - penalty. Any
8 person who willfully fails or neglects to appear and testify
9 or to produce books, papers, or records required by subpoena,
10 duly served upon him in any matter conducted under parts 1,
11 ~~and 3,~~ AND 4 of this article, is guilty of a misdemeanor and,
12 upon conviction thereof, shall be punished by a fine of
13 twenty-five dollars, or imprisonment in the county jail for
14 not more than thirty days for each such offense, or by both
15 such fine and imprisonment. Each day such person so refuses
16 or neglects shall constitute a separate offense.

17 SECTION 10. 12-61-122, Colorado Revised Statutes, 1985
18 Repl. Vol., is amended to read:

19 12-61-122. Powers of commission - injunctions. The
20 commission may apply to a court of competent jurisdiction for
21 an order enjoining any act or practice which constitutes a
22 violation of ~~this--part--1,~~ PARTS 1, 3, AND 4 OF THIS ARTICLE
23 and, upon a showing that a person is engaging or intends to
24 engage in any such act or practice, an injunction, restraining
25 order, or other appropriate order shall be granted by such
26 court regardless of the existence of another remedy therefor.
27 Any notice, hearing, or duration of any injunction or

1 restraining order shall be made in accordance with the
2 provisions of the Colorado rules of civil procedure.

3 SECTION 11. 12-61-401 (3), Colorado Revised Statutes,
4 1985 Repl. Vol., is amended to read:

5 12-61-401. Definitions. (3) (a) "Subdivision" means a
6 ~~group--of--ten--or--more--building--sites,--tracts,--lots,--or--time~~
7 ~~shares--not--intended--for--commercial--or--industrial--use--which--are~~
8 ~~contiguous--or--which--were--formerly--part--of--an--undivided--common~~
9 ~~tract,--development,--or--sales--proposal--or--a--divided--or~~
10 ~~undivided--tract--or--parcel--of--land,--whether--located--within--or~~
11 ~~without--this--state,--which--is--sold--or--which--will--be--sold--as--ten~~
12 ~~or--more--divided--or--undivided--interests--in--or--to--the--whole~~
13 ~~tract--or--parcel--of--land--and--the--sale,--lease,--or--transfer--of~~
14 ~~which--is--not--regulated--by--a--regional,--county,--or--municipal~~
15 ~~planning--commission--or--other--governmental--agency--regulating~~
16 ~~subdivisions--pursuant--to--article--28--of--title--30--or--article--23~~
17 ~~of--title--31,--C.R.S.~~ ANY DIVISION OF REAL PROPERTY INTO TEN OR
18 MORE INTERESTS NOT INTENDED FOR COMMERCIAL OR INDUSTRIAL USE
19 AND OFFERED FOR SALE, LEASE, OR TRANSFER.

20 (b) (I) The term "subdivision" also includes:

21 {a} (A) The conversion of an existing structure into a
22 group of ten or more residential condominium units, as
23 condominium unit is defined in section 38-33-103 (1), C.R.S.;

24 {b} (B) A group of ten or more time shares intended for
25 residential use; and

26 {c} (C) A group of ten or more proprietary leases in a
27 cooperative housing corporation, as defined in article 33.5 of

1 title 38, C.R.S.

2 (II) THE TERM "SUBDIVISION" DOES NOT INCLUDE:

3 (A) THE SELLING OF MEMBERSHIPS IN CAMPGROUNDS;

4 (B) BULK SALES AND TRANSFERS BETWEEN DEVELOPERS;

5 (C) PROPERTY UPON WHICH THERE HAS BEEN OR UPON WHICH
6 THERE WILL BE ERECTED COMMERCIAL, INDUSTRIAL, OR RESIDENTIAL
7 BUILDINGS THAT HAVE NOT BEEN PREVIOUSLY OCCUPIED AND WHERE THE
8 CONSIDERATION PAID FOR SUCH PROPERTY INCLUDES THE COST OF SUCH
9 BUILDINGS.

10 SECTION 12. 12-61-402 (2), Colorado Revised Statutes,
11 1985 Repl. Vol., is amended to read:

12 12-61-402. Registration required. (2) UPON APPROVAL BY
13 THE COMMISSION, a developer whose subdivision is regulated by
14 any regional, county, or municipal planning commission or
15 other governmental entity regulating subdivisions pursuant to
16 article 28 of title 30 or article 23 of title 31, C.R.S., is
17 exempt from the registration required under subsection (1) of
18 this section; except that this exemption from registration
19 shall not apply to a subdivision developer of time shares WHO
20 HAS APPLIED FOR REGISTRATION PURSUANT TO SECTION 12-61-403 MAY
21 OFFER RESERVATIONS IN A SUBDIVISION DURING THE PENDENCY OF
22 SUCH APPLICATION AND UNTIL SUCH APPLICATION IS GRANTED OR
23 DENIED IF THE FEES FOR SUCH RESERVATIONS ARE HELD IN TRUST BY
24 AN INDEPENDENT THIRD PARTY AND ARE FULLY REFUNDABLE.

25 SECTION 13. 12-61-403 (1), Colorado Revised Statutes,
26 1985 Repl. Vol., is amended, and the said 12-61-403 is further
27 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1 12-61-403. Application for registration. (1) Every
2 person who is required to register as a developer under this
3 part 4 shall submit to the commission an application which
4 contains the information described in subsections (2) and (3)
5 of this section. IF SUCH INFORMATION IS NOT SUBMITTED, THE
6 COMMISSION MAY DENY THE APPLICATION FOR REGISTRATION. IN
7 ADDITION, THE APPLICANT SHALL BE UNDER A CONTINUING OBLIGATION
8 TO NOTIFY THE COMMISSION WITHIN TEN DAYS OF ANY CHANGE IN THE
9 INFORMATION SO SUBMITTED AND A FAILURE TO DO SO SHALL BE A
10 CAUSE FOR DISCIPLINARY ACTION.

11 (3.5) The commission may disapprove the form of the
12 documents submitted pursuant to paragraph (3) (f) of this
13 section and may deny an application for registration until
14 such time as the applicant submits such documents in a form
15 that is satisfactory to the commission.

16 SECTION 14. 12-61-403 (2) (a), Colorado Revised
17 Statutes, 1985 Repl. Vol., is amended BY THE ADDITION OF A NEW
18 SUBPARAGRAPH to read:

19 12-61-403. Application for registration.
20 (2) (a) (VIII) Whether the developer or any other person
21 financially interested in the business of the developer as
22 principal, partner, officer, director, and stockholder has
23 engaged in any activity that would constitute a violation of
24 this part 4.

25 SECTION 15. 12-61-403 (3) (e) and (3) (f), Colorado
26 Revised Statutes, 1985 Repl. Vol., are amended, and the said
27 12-61-403 (3) is further amended BY THE ADDITION OF A NEW

1 PARAGRAPH, to read:

2 12-61-403. Application for registration. (3) (e) If
3 there is a blanket encumbrance upon the title of the
4 subdivision, a copy of the instruments creating such liens or
5 encumbrances with dates as to the recording, along with
6 documentary evidence that any mortgagee or trustee of a deed
7 of trust will release any lot OR TIME SHARE from the blanket
8 encumbrance or, in the case of time share use, has
9 subordinated his interest in the subdivision to the interest
10 of any purchaser; ~~of a lot~~

11 (f) ~~Sample copies of contracts of sale, notes, deeds,~~
12 ~~and other legal documents used to effectuate the sale or~~
13 ~~lease; except that, when standard commission approved forms~~
14 ~~are to be used, a statement indicating such use shall be~~
15 ~~sufficient~~ A STATEMENT THAT STANDARD COMMISSION-APPROVED FORMS
16 WILL BE USED FOR CONTRACTS OF SALE, NOTES, DEEDS, AND OTHER
17 LEGAL DOCUMENTS USED TO EFFECTUATE THE SALE OR LEASE OF THE
18 SUBDIVISION OR ANY PART THEREOF UNLESS THE FORMS TO BE USED
19 WERE PREPARED BY AN ATTORNEY REPRESENTING THE DEVELOPER;

20 (j) A true statement by the developer concerning the
21 existence of any homeowners association, including whether the
22 developer controls funds in such association.

23 SECTION 16. 12-61-404 (1) and (2), Colorado Revised
24 Statutes, 1985 Repl. Vol., are amended to read:

25 12-61-404. Registration of developers. (1) ~~Except as~~
26 ~~provided in section 12-61-405,~~ The commission shall register
27 all applicants WHO MEET THE REQUIREMENTS OF THIS PART 4 and

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BILL 1

1 provide each applicant so registered with a certificate
 2 indicating that the person, firm, partnership, joint venture,
 3 association, or corporation named therein is registered in the
 4 state of Colorado as a subdivision developer. The person,
 5 firm, partnership, joint venture, association, or corporation
 6 which will sign as seller or lessor in any contract of sale,
 7 lease, or deed purporting to convey any site, tract, lot, or
 8 divided or undivided interest from a subdivision shall secure
 9 a certificate before OFFERING, negotiating, or agreeing to
 10 sell, lease, or transfer before such sale, lease, or transfer
 11 is made. If such person or entity is acting only as a
 12 trustee, the beneficial owner of the subdivision may SHALL
 13 secure a certificate. A certificate issued to a developer
 14 shall entitle all sales agents and employees of such developer
 15 to act in the capacity of a developer as agent for such
 16 developer. THE DEVELOPER SHALL BE RESPONSIBLE FOR ALL ACTIONS
 17 OF SUCH SALES AGENTS AND EMPLOYEES.

18 (2) All certificates issued under this section shall
 19 expire on ~~January--~~ DECEMBER 31 following the date of
 20 issuance. A certificate shall be renewed, except as provided
 21 in section 12-61-405, by payment ~~within-thirty-days-of-the~~
 22 ~~date-of-expiration~~, of a renewal fee established pursuant to
 23 section 12-61-111.5. A REGISTRATION THAT HAS EXPIRED MAY BE
 24 REINSTATED WITHIN TWO YEARS AFTER SUCH EXPIRATION UPON PAYMENT
 25 OF THE APPROPRIATE RENEWAL FEE IF THE APPLICANT MEETS ALL
 26 OTHER REQUIREMENTS OF THIS PART 4.

27 SECTION 17. 12-61-405 (1), Colorado Revised Statutes,

1 1985 Repl. Vol., as amended, is amended, and the said
 2 12-61-405 is further amended BY THE ADDITION OF THE FOLLOWING
 3 NEW SUBSECTIONS, to read:

4 12-61-405. Refusal, revocation, or suspension of
 5 registration - letter of admonition - probation. (1) The
 6 commission may impose an administrative fine not to exceed two
 7 thousand five hundred dollars for each separate offense; MAY
 8 ISSUE A LETTER OF ADMONITION; MAY PLACE A REGISTRANT ON
 9 PROBATION UNDER ITS CLOSE SUPERVISION ON SUCH TERMS AND FOR
 10 SUCH TIME AS IT DEEMS APPROPRIATE; and may refuse, revoke, or
 11 suspend the registration of any developer OR REGISTRANT if,
 12 after an investigation and after notice and a hearing pursuant
 13 to the provisions of section 24-4-104, C.R.S., the commission
 14 determines that the developer OR ANY DIRECTOR, OFFICER, OR
 15 STOCKHOLDER WITH CONTROLLING INTEREST IN THE CORPORATION:

16 (a) Has knowingly USED FALSE OR MISLEADING ADVERTISING
 17 OR HAS made a false or misleading statement or a concealment
 18 in his application for registration;

19 (b) Has knowingly misrepresented or concealed any
 20 material fact from a purchaser of any interest in a
 21 subdivision;

22 (c) Has knowingly employed any device, scheme, or
 23 artifice with intent to defraud a purchaser of any interest in
 24 a subdivision;

25 (d) Has been convicted ~~in-any-court~~ of OR PLED GUILTY OR
 26 NOLO CONTENDERE TO a crime involving fraud, deception, false
 27 pretense, theft, misrepresentation, false advertising, or

1 dishonest dealing, IN ANY COURT;

2 (e) Has knowingly disposed of, concealed, diverted, or
3 converted OR OTHERWISE FAILED TO ACCOUNT FOR any funds or
4 assets of any ~~person-with-intent-to-defeat-the-rights-of-a~~
5 purchaser of any interest in a subdivision OR ANY HOMEOWNERS
6 ASSOCIATION UNDER THE CONTROL OF SUCH DEVELOPER OR DIRECTOR,
7 OFFICER, OR STOCKHOLDER;

8 (f) Has knowingly failed to comply with any stipulation
9 or agreement made with the commission;

10 (g) Has knowingly failed to comply with or has violated
11 any provision of this ~~part-4-~~ ARTICLE, INCLUDING ANY FAILURE
12 TO COMPLY WITH THE REGISTRATION REQUIREMENTS OF SECTION
13 12-61-403, or any lawful rule or regulation promulgated by the
14 commission UNDER THIS ARTICLE;

15 (h) ~~Has--ceased--to-pay-his-debts-in-the-ordinary-course~~
16 ~~of-business-or-cannot-pay-his-debts-as-they-become-due-if-such~~
17 ~~inability-to-pay-debts-affects-his-ability-to-perform-his~~
18 ~~obligations-with-respect-to-any-subdivision-he-is-registered~~
19 ~~to-sell,-lease,-or-transfer,-,-Such--inability--to-pay--debts~~
20 ~~shall--not--be--grounds--for-refusal-of-registration,-if-it-is~~
21 ~~shown--to--the--satisfaction--of--the--commission--that--such~~
22 ~~inability---will---not---impair--his--ability--to--perform--his~~
23 ~~obligations-with-respect-to-any-subdivision-for-which-he-seeks~~
24 ~~registration.~~

25 (i) Has refused to honor a buyer's request to cancel a
26 contract for the purchase of a time share OR SUBDIVISION OR
27 PART THEREOF if such request was made within five calendar

1 days after execution of the contract and was made either by
2 telegram, mail, or hand delivery. A request is considered
3 made, if by mail when postmarked, if by telegram when filed
4 for telegraphic transmission, or if by hand delivery when
5 delivered to the seller's place of business. NO DEVELOPER
6 SHALL EMPLOY A CONTRACT THAT CONTAINS ANY PROVISION WAIVING A
7 BUYER'S RIGHT TO SUCH A CANCELLATION PERIOD.

8 (j) HAS COMMITTED ANY ACT THAT CONSTITUTES A VIOLATION
9 OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE
10 6, C.R.S.;

11 (k) HAS EMPLOYED ANY SALES AGENT OR EMPLOYEE WHO
12 VIOLATES THE PROVISIONS OF THIS PART 4;

13 (l) HAS USED DOCUMENTS FOR SALES OR LEASE TRANSACTIONS
14 OTHER THAN THOSE DESCRIBED IN SECTION 12-61-403 (3) (f);

15 (m) HAS FAILED TO DISCLOSE ENCUMBRANCES TO PROSPECTIVE
16 PURCHASERS OR HAS FAILED TO TRANSFER CLEAR TITLE AT THE TIME
17 OF SALE, IF THE PARTIES AGREED THAT SUCH TRANSFER WOULD BE
18 MADE AT THAT TIME.

19 (1.5) A disciplinary action relating to the business of
20 subdivision development taken by any other state or local
21 jurisdiction or the federal government shall be deemed to be
22 prima facie evidence of grounds for disciplinary action,
23 including denial of registration, under this part 4. This
24 subsection (1.5) shall apply only to such disciplinary actions
25 as are substantially similar to those set out as grounds for
26 disciplinary action or denial of registration under this part
27 4.

1 (2.5) When a complaint or investigation discloses an
 2 instance of misconduct that, in the opinion of the commission,
 3 does not initially warrant formal action by the commission but
 4 which should not be dismissed as being without merit, the
 5 commission may send a letter of admonition by certified mail,
 6 return receipt requested, to the registrant who is the subject
 7 of the complaint or investigation and a copy thereof to any
 8 person making such complaint. Such letter shall advise the
 9 registrant that he has the right to request in writing, within
 10 twenty days after proven receipt, that formal disciplinary
 11 proceedings be initiated against him to adjudicate the
 12 propriety of the conduct upon which the letter of admonition
 13 is based. If such request is timely made, the letter of
 14 admonition shall be deemed vacated and the matter shall be
 15 processed by means of formal disciplinary proceedings.

16 SECTION 18. 12-61-406 (3), Colorado Revised Statutes,
 17 1985 Repl. Vol., is amended, and the said 12-61-406 is further
 18 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
 19 read:

20 12-61-406. Powers of commission - injunction - rules.
 21 (1.2) The commission may apply to a court of competent
 22 jurisdiction for the appointment of receiver if it determines
 23 that such appointment is necessary to protect the property or
 24 interests of purchasers of a subdivision or part thereof.

25 (2.5) (a) The commission shall adopt, promulgate, amend,
 26 or repeal such rules and regulations as are necessary to:

27 (I) Require written disclosures to any purchasers as

1 provided in subsection (3) of this section and to prescribe
 2 and require that standardized forms be used by subdivision
 3 developers in connection with the sale or lease of a
 4 subdivision or any part thereof, except as otherwise provided
 5 in section 12-61-403 (3) (f); and

6 (II) Require that developers maintain certain business
 7 records for a period of at least seven years.

8 (3) The commission may require ~~a~~- ANY developer ~~of~~-a
 9 ~~time-share~~ to make written disclosures to purchasers ~~of~~--time
 10 ~~shares~~ IN THEIR CONTRACTS OF SALE OR BY SEPARATE WRITTEN
 11 DOCUMENTS if the commission finds that such disclosures are
 12 necessary for the protection of such purchasers.

13 (4) The commission or its designated representative may
 14 audit the accounts of any homeowner association whose funds
 15 are controlled by a developer.

16 SECTION 19. 12-61-407, Colorado Revised Statutes, 1985
 17 Repl. Vol., is amended to read:

18 12-61-407. Violation - penalty - contracts void. Any
 19 person who fails to register as a developer in violation of
 20 this part 4 commits a class 5 felony and shall be punished as
 21 provided in section 18-1-105, C.R.S. ANY AGREEMENT OR
 22 CONTRACT FOR THE SALE OR LEASE OF A SUBDIVISION OR PART
 23 THEREOF SHALL BE VOIDABLE BY THE PURCHASER AND UNENFORCEABLE
 24 BY THE DEVELOPER UNLESS SUCH DEVELOPER WAS DULY REGISTERED
 25 UNDER THE PROVISIONS OF THIS PART 4 WHEN SUCH AGREEMENT OR
 26 CONTRACT WAS MADE.

27 SECTION 20. 12-61-612, Colorado Revised Statutes, 1985

1 Repl. Vol., is amended to read:
2 12-61-612. Penalty for violation. Any person who
3 ~~knowingly-makes-a-false-or-fraudulent-filing-of-who~~ knowingly
4 violates any provision of this part 6 commits a class 2
5 misdemeanor and shall be punished as provided in section
6 18-1-106, C.R.S. Each instance of violation shall be
7 considered a separate offense.

8 SECTION 21. Part 6 of article 61 of title 12, Colorado
9 Revised Statutes, 1985 Repl. Vol., as amended, is amended BY
10 THE ADDITION OF A NEW SECTION to read:

11 12-61-611.5. Contract requirements. (1) Every preowned
12 home warranty service contract shall contain the following
13 information:

14 (a) A specific listing of all items or elements excluded
15 from coverage;

16 (b) A specific listing of all other limitations in
17 coverage, including the exclusion of preexisting conditions if
18 applicable;

19 (c) The procedure that is required to be followed in
20 order to obtain repairs or replacements;

21 (d) A statement as to the time period, following
22 notification to the company, within which the requested
23 repairs will be made or replacements will be provided;

24 (e) The specific duration of the preowned home warranty
25 service contract, including an exact termination date that is
26 not contingent upon an unspecified future closing date or
27 other indefinite event;

1 (f) A statement as to whether the preowned home warranty
2 service contract is transferable;

3 (g) A statement that actions under a preowned home
4 warranty service contract may be covered by the provisions of
5 the "Colorado Consumer Protection Act" or the "Unfair
6 Practices Act", articles 1 and 2 of title 6, C.R.S., and that
7 a home buyer or seller who is a party to such a contract may
8 have a right of civil action under such laws, including
9 obtaining the recourse or penalties specified in such laws.

10 SECTION 22. 13-4-102 (2) (m), Colorado Revised Statutes,
11 1987 Repl. Vol., is amended to read:

12 13-4-102. Jurisdiction. (2) (m) Review final decisions
13 or orders of the Colorado real estate commission, as provided
14 in parts 1, 3, AND 4, ~~and--6-~~ of article 61 of title 12,
15 C.R.S.;

16 SECTION 23. 24-34-104 (21), Colorado Revised Statutes,
17 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
18 to read:

19 24-34-104. General assembly review of regulatory
20 agencies for termination, continuation, or reestablishment.

21 (21) (c) The following division in the department of
22 regulatory agencies shall terminate on July 1, 1999: The real
23 estate commission, created by part 1 of article 61 of title
24 12, C.R.S.

25 SECTION 24. Repeal. 12-61-113 (1) (1), 12-61-403 (2)
26 (a) (III), and 12-61-403 (4), 12-61-601, 12-61-602 (1) and
27 (2), 12-61-603, 12-61-604, 12-61-605, 12-61-606, 12-61-607,

1 12-61-608, 12-61-609, 12-61-610, and 12-61-613, Colorado
2 Revised Statutes, 1985 Repl. Vol., and 24-34-104 (18) (b),
3 Colorado Revised Statutes, 1988 Repl. Vol., are repealed.

4 SECTION 25. Safety clause. The general assembly hereby
5 finds, determines, and declares that this act is necessary
6 for the immediate preservation of the public peace, health,
7 and safety.

A BILL FOR AN ACT

1 CONCERNING THE MANUFACTURED HOUSING INDUSTRY, AND, IN
2 CONNECTION THEREWITH, PROVIDING FOR THE CONTINUATION OF
3 THE COLORADO MOBILE HOME LICENSING BOARD WHILE CHANGING
4 ITS NAME TO THE COLORADO MANUFACTURED HOUSING LICENSING
5 BOARD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides for the continuation of the Colorado mobile home licensing board and changes its name to the Colorado manufactured housing licensing board. Gives the board and certain other individuals immunity from liability in civil actions if certain conditions are met. Continues provisions regulating the practice of dealers and salesmen in the mobile home industry with certain modifications, including changing the term "mobile home" to "manufactured housing" or "manufactured home" and modifying its definition. Allows dealer licensees to be classified as inactive, but requires continued payments to the recovery fund for two years.

Authorizes the board to issue letters of admonition without prior hearing absent the licensee's request for the initiation of formal disciplinary proceedings and to place licensees on probationary status. Authorizes the board to promulgate rules and regulations to prescribe and require the use of standardized forms by manufactured housing dealers in connection with the retail sale or purchase of manufactured housing. Amends the grounds for discipline. Allows issuance of cease and desist orders and makes violation of such orders

contempt. Provides for judicial review in the court of appeals.

Continues provisions relating to the mobile home recovery fund with some modifications, while renaming it the manufactured housing recovery fund. Changes some of the grounds for eligibility for payment from the fund and eliminates payment eligibility for corporate sureties. Makes license revocation automatic upon final court order awarding a judgment from the fund.

Eliminates the requirement to obtain title for a manufactured home that will be permanently affixed and become real property. Includes alternate permissible terminology with respect to the manufacturer's statement of origin and suggested retail price to conform to industry usage.

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

2 SECTION 1. 12-51.5-101 (2) and (4), the introductory
3 portion to 12-51.5-101 (5), and 12-51.5-101 (5)(c), (5)(d),
4 (5)(e), (6), (6.5), and (7) are amended, and the said
5 12-51.5-101 is further amended BY THE ADDITION OF THE
6 FOLLOWING NEW SUBSECTIONS, to read:

7 12-51.5-101. Definitions. (2) "Board" means the
8 Colorado mobile-home MANUFACTURED HOUSING licensing board.

9 (4) ~~"Mobile--home"--means-any-wheeled-vehicle,-exceeding~~
10 ~~either-eight-feet-in--width--or--thirty-two--feet--in--length,~~
11 ~~excluding-towing-gear-and-bumpers,-without-motive-power,-which~~
12 ~~is--designed--and--commonly--used-for-occupancy-by-persons-for~~
13 ~~residential--purposes,-in--either--temporary---or---permanent~~
14 ~~locations,-and-which-may-be-drawn-over-the-public-highways-by~~
15 ~~a-motor-vehicle~~ "MANUFACTURED HOUSING" OR "MANUFACTURED HOME"
16 MEANS A PRECONSTRUCTED BUILDING UNIT OR COMBINATION OF
17 PRECONSTRUCTED BUILDING UNITS WITHOUT MOTIVE POWER DESIGNED
18 AND COMMONLY USED FOR RESIDENTIAL OCCUPANCY BY PERSONS IN

1 EITHER TEMPORARY OR PERMANENT LOCATIONS, WHICH UNIT OR UNITS
2 ARE MANUFACTURED IN A FACTORY OR AT A LOCATION OTHER THAN THE
3 RESIDENTIAL SITE OF THE COMPLETED HOME.

4 (4.5) "Manufactured housing broker" means a manufactured
5 housing dealer acting in an agency capacity for any person to
6 effect the purchase or sale of a manufactured home not owned
7 by the manufactured housing dealer.

8 (5) "Mobile--home MANUFACTURED HOUSING dealer" means any
9 person who, for a commission or with intent to make a profit
10 or gain of money or other thing of value, sells, exchanges,
11 rents with option to purchase, or offers or attempts to
12 negotiate a sale or exchange of an interest in mobile-homes
13 MANUFACTURED HOUSING or who is engaged wholly or in part in
14 the business of selling mobile-homes MANUFACTURED HOUSING,
15 whether or not such mobile-homes-are MANUFACTURED HOUSING IS
16 owned by such person. The sale of one or more mobile
17 MANUFACTURED homes in any one calendar year, except in the
18 case of an owner selling his private residence OR EXCEPT AS
19 OTHERWISE PROVIDED IN THIS ARTICLE, is prima facie evidence
20 that a person is engaged in the business of selling mobile
21 homes MANUFACTURED HOUSING. The term does not include:

22 (c) Banks, or other financial institutions, OR
23 MANUFACTURED HOME PARK OPERATORS proceeding as repossessors,
24 or liquidators, OR SELLERS OF MANUFACTURED HOMES THAT HAVE
25 BEEN ABANDONED OR OTHERWISE TAKEN INTO INVENTORY IN LIEU OF
26 UNPAID RENT OR DEBT FOR WHICH THE MANUFACTURED HOMES ARE
27 PLEDGED AS SECURITY;

1 (d) Manufacturers not engaged in the retail sale of
2 mobile-homes MANUFACTURED HOUSING;

3 (e) A real estate broker or a real estate salesman
4 engaged in a transaction involving the sale of a mobile
5 MANUFACTURED home when-the-sale-or--transfer--of--a--freehold
6 interest--in-land,-or-a-leasehold-interest-in-land-of-one-year
7 or-longer,-is-an-integral-part-of-the-transaction-or-when--the
8 mobile--home--being--sold--or-transferred-involves-a-leasehold
9 interest-in-land-of-less-than-one-year-and--is--located--in--a
10 community--where--there--is--no--licensed--mobile--home-dealer
11 actively-engaged--in--the--business--of--listing--and--selling
12 owner-occupied-mobile-homes; except that no such licensed real
13 estate--broker-or-real-estate-salesman-shall-sell-a-new-mobile
14 home-unless-he-has-purchased-the-mobile--home--from--a--mobile
15 home--dealer--and--except--that--nothing-in-this-paragraph-(e)
16 shall-be-construed-to--allow--anyone--other--than--a--licensed
17 mobile--home-dealer-or-salesman-to-sell-a-mobile-home-separate
18 from-such-interest-in-land THAT IS SOLD AS PART OF AN
19 INTEREST IN LAND UPON WHICH SUCH MANUFACTURED HOME IS SITED.

20 (6) "Mobile--home MANUFACTURED HOUSING installation"
21 means the assembling of mobile--homes MANUFACTURED HOUSING
22 on-site and the process of affixing such housing to land, a
23 foundation, footings, or an existing building and making
24 proper connections with all utility and sewage systems.

25 (6.5) "Mobile-home MANUFACTURED HOUSING salesman" or
26 "salesman" means any person who, for a salary OR commission or
27 compensation of any kind, is employed either directly or

1 indirectly by any mobile-home MANUFACTURED HOUSING dealer to
2 sell, exchange, rent with option to purchase, or offer or
3 attempt to negotiate a sale or exchange of an interest in a
4 mobile-home MANUFACTURED HOUSING.

5 (6.7) "Manufacturer" means any person, resident or
6 nonresident, who manufactures or assembles manufactured
7 housing.

8 (7) "Principal place of business" means a site at which
9 a licensed mobile-home MANUFACTURED HOUSING dealer conducts
10 business, including any business incidental to the sale,
11 setup, or servicing of mobile-homes MANUFACTURED HOUSING.

12 SECTION 2. 12-51.5-102 (1) and (5), Colorado Revised
13 Statutes, 1985 Repl. Vol., are amended to read:

14 12-51.5-102. Colorado manufactured housing licensing
15 board - subject to termination. (1) There is hereby created
16 the Colorado mobile-home MANUFACTURED HOUSING licensing board,
17 consisting of seven members who are residents of this state,
18 two of whom shall be chosen from the public at large, four of
19 whom shall be chosen from among licensed mobile--home
20 MANUFACTURED HOUSING dealers who have had a minimum of four
21 years' experience in the industry, and one of whom shall be
22 chosen from a financial institution engaged in mobile--home
23 MANUFACTURED HOUSING financing. Of the members chosen at
24 large, one shall be a resident mobile MANUFACTURED home owner
25 at the time of appointment. The board shall assume its duties
26 July 1, 1981, and all terms of the board members shall
27 commence on that date. The terms of office of the board

1 members shall be three years; except that, of the members
2 appointed to take office on July 1, 1981, two shall be
3 appointed for one-year terms, two shall be appointed for
4 two-year terms, and three shall be appointed for three-year
5 terms. Any vacancies shall be filled by appointment for the
6 unexpired term.

7 (5) The provisions of section 24-34-104, C.R.S.,
8 concerning the termination schedule for regulatory bodies of
9 the state unless extended as provided in that section, are
10 applicable to the Colorado mobile-home MANUFACTURED HOUSING
11 licensing board created by this section.

12 SECTION 3. 12-51.5-103 (3) (f), the introductory portion
13 to 12-51.5-103 (3) (k) (1), and 12-51.5-103 (3) (k) (1) (C),
14 (3) (1), (3) (n), and (3) (p), Colorado Revised Statutes, 1985
15 Repl. Vol., are amended, and the said 12-51.5-103 (3) is
16 further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:
17 12-51.5-103. Board - oath - meetings - powers and
18 duties. (3) The board is authorized and empowered:

19 (f) To issue, in its reasoned discretion, through the
20 division of registrations of the department of regulatory
21 agencies, a temporary license FOR A PERIOD NOT TO EXCEED
22 NINETY DAYS to any salesman applying for a temporary license
23 pending the determination of the board that the applicant has
24 met the requirements of this article. The temporary license
25 shall permit operation by the applicant while the board is
26 considering the application for an annual license. Such
27 temporary license shall be valid until ITS EXPIRATION DATE OR

1 UNTIL the applicant's license has been issued or refused or
2 otherwise acted upon by the board, WHICHEVER OCCURS FIRST.

3 (k) (I) To prescribe the forms to be used for
4 application for all licenses to be issued and to require of
5 such applicants, as a condition precedent to the issuance of
6 such license, such information concerning the applicant's
7 fitness to be licensed under this ~~article~~ PART 1, as it may
8 consider necessary for the protection of the public. Every
9 application for a license other than a ~~mobile--home~~
10 MANUFACTURED HOUSING salesman's license shall contain, in
11 addition to such information as the board may require, a
12 statement of the following facts:

13 (C) If the application is for a ~~mobile-home~~ MANUFACTURED
14 HOUSING dealer's license, the names of the new ~~mobile-homes~~
15 MANUFACTURED HOUSING that the applicant has been enfranchised
16 to sell or exchange and the names and addresses of the
17 manufacturer who has enfranchised the applicant;

18 (l) To adopt a seal with the words "Colorado ~~mobile-home~~
19 MANUFACTURED HOUSING licensing board" and such other devices
20 as the board may desire engraved thereon, by which it shall
21 authenticate the acts of its office;

22 (n) To require all ~~mobile--home~~ MANUFACTURED HOUSING
23 dealer licensees to ~~certify--to--the--good--character--and~~
24 ~~reputation-of-each-salesman-applicant-employed-by-such--dealer~~
25 and supervise and train ~~such-mobile-home~~ EACH MANUFACTURED
26 HOUSING salesman EMPLOYED BY SUCH DEALER;

27 (p) To establish standards, rules, and regulations to

1 govern the business conduct between ~~mobile-home~~ MANUFACTURED
2 HOUSING manufacturers and ~~mobile--home~~ MANUFACTURED HOUSING
3 dealers;

4 (q) To inspect, examine, or audit, itself or through its
5 duly authorized representatives, such business records of
6 manufactured housing dealers as are necessary to the proper
7 administration and enforcement of this article.

8 SECTION 4. 12-51.5-103 (4) and (5), Colorado Revised
9 Statutes, are amended, and the said 12-51.5-103 is further
10 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

11 12-51.5-103. Board - oath - meetings - powers and
12 duties. (4) It is the duty of the board to require that all
13 EACH new ~~mobile--homes~~ MANUFACTURED HOME sold in this state
14 have HAS affixed to the interior thereof the retail delivered
15 price.

16 (5) The board shall adopt rules whereby a ~~mobile-home~~
17 MANUFACTURED HOUSING dealer who acts in the capacity of a
18 broker shall furnish to each buyer and to each seller, at the
19 time such transaction is consummated, a complete detailed
20 closing statement as it applies to the buyer and a complete
21 detailed closing statement as it applies to the seller.

22 (8) The board may adopt, promulgate, amend, and repeal
23 such rules and regulations as are necessary to prescribe and
24 require standardized forms for use by manufactured housing
25 dealers in connection with the retail purchase or sale of
26 manufactured housing, including but not limited to purchase
27 agreements, listing contracts, and settlement sheets. All

1 such rules and regulations shall be subject to sections
2 24-4-103 (8) (c) and (8) (d) and 24-34-104 (9) (b) (II),
3 C.R.S.

4 SECTION 5. Part 1 of article 51.5 of title 12, Colorado
5 Revised Statutes, 1985 Repl. Vol., as amended, is amended BY
6 THE ADDITION OF A NEW SECTION to read:

7 12-51.5-103.5. Immunity. Any member of the board and
8 any person participating in good faith in the making of a
9 complaint or report or participating in any investigative or
10 administrative proceeding authorized by this article shall be
11 immune from liability in any civil action brought against him
12 for acts occurring while acting in his capacity as a board
13 member or participant, respectively, if such individual was
14 acting in good faith within the scope of his respective
15 capacity, made a reasonable effort to obtain the facts of the
16 matter as to which he acted, and acted in the reasonable
17 belief that the action taken by him was warranted by the
18 facts.

19 SECTION 6. 12-51.5-107 (1) (a), (1) (b), and (2),
20 Colorado Revised Statutes, 1985 Repl. Vol., are amended to
21 read:

22 12-51.5-107. Classes of licenses. (1) (a) ~~Mobile-home~~
23 MANUFACTURED HOUSING dealer's license. This license shall
24 permit the licensee to engage in the business of selling or
25 exchanging ~~mobile-homes~~ MANUFACTURED HOUSING. This license
26 shall be issued to an individual, A corporation, or A
27 partnership and shall permit not more than two designated

1 owners or officers or general partners of the licensee to act
2 as ~~mobile-home~~ MANUFACTURED HOUSING salesmen. In order for an
3 owner, AN officer, or A general partner to act as a ~~mobile~~
4 ~~home~~ MANUFACTURED HOUSING salesman pursuant to this paragraph
5 (a), he shall have passed the examination required by section
6 12-51.5-112.

7 (b) ~~Mobile-home~~ MANUFACTURED HOUSING salesman's license.
8 This license shall permit an individual to sell or exchange
9 ~~mobile-homes~~ MANUFACTURED HOUSING when employed by a ~~mobile~~
10 ~~home~~ MANUFACTURED HOUSING dealer.

11 (2) The licensing of ~~mobile-home~~ MANUFACTURED HOUSING
12 dealers and ~~mobile--home~~ MANUFACTURED HOUSING salesmen is
13 declared to be a matter of statewide concern, and such dealers
14 and salesmen shall not be required to obtain any ~~mobile-home~~
15 MANUFACTURED HOUSING dealer's or salesman's license other than
16 that required by this article PART 1; except that a licensee
17 under this article PART 1 shall be subject to the general
18 business license or business tax provisions of any town, city,
19 county, city and county, or other governmental agency.

20 SECTION 7. 12-51.5-109, Colorado Revised Statutes, 1985
21 Repl. Vol., is amended to read:

22 12-51.5-109. Display, form, and custody of licenses.
23 The board shall prescribe the form of the license. ~~and each~~
24 ~~license shall have imprinted thereon the seal authorized in~~
25 ~~section 12-51.5-103-(3)-(1)~~ The license of each ~~mobile-home~~
26 MANUFACTURED HOUSING salesman shall be delivered or mailed to
27 the ~~mobile-home~~ MANUFACTURED HOUSING dealer by whom the ~~mobile~~

1 home MANUFACTURED HOUSING salesman is employed and shall be
 2 kept in the custody and control of such mobile---home
 3 MANUFACTURED HOUSING dealer. It shall be the duty of each
 4 mobile---home MANUFACTURED HOUSING dealer to display
 5 conspicuously his own license and the license of each salesman
 6 employed by the dealer in his place of business. The original
 7 of the mobile-home MANUFACTURED HOUSING dealer's license shall
 8 be displayed in his principal place of business, and duplicate
 9 copies of such license shall be displayed at such other sites
 10 and locations as may be operated or maintained by such dealer
 11 in conjunction with his principal place of business; a license
 12 of the salesman employed by the dealer shall be displayed at
 13 the dealer's office where such salesman works. The board
 14 shall prepare and deliver a pocket card, which card shall
 15 certify that the person whose name appears thereon has been
 16 issued the class of license as indicated on such card, and the
 17 cards of each mobile-home MANUFACTURED HOUSING salesman shall
 18 also contain the name and address of such person's employer.

19 SECTION 8. 12-51.5-110.5, Colorado Revised Statutes,
 20 1985 Repl. Vol., is amended to read:

21 12-51.5-110.5. Fees for each class of license
 22 established by board - new and renewal - inactive status.

23 (1) (a) The board shall establish, in accordance with the
 24 provisions of section 24-34-105, C.R.S., fees for the issuance
 25 of the following types of licenses, both for new licenses and
 26 renewals thereof: Individual mobile-home MANUFACTURED HOUSING
 27 dealer's license; corporate mobile-home MANUFACTURED HOUSING

1 dealer's license; mobile-home MANUFACTURED HOUSING salesman's
 2 license; and new license required by a change of name or
 3 address.

4 (b) The board shall likewise establish, in the same
 5 manner, fees for mobile--home MANUFACTURED HOUSING dealer
 6 examinations and mobile--home MANUFACTURED HOUSING salesman
 7 examinations.

8 (2) Every license issued under the provisions of this
 9 article PART 1 shall expire on June 30 of each year. The
 10 board shall issue a new license each year upon receipt by the
 11 board of the written request of the applicant, a satisfactory
 12 showing that the applicant will be actively engaged in the
 13 business authorized by the license applied for, and payment of
 14 the fees specified in this section. Any licensee who fails to
 15 renew his license before August 1 of each year succeeding the
 16 year of his previous licensing or to whom a new license is
 17 denied shall be required to file a new application and may be
 18 required to submit to and pass the examination required by
 19 this article PART 1 for an original applicant. A MANUFACTURED
 20 HOUSING DEALER LICENSEE WHO FAILS TO RENEW HIS LICENSE BY
 21 AUGUST 1 OF EACH YEAR SHALL BE DEEMED INACTIVE. HOWEVER, SUCH
 22 LICENSEE SHALL CONTINUE TO PAY AN ASSESSMENT TO THE
 23 MANUFACTURED HOUSING RECOVERY FUND UNDER SECTION 12-51.5-202
 24 (7) IN AN AMOUNT BASED UPON THE LAST YEAR FOR WHICH SUCH
 25 DEALER WAS ACTIVELY LICENSED FOR A PERIOD OF TWO YEARS AFTER
 26 SUCH FAILURE TO RENEW.

27 SECTION 9. 12-51.5-111, Colorado Revised Statutes, 1985

1 Repl. Vol., is amended to read:
2 12-51.5-111. Payment to the manufactured housing
3 recovery fund. Payment to the ~~mobile--home~~ MANUFACTURED
4 HOUSING recovery fund pursuant to part 2 of this article shall
5 preclude bonding requirements by any town, city, county, city
6 and county, or other governmental agency to perform or conduct
7 activities comparable to those regulated pursuant to this
8 article.

9 SECTION 10. 12-51.5-112, Colorado Revised Statutes, 1985
10 Repl. Vol., is amended to read:

11 12-51.5-112. Testing licensees. All persons applying
12 for a license under this ~~article~~ PART 1 shall be examined for
13 their knowledge of the laws of this state applicable to ~~mobile~~
14 ~~homes~~ MANUFACTURED HOUSING, consumer credit, and the rules and
15 regulations promulgated pursuant to this article. If the
16 applicant FOR A MANUFACTURED HOUSING DEALER'S LICENSE is a
17 corporation, an officer or the local managing employee of such
18 corporation shall take such examination, and, if the applicant
19 is a partnership, any one of the general partners or the local
20 managing employee of such partnership shall take such
21 examination. If in any case a person taking an examination
22 for a corporation or partnership is refused a MANUFACTURED
23 HOUSING DEALER'S license by the board or in case such person
24 ceased to be connected with such corporation or partnership,
25 the corporation or partnership may designate another person,
26 who shall make application and qualify as in the first
27 instance. If such person ceases to be connected with such

1 corporation, proprietorship, or partnership, the board may
2 issue a temporary license to prevent hardship for a period not
3 to exceed sixty days to such person who is designated by the
4 corporation, proprietorship, or partnership to make
5 application for a license on behalf of said corporation,
6 proprietorship, or partnership.

7 SECTION 11. 12-51.5-113, Colorado Revised Statutes, 1985
8 Repl. Vol., is amended to read:

9 12-51.5-113. Warranties. Any mechanical, body, or parts
10 defect covered under any express or implied warranties of the
11 manufacturer shall constitute the manufacturer's product or
12 warranty liability, and the manufacturer shall reasonably
13 compensate any authorized dealer who performs work to rectify
14 said manufacturer's product or warranty defects. In the
15 determination of what constitutes reasonable compensation for
16 labor, factors to be given consideration shall include: The
17 prevailing wage rate and voluntary fringe benefits, except
18 those designed to increase dealer profit, being paid by the
19 dealer and other dealers in the community; the prevailing
20 actual labor rate being charged by the dealer to his customers
21 and other dealers in the community to their customers; and
22 specific diagnostic operations performed by productive
23 mechanics. Reasonable compensation for parts used on warranty
24 repairs shall include reimbursing the dealer for the price of
25 the part to the dealer from the manufacturer plus a reasonable
26 handling fee. The purchaser of any ~~mobile~~ MANUFACTURED home
27 shall be a third-party beneficiary of such manufacturer's or

1 dealer's warranties and obligations and may enforce such
2 manufacturer's warranties and obligations against the
3 manufacturer and such dealer's warranties and obligations
4 against the dealer.

5 SECTION 12. 12-51.5-115, Colorado Revised Statutes, 1985
6 Repl. Vol., is amended to read:

7 12-51.5-115. Notice of change of address or status.

8 (1) The board shall not issue a license to any ~~mobile--home~~
9 MANUFACTURED HOUSING dealer who has no principal place of
10 business. Should any ~~mobile-home~~ MANUFACTURED HOUSING dealer
11 change the site or location of his principal place of
12 business, he shall immediately, upon making such change,
13 notify the board, and thereupon a new license shall be granted
14 for the unexpired portion of such license upon the payment of
15 a fee established pursuant to section 24-34-105, C.R.S.
16 Should a ~~mobile-home~~ MANUFACTURED HOUSING dealer cease to be
17 in possession of a principal place of business from and on
18 which he conducts the business for which he is licensed, he
19 shall immediately notify the board and shall deliver such
20 license to it. The license shall be held and retained until it
21 appears to the board that such licensee again possesses a
22 principal place of business; whereupon, such license shall be
23 reissued upon the payment of a fee established pursuant to
24 section 24-34-105, C.R.S. Nothing in this article shall be
25 construed to prevent any ~~mobile--home~~ MANUFACTURED HOUSING
26 dealer from conducting the business for which such licensee is
27 licensed at one or more sites or locations not contiguous to

1 the licensee's principal place of business but operated and
2 maintained in conjunction therewith.

3 (2) Should any ~~mobile-home~~ MANUFACTURED HOUSING salesman
4 be discharged or change his place of employment, the last
5 employer of such person shall forthwith return his license to
6 the board. The person discharged or changing his place of
7 employment shall be notified by the board at his last place of
8 residence that his license has been returned to the board,
9 and, upon obtaining employment again in a business activity
10 covered by said license, such person may notify the board, and
11 thereupon a new license shall be issued for the unexpired
12 portion of the term of the returned license upon the payment
13 of a fee established pursuant to section 24-34-105, C.R.S.;
14 but another license shall not be issued to such person until
15 the person has returned his former pocket card or has
16 accounted satisfactorily to the board for the same. It is
17 unlawful to act as a ~~mobile-home~~ MANUFACTURED HOUSING salesman
18 until a new license is issued.

19 SECTION 13. 12-51.5-116, Colorado Revised Statutes, 1985
20 Repl. Vol., is amended to read:

21 12-51.5-116. Principal place of business - requirements
22 - dealer. The principal place of business for a ~~mobile--home~~
23 MANUFACTURED HOUSING dealer shall be a building, structure, or
24 ~~mobile~~ MANUFACTURED home located within the state of Colorado
25 devoted principally to and occupied for commercial purposes.
26 The geographic location or street address of the dealer shall
27 be registered with the board and shall appear on the ~~mobile~~

1 home MANUFACTURED HOUSING dealer's license.

2 SECTION 14. The introductory portion to 12-51.5-117 (1)
3 and 12-51.5-117 (1) (a), (1) (b), (1) (c), (1) (e), (1) (g),
4 (1) (j), (1) (m), (1) (n), (1) (q), and (1) (r), Colorado
5 Revised Statutes, 1985 Repl. Vol., are amended, and the said
6 12-51.5-117 is further amended BY THE ADDITION OF THE
7 FOLLOWING NEW SUBSECTIONS, to read:

8 12-51.5-117. Disciplinary actions - grounds for
9 probation, letter of admonition, license suspension or
10 revocation - denial of licensure. (1) A ~~mobile---~~home
11 MANUFACTURED HOUSING dealer's or ~~mobile--~~home MANUFACTURED
12 HOUSING salesman's APPLICATION FOR LICENSURE MAY BE DENIED, HE
13 MAY BE PLACED ON PROBATION, HE MAY BE ISSUED A LETTER OF
14 ADMONITION, OR HIS license may be ~~denied~~, suspended or revoked
15 on any of the following grounds:

16 (a) Proof of financial irresponsibility or insolvency or
17 conviction OF or a plea of GUILTY OR nolo contendere OF TO
18 either a felony or a misdemeanor offense upon a finding by the
19 board that such offense by the licensee or applicant renders
20 him unfit to ~~deal--with--the--public--and--that--he--is--not~~
21 ~~trustworthy--or--deserving--of--confidence~~ OPERATE IN THE
22 MANUFACTURED HOUSING INDUSTRY. HOWEVER, THE BOARD SHALL BE
23 GOVERNED BY THE PROVISIONS OF SECTION 24-5-101, C.R.S., IN
24 CONSIDERING SUCH CONVICTION OR PLEA.

25 (b) Any violation of article 1 or 2 of title 6, C.R.S.,
26 as determined by final judgment of a ~~competent~~ court OF
27 COMPETENT JURISDICTION;

1 (c) ~~Making-any-material-false-or-misleading-statement-or~~
2 ~~omission--in--an--application--for-a-license~~ FRAUD OR MATERIAL
3 MISREPRESENTATION IN OBTAINING OR ATTEMPTING TO OBTAIN A
4 LICENSE;

5 (e) Defrauding or attempting to defraud any retail
6 buyer, ~~mobile-home~~ MANUFACTURED HOUSING salesman, ~~mobile--~~home
7 MANUFACTURED HOUSING dealer, or financial institution to such
8 person's damage;

9 (g) Failure or refusal to make any payment to the ~~mobile~~
10 ~~home~~ MANUFACTURED HOUSING recovery fund, as required under
11 part 2 of this article;

12 (j) Publishing or circulating any advertising which is
13 misleading or inaccurate in any material particular or which
14 misrepresents any of the products sold or furnished by a
15 licensed ~~mobile-home~~ MANUFACTURED HOUSING dealer;

16 (m) Engaging in such business through employment of an
17 unlicensed ~~mobile-home~~ MANUFACTURED HOUSING salesman;

18 (n) Violating, ATTEMPTING TO VIOLATE, OR AIDING AND
19 ABETTING IN THE VIOLATION OF any law of this state respecting
20 commerce and mobile homes OR MANUFACTURED HOUSING or any
21 lawful rule or regulation respecting commerce and mobile homes
22 OR MANUFACTURED HOUSING promulgated by a licensing or
23 regulating authority pertaining to mobile homes OR
24 MANUFACTURED HOUSING;

25 (q) Representing or selling as new a ~~mobile~~ MANUFACTURED
26 home which has been previously occupied for any purpose;

27 (r) A final judgment of a ~~competent~~ court OF COMPETENT

1 JURISDICTION which results in the payment of any claim from
2 the ~~mobile-home~~ MANUFACTURED HOUSING recovery fund pursuant to
3 section 12-51.5-204;

4 (2) A disciplinary action relating to the manufactured
5 housing industry in any other state, territory, or country
6 shall be deemed to be prima facie evidence of grounds for
7 disciplinary action, including denial of licensure, under this
8 article. This subsection (2) shall apply only to disciplinary
9 actions based upon acts or omissions in such other state,
10 territory, or country that are substantially similar to those
11 set out as grounds for disciplinary action or denial of
12 licensure under subsection (1) of this section.

13 (3) When a complaint or investigation discloses an
14 instance of misconduct that, in the opinion of the board, does
15 not initially warrant formal action by the board but which
16 should not be dismissed as being without merit, the board may
17 send a letter of admonition by certified mail, return receipt
18 requested, to the licensee who was the subject of the
19 complaint or investigation and a copy thereof to any person
20 making such complaint. Such letter shall advise the licensee
21 that he has the right to request in writing, within twenty
22 days after proven receipt, that formal disciplinary
23 proceedings be initiated against him to adjudicate the
24 propriety of the conduct upon which the letter of admonition
25 is based. If such request is timely made, the letter of
26 admonition shall be deemed vacated and the matter shall be
27 processed by means of formal disciplinary action.

1 SECTION 15. 12-51.5-118, Colorado Revised Statutes, 1985
2 Repl. Vol., is amended to read:

3 12-51.5-118. Acts of salesmen - employee - officer. Any
4 unlawful act or violation of any of the provisions of this
5 article on the part of any ~~mobile--home~~ MANUFACTURED HOUSING
6 salesman or employee or officer or agent of a ~~mobile-home~~
7 MANUFACTURED HOUSING dealer shall be cause for the revocation
8 or suspension of a license of the employing ~~mobile-home~~
9 MANUFACTURED HOUSING dealer, whether individual, corporate, or
10 otherwise. Such revocation or suspension is not mandatory.

11 SECTION 16. 12-51.5-119, Colorado Revised Statutes, 1985
12 Repl. Vol., is amended to read:

13 12-51.5-119. Procedure for denial, suspension, or
14 revocation of license - judicial review. The denial,
15 suspension, or revocation of licenses issued under this
16 article shall be in accordance with the provisions of sections
17 24-4-104 and 24-4-105, C.R.S., EXCEPT AS OTHERWISE PROVIDED IN
18 THIS ARTICLE, and ~~judicial--review--may--be--had--in--accordance~~
19 ~~with--section--24--4--106--C.R.S.~~ FINAL BOARD ACTIONS AND ORDERS
20 APPROPRIATE FOR JUDICIAL REVIEW MAY BE JUDICIALLY REVIEWED IN
21 THE COURT OF APPEALS.

22 SECTION 17. Part 1 of article 51.5 of title 12, Colorado
23 Revised Statutes, 1985 Repl. Vol., as amended, is amended BY
24 THE ADDITION OF A NEW SECTION to read:

25 12-51.5-119.5. Summary suspension - cease and desist
26 orders - contempt of court. (1) If the board determines that
27 an emergency condition exists which may affect the health,

1 safety, or welfare of a manufactured housing resident or
2 purchaser, the board may summarily suspend any license issued
3 pursuant to this part 1. Within three days after such
4 suspension, the board shall notify the suspended licensee, in
5 writing, of the charges upon which the suspension is based and
6 afford such licensee a hearing on such emergency suspension
7 within five days after a demand for such hearing.

8 (2) The board may direct the issuance of cease and
9 desist orders, either summarily or after due notice and
10 hearing, on such terms and conditions and for such period of
11 time as the board shall direct to any person licensed under
12 this part 1 or to any person acting in violation of this
13 article, including but not limited to any person acting as a
14 manufactured housing salesman or manufactured housing dealer
15 who has not complied with the provisions of this article
16 relating to licensing. If any person violates such cease and
17 desist order, he shall be in contempt of court, and the board
18 or its authorized representative may apply to the judge of the
19 district court for the county in which such person resides, by
20 motion supported by affidavit, indicating that a contempt has
21 been committed and that the provisions of Rule 107 of the
22 Colorado rules of civil procedure shall thenceforth apply.

23 SECTION 18. 12-51.5-120, Colorado Revised Statutes, 1985
24 Repl. Vol., is amended to read:

25 12-51.5-120. Unlawful acts. (1) It is unlawful for any
26 person to act as a ~~mobile-home~~ MANUFACTURED HOUSING dealer or
27 ~~mobile--home~~ MANUFACTURED HOUSING salesman unless such person

1 has been duly licensed pursuant to the provisions of this
2 ~~article~~ PART 1. Any person who violates any of the provisions
3 of this section commits a class 3 misdemeanor and, if a
4 natural person, shall be punished as provided in section
5 18-1-106, C.R.S., and, if a corporation, shall be punished by
6 a fine of not more than five thousand dollars. Any natural
7 person who subsequently violates any provision of this section
8 commits a class 2 misdemeanor and shall be punished as
9 provided in section 18-1-106, C.R.S.

10 (2) A ~~mobile--home~~ MANUFACTURED HOUSING dealer or
11 salesman shall not maintain any action in a ~~competent~~ court OF
12 COMPETENT JURISDICTION to collect compensation due such dealer
13 or salesman as a result of performing an act for which a
14 license is required by this ~~article~~ PART 1 unless such dealer
15 or salesman alleges and proves that he was duly licensed under
16 this ~~article~~ PART 1 at the time the alleged cause of action
17 arose.

18 SECTION 19. 12-51.5-121 (3), Colorado Revised Statutes,
19 1985 Repl. Vol., is amended to read:

20 12-51.5-121. Civil penalty. (3) All fines collected
21 pursuant to this section shall be credited to the ~~mobile--home~~
22 MANUFACTURED HOUSING recovery fund CREATED IN SECTION
23 12-51.5-201.

24 SECTION 20. 12-51.5-122 (1), (2), (3), and (4), the
25 introductory portion to 12-51.5-122 (5), and 12-51.5-122 (5)
26 (a), Colorado Revised Statutes, 1985 Repl. Vol., are amended
27 to read:

1 12-51.5-122. Criminal liability. (1) Any person who
 2 knowingly and willfully makes any false statement whatsoever
 3 or who conceals a material fact in any application, form,
 4 claim, advertisement, contract, warranty, guarantee, or
 5 statement, either written or oral, with the intent to
 6 influence the actions or decisions of any official of this
 7 state, any purchaser or occupant of a ~~mobile~~ MANUFACTURED
 8 home, or any bonding agent commits a class 1 misdemeanor and
 9 shall be punished as provided in section 18-1-106, C.R.S.

10 (2) Any person who knowingly and willfully makes any
 11 false statement or representation as to the year, make, or
 12 model of any ~~mobile~~ MANUFACTURED home to any person or who
 13 alters or changes a certificate of title to falsely represent
 14 the year, make, or model of a ~~mobile~~ MANUFACTURED home commits
 15 a class 1 misdemeanor and shall be punished as provided in
 16 section 18-1-106, C.R.S.

17 (3) Any person who knowingly possesses, purchases, or
 18 sells or otherwise acquires or disposes of a ~~mobile~~
 19 MANUFACTURED home, knowing the same to have been stolen,
 20 commits a class 1 misdemeanor and shall be punished as
 21 provided in section 18-1-106, C.R.S.

22 (4) Any person who knowingly and willfully converts,
 23 uses, or otherwise disposes of money or anything of value
 24 obtained on account of a ~~mobile--home~~ MANUFACTURED HOUSING
 25 transaction without delivering promised goods or services in
 26 connection with the sale or purchase of a ~~mobile~~ MANUFACTURED
 27 home commits a class 1 misdemeanor and shall be punished as

1 provided in section 18-1-106, C.R.S.

2 (5) Any person who knowingly moves or assists in moving
 3 a ~~mobile~~ MANUFACTURED home without a valid permit or prorated
 4 tax receipt as required and issued pursuant to section
 5 42-4-409 (1) and (2), C.R.S., or who uses said permit or
 6 prorated tax receipt for more than one trip commits:

7 (a) A class 2 petty offense upon a violation of any of
 8 the provisions of the introductory portion to this subsection
 9 (5) and, upon conviction thereof, shall be fined two hundred
 10 dollars for movement of a ~~mobile~~ MANUFACTURED home without a
 11 permit or prorated tax receipt and three hundred fifty dollars
 12 for multiple uses of said permit or receipt;

13 SECTION 21. 12-51.5-123, Colorado Revised Statutes, 1985
 14 Repl. Vol., is amended to read:

15 12-51.5-123. Right of action for loss. If any person
 16 suffers loss or damage by reason of any fraud practiced on him
 17 or fraudulent representation made to him by a licensed ~~mobile~~
 18 ~~home~~ MANUFACTURED HOUSING dealer or one of such dealer's
 19 salesmen acting for the dealer in his behalf or within the
 20 scope of the employment of such salesman or suffers any loss
 21 or damage by reason of the violation by such dealer or
 22 salesman of any of the provisions of this article, whether or
 23 not such violation is the basis for denial, suspension, or
 24 revocation of a license, such person shall have a right of
 25 action against such dealer or his agent or his ~~mobile--home~~
 26 MANUFACTURED HOUSING salesman. The right of a person to
 27 recover for loss or damage as provided in this section against

1 the dealer, agent, or salesman shall not be limited to the
2 amount of ~~their~~ HIS payment to the ~~mobile--home~~ MANUFACTURED
3 HOUSING recovery fund and may include reasonable attorney
4 fees.

5 SECTION 22. 12-51.5-124, Colorado Revised Statutes, 1985
6 Repl. Vol., is amended to read:

7 12-51.5-124. Disposition of fees. All fees, except
8 those payments and fines to be deposited in the ~~mobile--home~~
9 MANUFACTURED HOUSING recovery fund, shall be collected by the
10 division of registrations of the department of regulatory
11 agencies and transmitted to the state treasurer, who shall
12 credit the same pursuant to section 24-34-105, C.R.S., and the
13 general assembly shall make annual appropriations pursuant to
14 said section for the uses and purposes of this article.
15 Expenditures from such appropriations shall be made upon
16 vouchers and warrants drawn pursuant to law.

17 SECTION 23. 12-51.5-125, Colorado Revised Statutes, 1985
18 Repl. Vol., is amended to read:

19 12-51.5-125. Escrow. Any dealer who sells ~~mobile--homes~~
20 MANUFACTURED HOUSING not owned by said dealer, in the capacity
21 of A BROKER OR an agent and not as a principal, shall
22 establish in the name of the dealer at a recognized financial
23 institution an account denominated as a trust or escrow
24 account for exclusive use in agency transactions. Such
25 account shall be available during normal business hours for
26 auditing and inspection by a duly authorized representative of
27 the board. All moneys collected in agency transactions as

1 down payments or earnest moneys or for a designated purpose
2 not yet completed shall be deposited in said escrow or trust
3 account until application for title has been made or the
4 special purpose accomplished. Required disbursement from such
5 account shall be made within thirty days.

6 SECTION 24. 12-51.5-201, Colorado Revised Statutes, 1985
7 Repl. Vol., is amended to read:

8 12-51.5-201. Manufactured housing recovery fund created.
9 There is hereby created in the office of the state treasurer a
10 ~~mobile--home~~ MANUFACTURED HOUSING recovery fund, referred to in
11 this part 2 as the "fund", which shall be deposited in an
12 interest-bearing account and which shall be used under the
13 direction of the board in the manner prescribed in this part
14 2. Interest accrued to the fund shall remain in the fund and
15 shall not be credited to the general fund.

16 SECTION 25. 12-51.5-202, Colorado Revised Statutes, 1985
17 Repl. Vol., as amended, is amended to read:

18 12-51.5-202. Funding and assessments. (1) Before a
19 ~~mobile--home~~ MANUFACTURED HOUSING dealer's license is issued,
20 each applicant shall pay an initial fee of five hundred
21 dollars plus an additional fee of one hundred dollars for each
22 business location, as set out in the dealership application,
23 operated by said dealer in excess of the principal place of
24 business. AN APPLICANT WHO HAS PAID THIS INITIAL FEE SHALL
25 NOT BE REQUIRED TO AGAIN PAY SUCH FEE SOLELY BY REASON OF SUCH
26 APPLICANT'S FAILURE TO ANNUALLY RENEW HIS MANUFACTURED HOUSING
27 DEALER'S LICENSE.

1 (2) Before ~~renewing a mobile-home~~ MANUFACTURED HOUSING
2 dealer's license IS RENEWED, each licensee shall pay a fee of
3 one hundred dollars for each new business location operated by
4 said licensee in excess of the number of business locations
5 operated by said dealer and reported in the preceding year's
6 application for renewal.

7 (3) Before a ~~mobile-home~~ MANUFACTURED HOUSING salesman's
8 license is issued, each applicant shall pay an initial fee of
9 twenty-five dollars.

10 (4) Any ~~mobile--home~~ MANUFACTURED HOUSING dealer or
11 salesman who has obtained a bond, as required prior to May 16,
12 1977, shall make the initial fund payment as required by
13 subsection (1) or (3) of this section, less the amount of said
14 bond premium paid.

15 (5) Whenever the balance in said THE fund on January 1
16 is less than one hundred sixty thousand dollars, an assessment
17 shall be made by the board and collected from each licensed
18 dealer in the amount necessary to increase the fund to one
19 hundred sixty thousand dollars. In order to attain such
20 amount, each dealer shall pay an assessment to be determined
21 pursuant to subsection (7) of this section. However, for the
22 assessment on January 1, 1982, and each year thereafter until
23 the fund balance reaches the maximum specified in section
24 12-51.5-203, no assessment shall be made by the board under
25 this subsection (5) unless the balance in the fund is less
26 than seventy-five thousand dollars. Any such dealer failing
27 to pay its assessment within thirty days after being billed by

1 the board shall be issued a cease and desist order pursuant to
2 section ~~12-51.5-103-(3)-(j)~~ 12-51.5-119.5 (2).

3 (6) Whenever the balance in said THE fund is less than
4 seventy-five thousand dollars, an immediate assessment shall
5 be made by the board, using the formula prescribed by
6 subsection (7) of this section, and collected from each
7 licensed dealer in an amount necessary to increase the fund to
8 one hundred sixty thousand dollars. However, as of July 1,
9 1981, and until the balance in the fund reaches the maximum
10 specified in section 12-51.5-203, no immediate assessment
11 shall be made by the board unless the balance in the fund is
12 less than seventy-five thousand dollars. Any such dealer
13 failing to pay its assessment within thirty days after being
14 billed by the board shall be issued a cease and desist order
15 pursuant to section ~~12-51.5-103-(3)-(j)~~ 12-51.5-119.5 (2).

16 (7) (a) The assessment for each ~~mobile-home~~ MANUFACTURED
17 HOUSING dealer shall be determined by the number of business
18 locations owned or operated by the ~~mobile--home~~ MANUFACTURED
19 HOUSING dealer so that each dealer will pay a base assessment,
20 determined pursuant to paragraph (b) of this subsection (7),
21 for his principal place of business plus one-fifth of such
22 base assessment for each additional business location owned or
23 operated by the dealer.

24 (b) The base assessment shall be determined by dividing
25 the amount of money needed to be raised by the sum of
26 four-fifths times the number of ~~mobile--home~~ MANUFACTURED
27 HOUSING dealers plus one-fifth times the total number of

1 business locations.

2 (8) The fees and assessments collected pursuant to this
3 section shall be deposited in said THE fund and are not
4 subject to the provisions of section 24-34-105, C.R.S.

5 (9) Any person subject to assessment under this part 2
6 shall have standing to intervene as a party in any civil
7 proceeding which may result in a judgment payable out of the
8 mobile-home MANUFACTURED HOUSING recovery fund without trial
9 on the underlying merits of the case.

10 SECTION 26. 12-51.5-203, Colorado Revised Statutes, 1985
11 Repl. Vol., is amended to read:

12 12-51.5-203. Recovery fund maximum - distribution.
13 Whenever the balance in the fund on January 1 is more than
14 three hundred twenty thousand dollars, the amount of the fund
15 which exceeds three hundred twenty thousand dollars shall be
16 distributed by the board to each licensed mobile--home
17 MANUFACTURED HOUSING dealer in direct proportion to that
18 dealer's required funding payment, as set out in section
19 12-51.5-202 (7).

20 SECTION 27. 12-51.5-204 (1), (4), and (5), Colorado
21 Revised Statutes, 1985 Repl. Vol., are amended to read:

22 12-51.5-204. Application for payments out of fund.

23 (1) When any person who has purchased a mobile MANUFACTURED
24 home for a personal, family, or household residential purpose
25 obtains a final judgment in any court of competent
26 jurisdiction against any mobile--home MANUFACTURED HOUSING
27 dealer or salesman licensed under part 1 of this article on

1 the grounds of ~~Failure--to--honor-warranties-or-guarantees,~~
2 fraud; willful misrepresentation of the kind or quality of the
3 product sold; MISUSE OF DOWN PAYMENTS, EARNEST MONEYS, OR
4 DESIGNATED-PURPOSE MONEYS THAT SHOULD BE DEPOSITED IN A TRUST
5 OR ESCROW ACCOUNT PURSUANT TO SECTION 12-51.5-125; DAMAGE TO A
6 MANUFACTURED HOME THAT IS IN THE CARE OF A MANUFACTURED
7 HOUSING DEALER WHO IS ACTING AS A BROKER OR AGENT; or any
8 violation of this article or article 1 or 2 of title 6,
9 C.R.S., arising directly out of any transaction which occurred
10 on or after May 16, 1977, when said dealer or salesman was
11 licensed and in which such dealer or salesman performed acts
12 for which a license is required by part 1 of this article,
13 such person, upon termination of all proceedings including
14 appeals, may file a verified application in the court in which
15 the judgment was entered for an order directing payment out of
16 the fund of the amount of actual and direct loss, EXCLUDING
17 LOSS FOR PAIN AND SUFFERING OR MENTAL ANGUISH, in such
18 transaction, including court costs and reasonable attorney
19 fees not to exceed fifteen percent of the judgment, which
20 remains unpaid upon the judgment. Nothing in this section
21 shall obligate the fund for more than twenty-five thousand
22 dollars with respect to any one claim or fifty thousand
23 dollars with respect to any one licensed dealer if the
24 transaction out of which the claim arises occurs after July 1,
25 1981, or twenty-five thousand dollars with respect to any one
26 dealer if such transactions occur prior to July 1, 1981.
27 Claims against the fund based on the act of a licensed

1 salesman shall be subject to the limitation on payment out of
2 the fund with respect to the licensed dealer by which the
3 salesman is employed at the time of the transaction out of
4 which the claim arises. Claims against a licensed salesman
5 shall be brought against the licensed dealer by which he is
6 employed. No person applying for recovery from the fund shall
7 apply for judgment on any bond issued prior to May 16, 1977.

8 (4) Any ~~mobile--home~~ MANUFACTURED HOUSING dealer or
9 ~~mobile--home~~ MANUFACTURED HOUSING salesman who is licensed or
10 renews his license under part 1 of this article on or after
11 May 16, 1977, and upon whom personal service cannot be made
12 with reasonable diligence shall be deemed to have appointed
13 the secretary of state as his agent for service of process for
14 purposes of actions filed against him pursuant to this
15 article. Service of process pursuant to this section shall be
16 made as nearly as practicable in the manner prescribed for
17 service on corporations.

18 (5) Any ~~mobile--home~~ MANUFACTURED HOUSING dealer or
19 salesman who is licensed or renews his license under part 1 of
20 this article on or after May 16, 1977, shall sign and file an
21 irrevocable consent that suits and actions may be commenced
22 against such licensee in the proper courts of any county in
23 this state in which a cause of action may arise by the service
24 of any process or pleading authorized by the laws of this
25 state on the secretary of state. Such consent shall stipulate
26 and agree that such service of process or pleading on the
27 secretary of state shall be held in all courts to be as valid

1 and binding as if due service had been made upon the licensee
2 in this state. The instrument containing such consent shall
3 be authenticated by the seal thereof, if a corporation, or by
4 the acknowledged signature of an officer or member thereof, if
5 otherwise.

6 SECTION 28. 12-51.5-205, Colorado Revised Statutes, 1985
7 Repl. Vol., is amended to read:

8 12-51.5-205. Revocation of license. If the board is
9 required to make any payment from the fund in settlement of a
10 claim or toward the satisfaction of a judgment pursuant to the
11 provisions of this part 2, ~~the board shall give notice of~~
12 ~~hearing and order to show cause why the judgment debtor's~~
13 ~~license should not be suspended or revoked pursuant to section~~
14 ~~12-51.5-117 or 12-51.5-119 and article 4 of title 24, C.R.S.~~
15 LICENSE OF THE JUDGMENT DEBTOR SHALL BE AUTOMATICALLY REVOKED
16 UPON THE DATE OF A FINAL ORDER BY THE COURT, AS DESCRIBED IN
17 SECTION 12-51.5-204. ~~If the~~ WHEN A license is ~~suspended or~~
18 ~~revoked~~ PURSUANT TO THIS SECTION, the judgment debtor shall
19 not be eligible to be licensed again as either a dealer or a
20 salesman until he has repaid in full the amount paid from the
21 fund with interest thereon of twelve percent per annum. If
22 the judgment debtor whose license is ~~suspended or~~ revoked is a
23 corporate or a partnership licensee, no officer, director, or
24 controlling shareholder of such judgment debtor shall be
25 eligible for licensure as a dealer or salesman, and no
26 business entity in which such person possesses a management or
27 ownership interest shall be eligible for licensure under this

1 ~~article~~ PART 1 until the full amount paid from the fund, with
2 interest thereon, is repaid with interest at the rate of
3 twelve percent per annum.

4 SECTION 29. 12-51.5-206, Colorado Revised Statutes, 1985
5 Repl. Vol., is amended to read:

6 12-51.5-206. Subrogation of rights. (1) When, upon
7 order of any court OF COMPETENT JURISDICTION, the board has
8 caused payment to be made from the fund to a judgment
9 creditor, ~~or to a corporate surety which has complied with the~~
10 ~~provisions of section 12-51.5-207,~~ the board and any ~~mobile~~
11 ~~home~~ MANUFACTURED HOUSING dealer subject to fund assessment
12 under this part 2 shall be subrogated to the rights of the
13 judgment creditor ~~or corporate surety~~ with respect to the
14 amount so paid.

15 (2) Up to an amount equal to ten percent of the payment
16 to a judgment creditor ~~or corporate surety~~ may be drawn from
17 the fund and expended by the board for the purpose of
18 enforcing the rights of a particular judgment creditor ~~or~~
19 ~~corporate surety~~ to which the board is subrogated pursuant to
20 this section. The board, with the approval of the attorney
21 general, may employ such private counsel as will enable the
22 board to efficiently enforce the subrogation rights granted
23 under this section. Subrogation recoveries effected under
24 this section shall be deposited to the credit of the fund for
25 payment or distribution under this part 2; except that the
26 board may, in its discretion, authorize payment of legal costs
27 and attorney fees incurred by a subrogated ~~mobile--home~~

1 MANUFACTURED HOUSING dealer or group of ~~mobile--home~~
2 MANUFACTURED HOUSING dealers effecting fund recovery under
3 this section, which payment shall in no event exceed the
4 amount recovered in the particular recovery proceeding for
5 which payment is sought.

6 (3) Prior to effecting any legal process for fund
7 recoveries, a ~~mobile--home~~ MANUFACTURED HOUSING dealer shall
8 first obtain permission of the court ordering payment from the
9 fund. Application for such permission shall be made with
10 notice to the board and the attorney general, which
11 application shall be granted unless, upon objection of the
12 board or the attorney general, the court determines THAT
13 applicant collection efforts would be duplicative OF or a
14 hinderance to those undertaken by the board or that the
15 applicant will not adequately represent the purposes of the
16 ~~recovery~~ fund.

17 SECTION 30. 13-4-102 (2), Colorado Revised Statutes,
18 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A
19 NEW PARAGRAPH, to read:

20 13-4-102. Jurisdiction. (2) (y) Review final actions
21 and orders of the Colorado manufactured housing licensing
22 board that are appropriate for judicial review, as provided in
23 section 12-51.5-119, C.R.S.

24 SECTION 31. 24-1-122 (3) (hh), Colorado Revised
25 Statutes, 1988 Repl. Vol., is amended to read:

26 24-1-122. Department of regulatory agencies - creation.
27 (3) (hh) Colorado ~~mobile--home~~ MANUFACTURED HOUSING licensing

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BILL 2

1 board, created by article 51.5 of title 12, C.R.S. 1973.

2 SECTION 32. 24-34-104, Colorado Revised Statutes, 1988
3 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to
4 read:

5 24-34-104. General assembly review of regulatory
6 agencies and functions for termination, continuation, or
7 reestablishment. (21.1) (a) The following BOARD and the
8 functions of the specified agency shall terminate on July 1,
9 1992: The Colorado manufactured housing licensing board,
10 created by article 51.5 of title 12, C.R.S. However, the
11 sunrise and sunset review committee created by joint rule of
12 the senate and house of representatives shall retain
13 continuing jurisdiction, at any time and at its own
14 discretion, to review and recommend termination, continuation,
15 or reestablishment of such board, including amending such
16 termination date.

17 SECTION 33. 38-12-201 (1), Colorado Revised Statutes,
18 1982 Repl. Vol., is amended to read:

19 38-12-201. Application of part 2. (1) This part 2
20 shall apply only to ~~mobile--homes~~ MANUFACTURED HOUSING OR
21 MANUFACTURED HOMES, as defined in section 12-51.5-101, C.R.S.
22 1973.

23 SECTION 34. 38-29-102 (6), Colorado Revised Statutes,
24 1982 Repl. Vol., as amended, is amended to read:

25 38-29-102. Definitions. (6) "Manufactured home" means
26 ~~any mobile home as defined in subsection (8) of this section~~ A
27 PRECONSTRUCTED BUILDING UNIT OR COMBINATION OF PRECONSTRUCTED

1 BUILDING UNITS WITHOUT MOTIVE POWER DESIGNED AND COMMONLY USED
2 FOR RESIDENTIAL OCCUPANCY BY PERSONS IN EITHER TEMPORARY OR
3 PERMANENT LOCATIONS, WHICH UNIT OR UNITS ARE MANUFACTURED IN A
4 FACTORY OR AT A LOCATION OTHER THAN THE RESIDENTIAL SITE OF
5 THE COMPLETED HOME.

6 SECTION 35. 38-29-108 (1), Colorado Revised Statutes,
7 1982 Repl. Vol., as amended, is amended to read:

8 38-29-108. Where application for certificates of title
9 made - procedure. (1) An application for a certificate of
10 title upon the sale, transfer, or movement into the state of
11 any manufactured home THAT DOES NOT BECOME REAL PROPERTY
12 PURSUANT TO SECTION 38-29-114 (2) OR SECTION 38-29-117 (6)
13 shall be directed to the director and filed with the
14 authorized agent of the county OR CITY or city and county in
15 which such manufactured home is to be located. Upon sale or
16 transfer, an application for a certificate of title on a
17 manufactured home shall be made within forty-five days of the
18 receipt of a manufacturer's CERTIFICATE OR statement of origin
19 or its equivalent. The authorized agents shall forward copies
20 of all such applications to the county assessor. Any person,
21 other than an individual selling a manufactured home used as
22 his residence, who receives a commission or other valuable
23 consideration for the transfer or sale of a manufactured home
24 shall fulfill the application and notice requirements of this
25 subsection (1).

26 SECTION 36. 38-29-112, Colorado Revised Statutes, 1982
27 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW

1 SUBSECTION to read:

2 38-29-112. Certificate of title - transfer. (1.5) The
 3 purchaser or transferee of a manufactured home which becomes
 4 permanently affixed at an existing site or is transported to a
 5 site and is permanently affixed to the ground so that it is no
 6 longer capable of being drawn over the public highways shall
 7 present a certificate of transfer as required in subsection
 8 (1) of this section, together with his application for purging
 9 a manufactured home title to the authorized agent of the
 10 county or city or city and county in which such manufactured
 11 home is located, and said manufactured home shall become real
 12 property. The provisions of articles 30 to 44 of this title
 13 and of any other law of this state shall be applicable to
 14 manufactured homes which have become real property pursuant to
 15 this subsection (1.5) and to instruments creating, disposing
 16 of, or otherwise affecting such real property wherever such
 17 provisions would be applicable to estates, rights, and
 18 interests in land or to instruments creating, disposing of, or
 19 otherwise affecting estates, rights, and interest in land.

20 SECTION 37. 38-29-114, Colorado Revised Statutes, 1982
 21 Repl. Vol., as amended, is amended to read:

22 38-29-114. New manufactured homes - bill of sale -
 23 certificate of title. (1) Upon the sale or transfer by a
 24 dealer of a new manufactured home, such dealer shall, upon the
 25 delivery thereof, make, execute, and deliver to the purchaser
 26 or transferee a good and sufficient bill of sale therefor,
 27 together with the manufacturer's certificate OR STATEMENT of

1 origin OR THE FILING OF A MORTGAGE BY THE HOLDER OF SUCH
 2 MORTGAGE PURSUANT TO SECTION 38-29-128. Said bill of sale AND
 3 THE MANUFACTURER'S CERTIFICATE OR STATEMENT OF ORIGIN shall be
 4 notarized, shall be in such form as the director may
 5 prescribe, and shall contain, in addition to other information
 6 which he may by rule from time to time require, the
 7 manufacturer and model of the manufactured home so sold or
 8 transferred, the identification number placed upon the home by
 9 the manufacturer for identification purposes, the
 10 manufacturer's suggested retail price OR THE RETAIL DELIVERED
 11 PRICE, and the date of the sale or transfer thereof, together
 12 with a description of any mortgage thereon given to secure the
 13 purchase price or any part thereof. Upon presentation of such
 14 a bill of sale to the director or one of his authorized
 15 agents, a new certificate of title for the home therein
 16 described shall be issued and disposition thereof made as in
 17 other cases. The transfer of a manufactured home which has
 18 been used by a dealer for the purpose of demonstration to
 19 prospective customers shall be made in accordance with the
 20 provisions of this section.

21 (2) ANY PURCHASER OF A NEW MANUFACTURED HOME THAT IS
 22 TRANSPORTED TO A SITE AND PERMANENTLY AFFIXED TO THE GROUND SO
 23 THAT IT IS NO LONGER CAPABLE OF BEING DRAWN OVER THE PUBLIC
 24 HIGHWAYS SHALL NOT BE REQUIRED TO PROCURE A CERTIFICATE OF
 25 TITLE THERETO AS IS OTHERWISE REQUIRED BY THIS ARTICLE, AND
 26 SAID HOME SHALL BECOME REAL PROPERTY. THE PROVISIONS OF
 27 ARTICLES 30 TO 44 OF THIS TITLE AND OF ANY OTHER LAW OF THIS

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1 STATE SHALL BE APPLICABLE TO MANUFACTURED HOMES WHICH HAVE
2 BECOME REAL PROPERTY PURSUANT TO THIS SUBSECTION (2) AND TO
3 INSTRUMENTS CREATING, DISPOSING OF, OR OTHERWISE AFFECTING
4 SUCH REAL PROPERTY WHEREVER SUCH PROVISIONS WOULD BE
5 APPLICABLE TO ESTATES, RIGHTS, AND INTERESTS IN LAND OR TO
6 INSTRUMENTS CREATING, DISPOSING OF, OR OTHERWISE AFFECTING
7 ESTATES, RIGHTS, AND INTERESTS IN LAND.

8 SECTION 38. 38-29-117, Colorado Revised Statutes, 1982
9 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
10 SUBSECTION to read:

11 38-29-117. Certificates for manufactured homes
12 registered in other states. (6) If any person acquires the
13 ownership in a manufactured home for which a certificate of
14 title has been issued under the laws of a state other than the
15 state of Colorado and such home is transported to a site where
16 it is permanently affixed to the ground so that it is no
17 longer capable of being drawn over the public highways, such
18 person shall not be required to procure a new certificate of
19 title as is otherwise required by this article, and said
20 manufactured home shall become real property. The provisions
21 of articles 30 to 44 of this title and of any other law of
22 this state shall be applicable to manufactured homes which
23 have become real property pursuant to this subsection (6) and
24 to instruments creating, disposing of, or otherwise affecting
25 such real property wherever such provisions would be
26 applicable to estates, rights, and interests in land or to
27 instruments creating, disposing of, or otherwise affecting

1 estates, rights, and interests in land.

2 SECTION 39. Repeal. 12-51.5-101 (3), 12-51.5-102 (4),
3 12-51.5-103 (3) (h) and (3) (j), and 12-51.5-207, Colorado
4 Revised Statutes, 1985 Repl. Vol., 24-34-104 (17) (d),
5 Colorado Revised Statutes, 1988 Repl. Vol., and 38-29-102
6 (8), Colorado Revised Statutes, 1982 Repl. Vol., as amended,
7 are repealed.

8 SECTION 40. Effective date. This act shall take effect
9 July 1, 1989.

10 SECTION 41. Safety clause. The general assembly hereby
11 finds, determines, and declares that this act is necessary
12 for the immediate preservation of the public peace, health,
13 and safety.

Provides that, upon a determination of probable cause for crediting the allegations of the charge, the director will order the charging party and the respondent to pursue compulsory mediation with the commission.

Provides that no civil action shall be maintained in a state district court unless the charging party has first completed all processes available to him through the commission and that such action must be filed within ninety days of the completion of commission action on such charge.

Provides that discrimination against a person who files a charge or otherwise participates in commission proceedings constitutes an additional unfair employment practice, unfair housing practice, or discriminatory practice with respect to places of public accommodation. Clarifies that charges of an unfair employment practice not filed within six months of the alleged occurrence are barred.

Makes the awarding of back pay a separate remedy available to the commission in cases of unfair employment practices and clarifies that the commission may order back pay and the alternate existing methods of relief singly or in any combination. Makes reimbursement for fees charged in violation of the law and for actual expenses for obtaining comparable alternate housing and associated storage and moving charges a remedy available to the commission in cases of unfair housing practices.

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE COLORADO CIVIL RIGHTS
2 DIVISION, INCLUDING THE COLORADO CIVIL RIGHTS COMMISSION,
3 AND IN CONNECTION THEREWITH, CHANGING CERTAIN PROVISIONS
4 OF THE LAW RELATING TO THE COMMISSION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Continues the Colorado civil rights division and the Colorado civil rights commission. Adds mental impairment to the definition of "handicap", thereby extending coverage of the existing prohibitions against discrimination to include those persons who are mentally handicapped.

Changes the grounds for removal of commission members. Authorizes commission members to receive per diem allowances and to be reimbursed for certain expenses. Provides commission members and others with immunity from civil liability for actions taken under the law under certain circumstances.

Changes the provision concerning witnesses who assert their privilege not to testify on the grounds of self-incrimination to provide that testimony compelled by the commission and information derived from such testimony cannot be used in a subsequent prosecution but not totally barring any such prosecution, thereby granting use rather than transactional immunity. Eliminates the requirement that charges and answers to charges be verified. Gives the director subpoena power with respect to information or witnesses relevant to the investigation of an allegation of an unfair housing practice.

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

2 SECTION 1. 24-34-301 (4), Colorado Revised Statutes,
3 1988 Repl. Vol., is amended to read:

4 24-34-301. Definitions. (4) "Handicap" means a
5 physical OR MENTAL impairment which substantially limits one
6 or more of a person's major life activities and includes a
7 record of such an impairment and being regarded as having such
8 an impairment.

9 SECTION 2. 24-34-303, Colorado Revised Statutes, 1988
10 Repl. Vol., is amended to read:

11 24-34-303. Civil rights commission - membership. There
12 is hereby created, within the division, the Colorado civil
13 rights commission. The commission shall consist of seven

1 members, who shall be appointed by the governor, with the
 2 consent of the senate, for terms of four years; except that,
 3 of the first members appointed, two shall be appointed for
 4 terms of two years and two shall be appointed for terms of
 5 three years. In making the first two appointments to the
 6 commission on or after July 1, 1981, whether such appointments
 7 are for a full term or to fill a vacancy, the governor shall
 8 appoint one member to represent the business community and one
 9 member to represent state or local government entities. In
 10 making the next two appointments to the commission, whether
 11 such appointments are for a full term or to fill a vacancy,
 12 the governor shall appoint one member to represent small
 13 business and one member to represent state or local government
 14 entities. The governor shall make all subsequent appointments
 15 in such a manner that there are at all times two members of
 16 the commission representing the business community, at least
 17 one of which shall be a representative of small business, two
 18 members of the commission representing state or local
 19 government entities, and three members of the commission from
 20 the community at large. The membership of the commission
 21 shall at all times be comprised of at least four members who
 22 are members of groups of people who have been or who might be
 23 discriminated against because of handicap, race, creed, color,
 24 sex, national origin, or ancestry as defined in section
 25 24-34-402 or because of marital status, religion, or age.
 26 Appointments shall be made to provide geographical area
 27 representation insofar as may be practicable, and no more than

1 four members shall belong to the same political party.
 2 Vacancies shall be filled by the governor by appointment, with
 3 the consent of the senate, and the term of a commissioner so
 4 appointed shall be for the unexpired part of the term for
 5 which he is appointed. Any commissioner may be removed from
 6 office by the governor for cause MISCONDUCT, INCOMPETENCE, OR
 7 NEGLECT OF DUTY. Commissioners shall ~~serve--without~~
 8 ~~compensation--but~~ RECEIVE A PER DIEM ALLOWANCE AND shall be
 9 reimbursed for ACTUAL AND necessary ~~travel~~ expenses incurred
 10 by them while on official commission business, AS PROVIDED IN
 11 SECTION 24-34-102 (13). The commission may adopt, amend, or
 12 rescind rules for governing its meetings, and four
 13 commissioners shall constitute a quorum.

14 SECTION 3. 24-34-305 (1) (d) (II), Colorado Revised
 15 Statutes, 1988 Repl. Vol., is amended to read:

16 24-34-305. Powers and duties of commission.
 17 (1) (d) (II) No person may be excused from attending and
 18 testifying or from producing records, correspondence,
 19 documents, or other evidence in obedience to a subpoena in any
 20 such matter on the ground that the evidence or the testimony
 21 required of him may tend to incriminate him or subject him to
 22 any penalty or forfeiture. ~~but no person may be prosecuted or~~
 23 ~~subjected to any penalty or forfeiture for or on account of~~
 24 ~~any transaction, matter, or thing concerning which he is~~
 25 ~~compelled to testify or produce evidence after having claimed~~
 26 ~~his privilege against self-incrimination; HOWEVER, NO~~
 27 TESTIMONY OR OTHER INFORMATION COMPELLED UNDER ORDER FROM THE

1 COMMISSION, OR OTHER INFORMATION DIRECTLY OR INDIRECTLY
 2 DERIVED FROM SUCH TESTIMONY OR OTHER INFORMATION, MAY BE USED
 3 AGAINST THE WITNESS IN ANY CRIMINAL CASE, ~~except that such~~
 4 ~~person so testifying may not be exempted from~~ A prosecution
 5 and punishment for perjury ~~in the first degree~~ OR FALSE
 6 STATEMENT committed in so testifying.

7 SECTION 4. 24-34-306 (1), (2), (6), and (11), Colorado
 8 Revised Statutes, 1988 Repl. Vol., are amended to read:

9 24-34-306. Charge - complaint - hearing - procedure -
 10 exhaustion of administrative remedies. (1) Any person
 11 claiming to be aggrieved by a discriminatory or unfair
 12 practice as defined by parts 4 to 7 of this article may, by
 13 himself or his attorney-at-law, make, sign, and file with the
 14 commission a ~~verified~~ written charge in duplicate which shall
 15 state the name and address of the respondent alleged to have
 16 committed the discriminatory or unfair practice and which
 17 shall set forth the particulars thereof and contain such other
 18 information as may be required by the commission. The
 19 commission, a commissioner, or the attorney general may in
 20 like manner make, sign, and file such charge. Prior to any
 21 other action by the commission, the respondent shall be
 22 notified of the charges filed against him. NO PERSON MAY FILE
 23 A CIVIL ACTION IN A DISTRICT COURT IN THIS STATE BASED ON AN
 24 ALLEGED DISCRIMINATORY OR UNFAIR PRACTICE PROHIBITED BY PARTS
 25 4 TO 7 OF THIS ARTICLE UNLESS HE HAS FIRST EXHAUSTED THE
 26 PROCEEDINGS AND REMEDIES AVAILABLE TO HIM UNDER THIS ARTICLE.

27 (2) (a) After the filing of a charge, the director, with

1 the assistance of the staff, shall make a prompt investigation
 2 thereof. IF SUCH CHARGE ALLEGES AN UNFAIR HOUSING PRACTICE AS
 3 DEFINED IN PART 5 OF THIS ARTICLE, THE DIRECTOR MAY SUBPOENA
 4 WITNESSES AND COMPEL THE TESTIMONY OF WITNESSES AND THE
 5 PRODUCTION OF BOOKS, PAPERS, AND RECORDS RELEVANT TO SUCH
 6 CHARGE. ANY SUBPOENA ISSUED PURSUANT TO THIS PARAGRAPH (a)
 7 SHALL BE ENFORCEABLE IN THE DISTRICT COURT FOR THE DISTRICT IN
 8 WHICH THE ALLEGED DISCRIMINATORY OR UNFAIR PRACTICE OCCURRED.

9 (b) The director shall determine as promptly as possible
 10 whether probable cause exists for crediting the allegations of
 11 the charge, AND SHALL FOLLOW ONE OF THE FOLLOWING COURSES OF
 12 ACTION:

13 (I) If the director determines that probable cause does
 14 not exist, he shall dismiss the charge and shall notify the
 15 person filing the charge and the respondent of such dismissal.
 16 IN ADDITION, IN SUCH NOTICE THE DIRECTOR SHALL ADVISE BOTH
 17 PARTIES:

18 (A) THAT THE CHARGING PARTY HAS THE RIGHT TO FILE AN
 19 APPEAL OF SUCH DISMISSAL WITH THE COMMISSION WITHIN TEN DAYS
 20 OF HIS RECEIPT OF THE NOTIFICATION OF SUCH DISMISSAL;

21 (B) THAT IF THE CHARGING PARTY WISHES TO FILE A CIVIL
 22 ACTION IN A DISTRICT COURT IN THIS STATE, WHICH ACTION IS
 23 BASED ON THE ALLEGED DISCRIMINATORY OR UNFAIR PRACTICE THAT
 24 WAS THE SUBJECT OF THE CHARGE HE FILED WITH THE COMMISSION, HE
 25 MUST DO SO: WITHIN NINETY DAYS OF HIS RECEIPT OF THE NOTICE
 26 SPECIFIED IN THIS SUBPARAGRAPH (I) IF HE DOES NOT FILE AN
 27 APPEAL WITH THE COMMISSION PURSUANT TO SUB-SUBPARAGRAPH (A) OF

1 THIS SUBPARAGRAPH (I); OR WITHIN NINETY DAYS OF HIS RECEIPT OF
2 NOTICE THAT THE COMMISSION HAS DISMISSED THE APPEAL SPECIFIED
3 IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I);

4 (C) THAT, IF THE CHARGING PARTY DOES NOT FILE AN ACTION
5 WITHIN THE TIME LIMITS SPECIFIED IN SUB-SUBPARAGRAPH (B) OF
6 THIS SUBPARAGRAPH (I), SUCH ACTION WILL BE BARRED AND NO
7 DISTRICT COURT SHALL HAVE JURISDICTION TO HEAR SUCH ACTION.

8 (II) If the director determines that probable cause
9 exists, the respondent shall be served with written notice
10 which states with specificity the legal authority and
11 jurisdiction of the commission and the matters of fact and law
12 asserted AND THE DIRECTOR SHALL ORDER THE CHARGING PARTY AND
13 THE RESPONDENT TO PARTICIPATE IN COMPULSORY MEDIATION.
14 Immediately after such notice has been given, the director
15 shall endeavor to eliminate such discriminatory or unfair
16 practice by conference, conciliation, and persuasion AND BY
17 MEANS OF THE COMPULSORY MEDIATION REQUIRED BY THIS
18 SUBPARAGRAPH (II).

19 (6) The respondent may file a written verified answer
20 prior to the date of the hearing. When a respondent has
21 failed to answer at a hearing, the commission, a commissioner,
22 or the administrative law judge, as the case may be, may enter
23 his default. For good cause shown, the entry of default may
24 be set aside within ten days after the date of such entry. If
25 the respondent is in default, testimony may be heard on behalf
26 of the complainant. After hearing such testimony, the
27 commission, a commissioner, or the administrative law judge,

1 as the case may be, may enter such order as the evidence
2 warrants.

3 (11) If written notice that a formal hearing will be
4 held is not served within one hundred eighty days after the
5 filing of the charge, or if the hearing is not commenced
6 within the one-hundred-twenty-day period prescribed by
7 subsection (4) of this section, the jurisdiction of the
8 commission over the complaint shall cease, and the complainant
9 may seek the relief authorized under this part 3 and parts 4
10 to 7 of this article against the respondent by filing a civil
11 action in the district court for the district in which the
12 alleged discriminatory or unfair practice occurred. SUCH
13 ACTION MUST BE FILED WITHIN NINETY DAYS OF THE DATE UPON WHICH
14 THE JURISDICTION OF THE COMMISSION CEASED, AND IF NOT SO
15 FILED, IT SHALL BE BARRED AND THE DISTRICT COURT SHALL HAVE NO
16 JURISDICTION TO HEAR SUCH ACTION. If any party requests the
17 extension of any time period prescribed by this subsection
18 (11), such extension may be granted for good cause by the
19 commission, a commissioner, or the administrative law judge,
20 as the case may be, but the total period of all such
21 extensions to either the respondent or the complainant shall
22 not exceed ninety days each, and, in the case of multiple
23 parties, the total period of all extensions shall not exceed
24 one hundred eighty days.

25 SECTION 5. 24-34-306, Colorado Revised Statutes, 1988
26 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION TO
27 read:

1 24-34-306. Charge - complaint - hearing - procedure -
2 exhaustion of administrative remedies. (13) Any member of
3 the commission and any person participating in good faith in
4 the making of a complaint or a report or in any investigative
5 or administrative proceeding authorized by parts 3 to 7 of
6 this article shall be immune from liability in any civil
7 action brought against him for acts occurring while acting in
8 his capacity as a commission member or participant,
9 respectively, if such individual was acting in good faith
10 within the scope of his respective capacity, made a reasonable
11 effort to obtain the facts of the matter as to which he acted,
12 and acted in the reasonable belief that the action taken by
13 him was warranted by the facts.

14 SECTION 6. 24-34-402 (1)(e), Colorado Revised Statutes,
15 1988 Repl. Vol., is amended to read:

16 24-34-402. Discriminatory or unfair employment
17 practices. (1) (e) For any person, whether or not an
18 employer, an employment agency, a labor organization, or the
19 employees or members thereof:

20 (I) To aid, abet, incite, compel, or coerce the doing of
21 any act defined in this section to be a discriminatory or
22 unfair employment practice; or

23 (II) To obstruct or prevent any person from complying
24 with the provisions of this part 4 or any order issued with
25 respect thereto; or

26 (III) To attempt, either directly or indirectly, to
27 commit any act defined in this section to be a discriminatory

1 or unfair employment practice;

2 (IV) TO DISCRIMINATE AGAINST ANY PERSON BECAUSE SUCH
3 PERSON HAS OPPOSED ANY PRACTICE MADE A DISCRIMINATORY OR AN
4 UNFAIR EMPLOYMENT PRACTICE BY THIS PART 4, BECAUSE HE HAS
5 FILED A CHARGE WITH THE COMMISSION, OR BECAUSE HE HAS
6 TESTIFIED, ASSISTED, OR PARTICIPATED IN ANY MANNER IN AN
7 INVESTIGATION, PROCEEDING, OR HEARING CONDUCTED PURSUANT TO
8 PARTS 3 AND 4 OF THIS ARTICLE;

9 SECTION 7. 24-34-403, Colorado Revised Statutes, 1988
10 Repl. Vol., is amended to read:

11 24-34-403. Time limits on filing of charges. Any charge
12 alleging a violation of this part 4 shall be filed with the
13 commission pursuant to section 24-34-306 within six months
14 after the alleged discriminatory or unfair employment practice
15 occurred, AND IF NOT SO FILED, IT SHALL BE BARRED.

16 SECTION 8. 24-34-405, Colorado Revised Statutes, 1988
17 Repl. Vol., is amended to read:

18 24-34-405. Relief authorized. In addition to the relief
19 authorized by section 24-34-306 (9), the commission may order
20 a respondent who has been found to have engaged in an unfair
21 or discriminatory employment practice to take affirmative
22 action regarding: BACK PAY; hiring, reinstatement, or
23 upgrading of employees, with or without back pay; the
24 referring of applicants for employment by any respondent
25 employment agency; the restoration to membership by any
26 respondent labor organization; the admission to or
27 continuation in enrollment in an apprenticeship program,

1 on-the-job training program, or a vocational school; the
2 posting of notices; and the making of reports as to the manner
3 of compliance. THE COMMISSION, IN ITS DISCRETION, MAY ORDER
4 SUCH REMEDIES SINGLY OR IN ANY COMBINATION.

5 SECTION 9. 24-34-502 (1)(e), Colorado Revised Statutes,
6 1988 Repl. Vol., is amended to read:

7 24-34-502. Unfair housing practices prohibited.

8 (1) (e) For any person: To aid, abet, incite, compel, or
9 coerce the doing of any act defined in this section as an
10 unfair housing practice; ~~or~~ to obstruct or prevent any person
11 from complying with the provisions of this part 5 or any order
12 issued with respect thereto; ~~or~~ to attempt either directly or
13 indirectly to commit any act defined in this section to be an
14 unfair housing practice; OR TO DISCRIMINATE AGAINST ANY PERSON
15 BECAUSE SUCH PERSON HAS OPPOSED ANY PRACTICE MADE AN UNFAIR
16 HOUSING PRACTICE BY THIS PART 5, BECAUSE HE HAS FILED A CHARGE
17 WITH THE COMMISSION, OR BECAUSE HE HAS TESTIFIED, ASSISTED, OR
18 PARTICIPATED IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR
19 HEARING CONDUCTED PURSUANT TO PARTS 3 AND 5 OF THIS ARTICLE;

20 SECTION 10. 24-34-508, Colorado Revised Statutes, 1988
21 Repl. Vol., is amended to read:

22 24-34-508. Relief authorized. (1) In addition to the
23 relief authorized by section 24-34-306 (9), the commission may
24 order a respondent who has been found to have engaged in an
25 unfair housing practice:

26 (a) To rehire, reinstate, and provide back pay to any
27 employee or agent discriminated against because of his

1 obedience to this part 5;

2 (b) To take affirmative action regarding the granting of
3 financial assistance as provided in section 24-34-502 (1) (b)
4 or the showing, sale, transfer, rental, or lease of housing;
5 and

6 (c) To make reports as to the manner of compliance with
7 the order of the commission;

8 (d) TO REIMBURSE ANY PERSON WHO WAS DISCRIMINATED
9 AGAINST FOR ANY FEE CHARGED IN VIOLATION OF THIS PART 5 AND
10 FOR ANY ACTUAL EXPENSES INCURRED IN OBTAINING COMPARABLE
11 ALTERNATE HOUSING, AS WELL AS ANY STORAGE OR MOVING CHARGES
12 ASSOCIATED WITH OBTAINING SUCH HOUSING.

13 SECTION 11. 24-34-601, Colorado Revised Statutes, 1988
14 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to
15 read:

16 24-34-601. Discrimination in places of public
17 accommodation. (2.5) It is a discriminatory practice and
18 unlawful for any person to discriminate against any individual
19 or group because such person or group has opposed any practice
20 made a discriminatory practice by this part 6 or because such
21 person or group has made a charge, testified, assisted, or
22 participated in any manner in an investigation, proceeding, or
23 hearing conducted pursuant to this part 6.

24 SECTION 12. 24-34-104, Colorado Revised Statutes, 1988
25 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to
26 read:

27 24-34-104. General assembly review of regulatory

1 agencies and functions for termination, continuation, or
2 reestablishment. (28) The following division in the
3 department of regulatory agencies shall terminate on July 1,
4 1999: The Colorado civil rights division, including the
5 Colorado civil rights commission, created by part 3 of this
6 article.

7 SECTION 13. Repeal. 24-34-104 (18) (a), Colorado
8 Revised Statutes, 1988 Repl. Vol., is repealed.

9 SECTION 14. Effective date. This act shall take effect
10 July 1, 1989.

11 SECTION 15. Safety clause. The general assembly hereby
12 finds, determines, and declares that this act is necessary
13 for the immediate preservation of the public peace, health,
14 and safety.

1 PART to read:

2 PART 5

3 UNDERGROUND STORAGE TANKS

4 8-20-501. Definitions. As used in this part 5, unless
5 the context otherwise requires:

6 (1) "Operator" means any person in control of or having
7 responsibility for the operation of an underground storage
8 tank.

9 (2) "Owner" means any person who owns an underground
10 storage tank.

11 (3) "Person" means an individual, trust, firm, joint
12 stock company, corporation, including a government
13 corporation, partnership, association, commission,
14 municipality, state, county, city and county, political
15 subdivision of a state, interstate body, consortium, joint
16 venture, commercial entity, or the government of the United
17 States.

18 (4) "Regulated substance" means:

19 (a) Any substance defined in section 101 (14) of the
20 federal "Comprehensive Environmental Response, Compensation,
21 and Liability Act of 1980", as amended, but not including any
22 substance regulated as a hazardous waste under subtitle (C) of
23 that act; or

24 (b) Petroleum.

25 (5) "Tank" means a stationary device which is designed
26 to contain or does contain a regulated substance and which is

A BILL FOR AN ACT

1 CONCERNING THE INSPECTION OF UNDERGROUND STORAGE TANKS, AND,
2 IN CONNECTION THEREWITH, PROVIDING FOR THE LICENSING OF
3 UNDERGROUND STORAGE TANK INSTALLERS AND REQUIRING THE
4 INSPECTION OF NEW OR UPGRADED UNDERGROUND STORAGE TANKS.

Bill Summary

(Note: This summary applies to this bill as introduced
and does not necessarily reflect any amendments which may be
subsequently adopted.)

Requires the state inspector of oils to promulgate
regulations for the licensing of installers of underground
storage tanks and for the inspection of new or upgraded
underground storage tanks. Requires that only licensees shall
inspect or install tanks.

Requires owners or operators of new or upgraded
underground storage tanks to submit plans to the state
inspector of oils and to have such installations or upgrades
made by a licensed installer and inspected by a different
licensed installer. Imposes a fee for such plan submittal and
for on-site inspections.

Creates the underground storage tank cash fund and
specifies the purposes for which moneys in the fund may be
used.

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

6 SECTION 1. Article 20 of title 8, Colorado Revised
7 Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW

1 constructed primarily of nonearthen materials which provide
2 structural support, including but not limited to wood,
3 concrete, steel, or plastic.

4 (6) (a) "Underground storage tank" means any tank,
5 except those identified in paragraph (b) of this subsection
6 (9), including the pipes and fittings connected thereto, ten
7 percent or more of the volume of which, including the volume
8 of the underground pipes connected thereto, is beneath the
9 ground.

10 (b) "Underground storage tank" does not include:

11 (I) Farm or residential tanks of one thousand one
12 hundred gallons or less capacity used for storing motor fuel
13 for noncommercial purposes;

14 (II) Residential tanks used for storing heating oil for
15 consumptive use on the premises where stored;

16 (III) Septic tanks;

17 (IV) Pipeline facilities, including gathering lines,
18 regulated under the federal "Natural Gas Pipeline Safety Act
19 of 1968", as amended, or the federal "Hazardous Liquid
20 Pipeline Safety Act of 1979", as amended, or regulated under
21 Colorado law if such facilities are intrastate facilities;

22 (V) Surface impoundments, pits, ponds, or lagoons;

23 (VI) Storm water or wastewater collection systems;

24 (VII) Flow-through process tanks;

25 (VIII) Liquid traps or associated gathering lines
26 directly related to oil or gas production and gathering
27 operations; or

1 (IX) Storage tanks situated in an underground area, such
2 as a basement, cellar, mine-working, drift, shaft, or tunnel
3 area, if the tank is situated upon or above the surface of the
4 floor.

5 (7) "Upgrade" means to bring an existing underground
6 storage tank into compliance with the requirements specified
7 in 40 C.F.R. section 280.21 (1988).

8 8-20-502. Licensing of underground storage tank
9 installers - required - installation and upgrading - plan
10 submission and inspection required. (1) No person shall
11 engage in the practice of installing or inspecting underground
12 storage tanks or hold himself out as being licensed or
13 qualified to engage in the practice of installing, upgrading,
14 or inspecting underground storage tanks or use the title
15 "underground storage tank installer" or "underground storage
16 tank inspector" unless he is licensed pursuant to the
17 provisions of this part 5.

18 (2) No owner or operator shall have an underground
19 storage tank installed or upgraded without first submitting a
20 plan for installation or upgrading to the state inspector of
21 oils, without having such installation or upgrading performed
22 by an installer licensed pursuant to the provisions of this
23 part 5, and without having such installation or upgrading
24 inspected by a different installer licensed pursuant to the
25 provisions of this part 5. No licensed storage tank installer
26 shall act as the inspector of any installation he has
27 performed or any upgrading he has performed.

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BILL 4

1 8-20-503. Duties of the state inspector of oils.

2 (1) In addition to any other duties imposed upon him by this
3 part 5 or any other provision of law, the state inspector of
4 oils shall have the following duties and responsibilities
5 under this part 5:

6 (a) To make, promulgate, and enforce regulations to
7 implement and enforce the provisions of this part 5, including
8 rules and regulations for the licensing of underground storage
9 tank installers and inspectors. Such regulations shall be
10 adopted and promulgated under the provisions of section
11 24-4-103, C.R.S. Such regulations shall include application,
12 licensing, and renewal fees and fees for on-site inspections
13 of underground storage tank installations or upgradings, which
14 fees shall be sufficient to offset the direct and indirect
15 costs of such licensing and inspection program.

16 (b) To determine the course of study required to train
17 underground storage tank installers and inspectors, including
18 what training materials shall be used;

19 (c) To conduct examinations at least two times each year
20 and to ensure that passing scores on such examinations are set
21 to determine the minimum level of competency necessary to
22 engage in the practice of installing and inspecting
23 underground storage tanks;

24 (d) To issue a license as an underground storage tank
25 installer to any person who meets the requirements specified
26 in this part 5;

27 (e) To suspend, revoke, or deny the license of any

1 licensed underground storage tank installer who violates the
2 provisions of this part 5 or any rules, regulations, or orders
3 promulgated pursuant to this part 5;

4 (f) To assess fines pursuant to the provisions of this
5 part 5 against any owner or operator or any person who
6 violates the provisions of this part 5 or any rule or
7 regulation adopted pursuant to this part 5;

8 (g) To investigate or cause to be investigated on his
9 own motion or in response to complaints any suspected
10 violation of the provisions of this part 5 or of the rules
11 adopted pursuant to this part 5;

12 (h) To apply to a court of competent jurisdiction to
13 enjoin any activity that is in violation of the provisions of
14 this part 5 or the rules and regulations promulgated pursuant
15 to this part 5;

16 (i) To appoint an advisory committee to advise him
17 concerning implementation of the provisions of this part 5.

18 8-20-504. Requirements for licensure - installers -

19 inspectors. (1) The state inspector of oils shall license as
20 an underground storage tank installer any person who meets the
21 following requirements:

22 (a) Has filed a written application containing all
23 required information, including whether he has ever been
24 disciplined for an action relating to the underground storage
25 tank industry in any other state or jurisdiction, on a form
26 prescribed by the state inspector of oils;

27 (b) Has paid a nonrefundable application fee;

1 (c) Has undergone a required course of study;
2 (d) Has passed a written examination.
3 (2) (a) The state inspector of oils may review and
4 approve private training and testing programs sponsored by
5 manufacturers or owners of underground storage tanks if the
6 state inspector of oils determines that such program meets the
7 standards he has established for adequacy of training and
8 testing of underground storage tank installers under this part
9 5. An applicant who has completed such an approved private
10 training and testing program and who complies with the
11 requirements of paragraphs (a) and (b) of subsection (1) of
12 this section may be issued a license as an underground storage
13 tank installer. However, an underground storage tank
14 installer licensed under the provisions of this subsection (2)
15 if trained by a manufacturer shall install or inspect only
16 those underground storage tanks made by such manufacturer and
17 if trained by an owner shall install or inspect underground
18 storage tanks only for use by such owner.
19 (b) An underground storage tank installer licensed
20 pursuant to the provisions of paragraph (a) of this subsection
21 (2) shall be subject to all the other provisions of this part
22 5 in the same manner and degree as if he had been licensed
23 under the provisions of subsection (1) of this section.
24 (3) (a) The state inspector of oils may issue a license
25 by endorsement to an underground storage installer who is
26 licensed and in good standing under the laws of another state
27 or jurisdiction if the applicant complies with paragraphs (a)

1 and (b) of subsection (1) of this section and presents proof
2 satisfactory to the state inspector of oils that the applicant
3 is so licensed and in good standing and that such person
4 possesses qualifications that are substantially equivalent to
5 the requirements for licensure under this part 5.
6 (b) An underground storage tank installer licensed
7 pursuant to the provisions of paragraph (a) of this subsection
8 (3) shall be subject to all the other provisions of this part
9 5 in the same manner and degree as if he had been licensed
10 under the provisions of subsection (1) of this section.
11 (4) A license issued under subsection (1), (2), or (3)
12 of this section shall be valid for a period of one year and
13 may be renewed thereafter upon application to the state
14 inspector of oils and payment of a renewal fee, if the
15 applicant is in compliance with all other provisions of this
16 part 5.
17 8-20-505. Grounds for disciplinary action - denial of
18 licensure - denial of renewal. (1) The state inspector of
19 oils may deny an application for licensure or renewal of a
20 license or suspend or revoke a license on any of the following
21 grounds:
22 (a) The practice of any fraud or material
23 misrepresentation or aiding or abetting another in the
24 practice of any fraud or material misrepresentation in
25 obtaining or attempting to obtain a license pursuant to the
26 provisions of this part 5;
27 (b) The practice of any fraud or material

1 misrepresentation or an attempt to practice any fraud or
2 material misrepresentation with respect to any activity
3 covered by the provisions of this part 5;

4 (c) Any act or omission that does not meet the generally
5 accepted standards of practice in the underground storage tank
6 industry;

7 (d) Violation of any provision of this part 5, any rule
8 or regulation established pursuant to the provisions of this
9 part 5, or any order issued pursuant to the provisions of this
10 part 5.

11 (2) A disciplinary action relating to the underground
12 storage tank industry in any other state or jurisdiction shall
13 be deemed to be prima facie evidence of grounds for
14 disciplinary action, including denial of licensure, under this
15 part 5. This subsection (2) shall apply only to those
16 disciplinary actions that are based upon acts or omissions in
17 such other state or jurisdiction that are substantially
18 similar to those set out as grounds for disciplinary action or
19 denial of licensure under this part 5.

20 (3) Disciplinary proceedings shall be conducted by the
21 state inspector of oils or by an administrative law judge
22 appointed pursuant to part 10 of article 30 of title 24,
23 C.R.S., and shall be held in the manner prescribed in article
24 4 of title 24, C.R.S. Final actions and orders under this
25 part 5 that are appropriate for judicial review may be
26 reviewed in the court of appeals.

27 8-20-506. Injunctions. In addition to any other

1 remedies provided in this part 5, the state inspector of oils
2 or his designee is authorized to apply to the district court,
3 in the judicial district where the violation has occurred, for
4 a temporary restraining order, a preliminary injunction, or a
5 permanent injunction restraining any person from violating any
6 provision of this part 5 or the rules and regulations
7 promulgated pursuant to this part 5. In such proceedings, it
8 shall not be necessary to allege or prove either that an
9 adequate remedy at law does not exist or that substantial or
10 irreparable damage would result from the continued violation
11 thereof.

12 8-20-507. Underground storage tank licensing and
13 inspection fund - creation. (1) There is hereby created in
14 the state treasury the underground storage tank fund, which
15 shall consist of the following:

16 (a) All fees collected pursuant to this part 5. Such
17 fees shall be transmitted to the state treasurer, who shall
18 credit the same to the underground storage tank fund.

19 (b) Civil penalties or fines collected pursuant to this
20 part 5;

21 (c) Gifts or donations made to the state of Colorado or
22 any agency thereof for the purpose of carrying out the
23 provisions of this part 5;

24 (d) Any moneys appropriated to the fund by the general
25 assembly.

26 (2) The moneys in the underground storage tank fund and
27 all interest earned by moneys in the fund shall not be

1 credited or transferred to the general fund at the end of the
2 fiscal year.

3 (3) The moneys in the fund shall be subject to annual
4 appropriation by the general assembly for the following
5 purposes:

6 (a) For any administrative costs including costs
7 incurred by the state inspector of oil in carrying out his
8 responsibilities pursuant to this part 5;

9 (b) For any federal program pertaining to underground
10 storage tanks which program requires state matching dollars.

11 SECTION 2. 13-4-102, Colorado Revised Statutes, 1987
12 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
13 PARAGRAPH to read:

14 13-4-102. Jurisdiction. (2) (y) Review final actions
15 and orders of the state inspector of oils that are appropriate
16 for judicial review, as provided in part 5 of article 20 of
17 title 8, C.R.S.

18 SECTION 3. Effective date. This act shall take effect
19 July 1, 1989.

20 SECTION 4. Safety clause. The general assembly hereby
21 finds, determines, and declares that this act is necessary
22 for the immediate preservation of the public peace, health,
23 and safety.

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A BILL FOR AN ACT

1 CONCERNING UNLAWFUL ACTS RELATING TO THE PROVISION OF
2 ACUPUNCTURE SERVICES, AND, IN CONNECTION THEREWITH,
3 PROVIDING REMEDIES TO RECIPIENTS OF SUCH SERVICES AND
4 FURTHER PROVIDING THAT THE RENDERING OF SUCH SERVICES
5 SHALL NOT REQUIRE A MEDICAL LICENSE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the rendering of acupuncture services under certain conditions and limitations does not require a license under the "Colorado Medical Practice Act". Requires the mandatory disclosure of certain information by the acupuncturist during the initial patient contact. Specifies that certain acts in connection with the provision of acupuncture services are illegal and provides penalties therefor.

Provides that no action can be maintained against a recipient of acupuncture services for breach of the acupuncture contract, if the party bringing the action is an acupuncturist who has violated the law with respect to such recipient. Provides that an acupuncturist who commits any act illegal under the law is liable for the return of any fees paid for his services and any attorney fees incurred in bringing an action to recover such fees.

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

1 SECTION 1. Title 12, Colorado Revised Statutes, 1985
2 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
3 ARTICLE to read:

4 ARTICLE 29.5

5 Acupuncturists

6 12-29.5-101. Legislative declaration. While recognizing
7 that the rendering of acupuncture services is not part of the
8 traditional practice of western medicine, it is the intent of
9 the general assembly that those citizens who wish to obtain
10 acupuncture services be allowed to do so and, in addition,
11 that such citizens have available certain information to
12 assist them in making informed choices when seeking such
13 services. Similarly, it is also the intent of the general
14 assembly that the providers or practitioners of acupuncture
15 services be allowed to provide such services without undue
16 governmental interference, unless such providers or
17 practitioners misrepresent their qualifications, harm their
18 clients, practice in an unhealthy manner, or otherwise deceive
19 insurers or the recipients of acupuncture services.

20 12-29.5-102. Definitions. As used in this article,
21 unless the context otherwise requires:

22 (1) "Acupuncture services" means the stimulation of
23 certain points on or near the surface of the body by the
24 insertion of fine needles.

25 (2) "Acupuncturist" means any person who provides for
26 compensation, or holds himself out to the public as providing,

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1 acupuncture services.

2 12-29.5-103. Mandatory disclosure of information to
3 patients. (1) Every acupuncturist shall provide the
4 following information in writing to each patient during the
5 initial patient contact:

6 (a) The name, business address, and business phone
7 number of the acupuncturist;

8 (b) A fee schedule;

9 (c) A listing of the acupuncturist's education,
10 experience, degrees, and certificates related to acupuncture,
11 including the length of time required to obtain any such
12 degree or certificate;

13 (d) A statement indicating any license, certificate, or
14 registration in the health care field which was revoked by any
15 local, state, or national health care agency;

16 (e) A statement indicating the method or methods used to
17 sterilize needles in acupuncture and whether the acupuncturist
18 who is providing the information regularly uses such method or
19 methods.

20 12-29.5-104. Unlawful acts - penalties. (1) It is
21 unlawful for any acupuncturist:

22 (a) To fail to provide any information required by
23 section 12-29.5-103;

24 (b) To provide false, deceptive, or misleading
25 information to patients in the disclosure statement required
26 pursuant to section 12-29.5-103;

27 (c) (i) To commit abuse of health insurance as

1 prohibited by section 18-13-119, C.R.S.; or

2 (II) To advertise through newspapers, magazines,
3 circulars, direct mail, directories, radio, television, or
4 otherwise that the acupuncturist will perform any act
5 prohibited by section 18-13-119 (3), C.R.S.;

6 (d) To fail to refer a patient to an appropriate
7 practitioner when the problem of the patient is beyond the
8 training, experience, or competence of the acupuncturist;

9 (e) To accept commissions or rebates or other forms of
10 remuneration for referring clients to other professional
11 persons;

12 (f) To offer or give commissions, rebates, or other
13 forms of remuneration for the referral of clients; except
14 that, notwithstanding the provisions of this paragraph (f), an
15 acupuncturist may pay an independent advertising or marketing
16 agent compensation for advertising or marketing services
17 rendered on his behalf by such agent, including compensation
18 which is paid for the results of performance of such services,
19 on a per patient basis;

20 (g) To fail to comply with any lawful rules or
21 regulations of a state or local health department governing
22 the proper cleaning and sterilization of acupuncture needles
23 or the sanitary conditions of acupuncture offices;

24 (h) To engage in a sexual act with a patient during the
25 course of patient care. "Sexual act", as used in this
26 paragraph (h), means sexual contact, sexual intrusion, or
27 sexual penetration, as defined in section 18-3-401 (4), (5),

1 or (6), C.R.S.

2 (2) (a) If any person, association, or corporation
3 provides acupuncture services in this state in violation of
4 any of the provisions of paragraphs (a) to (g) of subsection
5 (1) of this section, such person or any officer or director of
6 any such association or corporation commits a class 3
7 misdemeanor and shall be punished as provided in section
8 18-1-106, C.R.S. Any person, association, or corporation
9 committing a second or subsequent offense commits a class 5
10 felony, and such person or any officer or director of any such
11 association or corporation shall be punished as provided in
12 section 18-1-105, C.R.S.

13 (b) If any person, association, or corporation provides
14 acupuncture services in this state in violation of the
15 provisions of paragraph (h) of subsection (1) of this section,
16 such person or any officer or director of any such association
17 or corporation commits a class 4 felony and shall be punished
18 as provided in section 18-1-105, C.R.S.

19 (3) No action may be maintained against a recipient of
20 acupuncture services for breach of a contract involving the
21 rendering of acupuncture services provided under such contract
22 by an acupuncturist who has committed, with respect to such
23 recipient, any act prohibited pursuant to subsection (1) of
24 this section.

25 (4) When an individual has been the recipient of
26 services constituting the rendering of acupuncture services by
27 an acupuncturist who has committed, with respect to such

1 individual, any act prohibited pursuant to subsection (1) of
2 this section, whether or not such individual knew that the
3 acupuncturist was committing an act that is illegal under this
4 article:

5 (a) He or his personal representative is entitled to
6 recover the amount of any fees paid for the services; and

7 (b) He or his personal representative may also recover
8 reasonable attorney fees as fixed by the court.

9 (5) The civil and criminal remedies specified in
10 subsections (2) to (4) of this section are not exclusive but
11 rather cumulative and in addition to any other causes of
12 action, rights, or remedies a recipient of acupuncture
13 services may have under any other provision of law.

14 SECTION 2. 12-36-106 (3), Colorado Revised Statutes,
15 1985 Repl. Vol., as amended, is amended BY THE ADDITION OF A
16 NEW PARAGRAPH to read:

17 12-36-106. Practice of medicine defined - exemptions
18 from licensing requirements. (3) (p) The rendering of
19 acupuncture services subject to the conditions and limitations
20 provided in article 29.5 of this title.

21 SECTION 3. Safety clause. The general assembly hereby
22 finds, determines, and declares that this act is necessary
23 for the immediate preservation of the public peace, health,
24 and safety.

A BILL FOR AN ACT

1 CONCERNING REPOSSESSION OF COLLATERAL, AND, IN CONNECTION
2 THEREWITH, ALLOCATING RESPONSIBILITY FOR THE ACTIONS OF
3 REPOSSESSORS AND CHANGING LAW ENFORCEMENT NOTIFICATION
4 REQUIREMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Makes a creditor or his assignee who hires or contracts with any person as principal for the recovery or taking possession of collateral after default responsible for the acts of such person even if the person would be deemed an independent contractor in law.

Requires any person who engages in repossession of a motor vehicle to notify the local law enforcement agency in advance of such activity.

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

6 SECTION 1. Intent of the general assembly. The general
7 assembly recognizes that in the past certain debtors may have
8 been disadvantaged by the actions of reposseors and that
9 such debtors were then unable to obtain just redress for their
10 losses in the courts: The creditor who initiated the action

1 by employing or contracting with the reposseor was shielded
2 from liability because the reposseor was categorized by the
3 courts as an independent contractor. The general assembly
4 wishes to ensure that the creditor is held responsible at law
5 as a principal under the general principles of agency law for
6 the actions of a reposseor who is acting at the behest of
7 the creditor.

8 SECTION 2. Part 5 of article 9 of title 4, Colorado
9 Revised Statutes, as amended, is amended BY THE ADDITION OF A
10 NEW SECTION to read:

11 4-9-503.5. Secured party's liability when taking
12 possession after default. A secured party or his assignee
13 shall be liable as principal for the actions of any person the
14 secured party or assignee employs or contracts with to recover
15 or take possession of the collateral after default as provided
16 in section 4-9-503 in the same manner as if such person were
17 the agent of the secured party or assignee, whether or not
18 such person has been or may be deemed to be acting as an
19 independent contractor in law.

20 SECTION 3. 42-6-143, Colorado Revised Statutes, 1984
21 Repl. Vol., is amended to read:

22 42-6-143. Repossession of motor vehicle - owner must
23 notify law enforcement agency - penalty. (1) If any mortgagee
24 or his assignee or the agent of either repossesses a motor
25 vehicle because of default in the terms of a mortgage, the
26 mortgagee or his assignee shall notify, either verbally or in
27 writing, a law enforcement agency, as provided in this

1 section, of the fact of such repossession, the name of the
2 owner, and the name of the mortgagee or assignee. Such
3 notification shall be made not later than ~~twelve--hours--after~~
4 ONE HOUR BEFORE the repossession occurs. If such repossession
5 takes place in an incorporated city or town, the notification
6 shall be made to the police department, town marshal, or other
7 local law enforcement agency of such city or town, and, if
8 such repossession takes place in the unincorporated area of a
9 county, the notification shall be made to the county sheriff.

10 (2) Any mortgagee of a motor vehicle or his assignee who
11 violates the provisions of this section is guilty of a CLASS 2
12 misdemeanor and, upon conviction thereof, shall be punished by
13 ~~a--fine--of--not--less--than--fifty--dollars--nor--more--than--one~~
14 ~~hundred--dollars~~ AS PROVIDED IN SECTION 18-1-106.

15 SECTION 4. Safety clause. The general assembly hereby
16 finds, determines, and declares that this act is necessary
17 for the immediate preservation of the public peace, health,
18 and safety.

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1 requires and enforces standards and guidelines for the health,
2 safety, and physical well-being of the participants in any
3 such contest, match, tournament, or exhibition.
4 SECTION 2. Safety clause. The general assembly hereby
5 finds, determines, and declares that this act is necessary
6 for the immediate preservation of the public peace, health,
7 and safety.

A BILL FOR AN ACT

1 CONCERNING THE INCLUSION OF CERTAIN BOXING ACTIVITIES IN THE
2 DEFINITION OF CHILD ABUSE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Includes certain boxing activities in the definition of "child abuse or neglect".

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

4 SECTION 1. 19-3-303 (1) (a), Colorado Revised Statutes,
5 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A
6 NEW SUBPARAGRAPH to read:

7 19-3-303. Definitions. (1) (a) (IV) Any case in which
8 a child engages in a boxing or sparring contest, match,
9 tournament, or exhibition unless such contest, match,
10 tournament, or exhibition is:

11 (A) Sponsored by a public, private, or parochial school,
12 either elementary or secondary; or

13 (B) Sanctioned by an amateur sporting organization that

A BILL FOR AN ACT

1 CONCERNING CERTAIN ADVISORY COMMITTEES, AND RELATING TO THE
2 SUNSET REVIEW THEREOF, CHANGING THE NAME OF ONE OF SAID
3 COMMITTEES, AND CHANGING THE EX OFFICIO MEMBERSHIP ON ONE
4 OF SAID COMMITTEES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Repeals the statutory termination dates of the following advisory committees scheduled to be repealed July 1, 1989: The capital development advisory committee; the advisory committee to the commission on higher education; the sickle-cell anemia advisory committee; the advisory committee to the school of medicine concerning the hemophilia treatment center; the advisory commission on family medicine; the state advisory council on emergency medical services; the radiation advisory committee; the Colorado recreational trails committee; and the medical advisory board.

Allows the Colorado volunteerism board of advisors to terminate and discontinues the advisory committee on river outfitters and river activities. Changes the name of the advisory commission on family medicine to the commission on family medicine to reflect the commission's actual function and operation.

Changes the ex officio membership on the state advisory council on emergency medical services by replacing the chief of the Colorado state patrol and the state telecommunications director with the director of the division of disaster emergency services in the department of public safety and the director of the division of highway safety in the state department of highways, respectively.

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

2 SECTION 1. The introductory portion to 25-1-902 (1),
3 Colorado Revised Statutes, 1982 Repl. Vol., as amended, is
4 amended to read:

5 25-1-902. Advisory commission created - composition -
6 terms of office. (1) There is hereby created, in the
7 department of health, the advisory commission on family
8 medicine, referred to in this part 9 as the "commission".
9 Appointments of members made to take effect on January 1,
10 1983, shall be made in accordance with section 24-1-135,
11 C.R.S. No more than eight members of the commission shall be
12 members of the same major political party. A vacancy on the
13 commission occurs whenever any health care consumer member
14 moves out of the congressional district from which he was
15 appointed. A health care consumer member who moves out of
16 such congressional district shall promptly notify the governor
17 of the date of such move, but such notice is not a condition
18 precedent to the occurrence of the vacancy. The governor
19 shall fill the vacancy by appointment for the unexpired term.
20 The commission shall consist of members determined as follows:

21 SECTION 2. 25-3.5-104 (1), Colorado Revised Statutes,
22 1982 Repl. Vol., as amended, is amended to read:

23 25-3.5-104. State advisory council - duties. (1) There
24 is hereby created, in the department of health, a state
25 advisory council on emergency medical services, referred to in
26 this article as the "council", to be composed of seventeen

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1 members appointed by the governor, at least one of whom shall
 2 be from each of the planning and management regions
 3 established by executive proclamation. Of the seventeen
 4 members of the council, one shall be a medical doctor actively
 5 involved in emergency medical services, one shall be a
 6 registered professional nurse actively involved in emergency
 7 medical services, one shall be a hospital administrator, one
 8 shall represent volunteer ambulance services, one shall
 9 represent ambulance services with full-time, paid personnel,
 10 one shall represent rescue units, one shall be a fire chief
 11 involved in emergency medical services, and six shall be
 12 consumers, representative of the public at large, one of whom
 13 shall be from each congressional district. A vacancy on the
 14 council occurs whenever a consumer member moves out of the
 15 congressional district from which he was appointed. A
 16 consumer member who moves out of such congressional district
 17 shall promptly notify the governor of the date of such move,
 18 but such notice is not a condition precedent to the occurrence
 19 of the vacancy. The governor shall fill the vacancy as
 20 provided in subsection (2) of this section. Not more than
 21 nine members of the council shall be members of the same major
 22 political party. Appointments made to take effect on January
 23 1, 1983, shall be made in accordance with section 24-1-135,
 24 C.R.S. Ex officio members, who shall have no vote, shall be
 25 the ~~chief of the Colorado state patrol~~ DIRECTOR OF THE
 26 DIVISION OF DISASTER EMERGENCY SERVICES IN THE DEPARTMENT OF
 27 PUBLIC SAFETY, the vice-president of the university of

1 Colorado medical center, the executive director of the
 2 department of health, and the ~~state telecommunications~~
 3 director OF THE DIVISION OF HIGHWAY SAFETY IN THE STATE
 4 DEPARTMENT OF HIGHWAYS, or their respective designees.

5 SECTION 3. Repeal. 2-3-1203 (3) (b) (I), 2-3-1203 (3)
 6 (b) (II), 2-3-1203 (3) (b) (III), 2-3-1203 (3) (b) (IV),
 7 2-3-1203 (3) (b) (VI), 2-3-1203 (3) (b) (VII), 2-3-1203 (3)
 8 (b) (VIII), 2-3-1203 (3) (b) (IX), 2-3-1203 (3) (b) (XI),
 9 2-3-1203 (3) (g) (X), and 2-3-1303 (2), Colorado Revised
 10 Statutes, 1980 Repl. Vol., as amended, 23-1-103 (5), 23-21-203
 11 (2) (b), and 23-21-303 (2) (b), Colorado Revised Statutes,
 12 1988 Repl. Vol., 25-1-904, 25-3.5-104 (6), and 25-11-105 (2),
 13 Colorado Revised Statutes, 1982 Repl. Vol., as amended,
 14 33-11-105 (3), 33-11-106 (2), and 33-32-110, Colorado Revised
 15 Statutes, 1984 Repl. Vol., as amended, and 42-2-302, Colorado
 16 Revised Statutes, 1984 Repl. Vol., as amended, are repealed.

17 SECTION 4. Safety clause. The general assembly hereby
 18 finds, determines, and declares that this act is necessary
 19 for the immediate preservation of the public peace, health,
 20 and safety.

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE CORRECTIONAL INDUSTRIES
2 ADVISORY COMMITTEE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Ensures that the correctional industries advisory committee is continued.

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

4 SECTION 1. 17-24-104 (2) and (4), Colorado Revised
5 Statutes, 1986 Repl. Vol., as amended, are RECREATED AND
6 REENACTED, WITH AMENDMENTS, to read:

7 17-24-104. Creation of division of correctional
8 industries and advisory committee - sunset review of

9 committee. (2) (a) There is hereby created the correctional
10 industries advisory committee, which shall consist of:

11 (I) The state treasurer for the duration of his term of
12 office;

13 (II) Four members of the general assembly, two of whom

1 shall be appointed by the speaker of the house of
2 representatives and two of whom shall be appointed by the
3 president of the senate. Of the legislative members
4 appointed, one shall be a member of the minority party of the
5 house of representatives and one shall be a member of the
6 minority party of the senate. The legislative members shall be
7 appointed in January at the beginning of the regular session
8 held in odd-numbered years and shall serve through the
9 legislative biennium.

10 (III) The director of the office of state planning and
11 budgeting;

12 (IV) The executive director of the department of
13 administration;

14 (V) Two members from affected industries in the business
15 community, who shall be appointed by the governor for terms of
16 three years each. Effective July 1, 1988, the terms of office
17 of the members of the advisory committee from the business
18 community serving on such date shall terminate, and, prior
19 thereto, the governor shall appoint two members of the
20 committee to take office on such date, who shall be from
21 affected industries in the business community and whose terms
22 of office shall be three years.

23 (VI) Two members from organized labor, who shall be
24 appointed by the governor for terms of three years each,
25 beginning August 1, 1977;

26 (VII) The executive director of the department of
27 corrections.

1 (b) Each member shall hold office for his term and until
 2 his successor is appointed and qualified. Any member shall be
 3 eligible for reappointment, but he shall not be eligible to
 4 serve more than two consecutive full terms. Members of the
 5 advisory committee shall receive no compensation for such
 6 services but may be reimbursed for their necessary expenses
 7 while serving as members of the board. Any vacancy shall be
 8 filled in the same manner as for an original appointment and
 9 shall be for the unexpired term. The chairman shall be
 10 elected by the voting members of the advisory committee.

11 (c) Any member appointed by the governor may be removed
 12 by the governor and any member appointed by the speaker of the
 13 house of representatives or the president of the senate may be
 14 removed by the appropriate appointing officer for malfeasance
 15 in office, for failure to regularly attend meetings, or for
 16 any cause which renders said member incapable of or unable to
 17 discharge the duties of his office.

18 (d) This subsection (2) is repealed, effective July 1,
 19 1994.

20 (4) (a) Prior to the repeal of subsection (2) and
 21 subsection (3) of this section, the correctional industries
 22 advisory committee shall be reviewed as provided for in
 23 section 2-3-1203, C.R.S.

24 (b) This subsection (4) is repealed, effective July 1,
 25 1994.

26 SECTION 2. Safety clause. The general assembly hereby
 27 finds, determines, and declares that this act is necessary

1 for the immediate preservation of the public peace, health,
 2 and safety.

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

A BILL FOR AN ACT

1 CONCERNING PROHIBITED ACTIVITIES RELATING TO ORDERS OF BOARDS
2 ESTABLISHED PURSUANT TO THE MENTAL HEALTH LAW.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Makes the following prohibited activities: Violation of, attempting to violate, assisting or abetting in the violation of, or conspiring to violate any order of a board established under the mental health law.

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

4 SECTION 1. 12-43-704 (1) (b), Colorado Revised Statutes,
5 1985 Repl. Vol., as amended, is amended to read:

6 12-43-704. Prohibited activities - related provisions.

7 (1) (b) Has violated, or attempted to violate, directly or
8 indirectly, or assisted or abetted the violation of, or
9 conspired to violate any provision or term of this article or
10 rule or regulation promulgated pursuant to this article OR ANY
11 ORDER OF A BOARD ESTABLISHED PURSUANT TO THIS ARTICLE;

12 SECTION 2. Safety clause. The general assembly hereby

A BILL FOR AN ACT

1 CONCERNING THE APPOINTMENT OF MARRIAGE AND FAMILY THERAPISTS
2 TO THE BOARDS ESTABLISHED UNDER THE MENTAL HEALTH LAW.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Extends the time period during which initial appointees to the state board of marriage and family therapist examiners must become licensed from one year to eighteen months. Makes conforming amendments with respect to the appointment of certain members of the state grievance board. Clarifies that such appointees shall have practiced five years prior to appointment.

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

4 SECTION 1. 12-43-502 (3), Colorado Revised Statutes,
5 1985 Repl. Vol., as amended, is amended to read:

6 12-43-502. State board of marriage and family therapist
7 examiners - subject to termination. (3) Initial appointees

8 under paragraph (b) of subsection (2) of this section shall

9 have met all qualifications for licensure pursuant to section

10 12-43-503 (1) (a) to (1) (d) and shall have been practicing in

1 their professions for at least five years prior to July 1,
2 1988. Such initial appointees shall become licensed within
3 ~~one-year~~ EIGHTEEN MONTHS of their appointment or as soon as an
4 examination, developed or acquired pursuant to section
5 12-43-503 (2) (a), has been successfully taken, whichever
6 comes first. The governor shall remove a board member for
7 failure to comply with the requirements of this subsection
8 (3).

9 SECTION 2. 12-43-702 (6) (b), Colorado Revised Statutes,
10 1985 Repl. Vol., as amended, is amended to read:

11 12-43-702. State grievance board - creation - subject to
12 termination. (6) (b) The appointees under paragraphs (a) and

13 (b) of subsection (3) of this section and under paragraphs (c)
14 and (d) of subsection (4) of this section shall have met all

15 qualifications for licensure pursuant to section 12-43-503 (1)
16 (a) to (1) (d) or 12-43-603 (1) (a) to (1) (d) and shall have

17 been practicing in their professions for at least five years
18 prior to July 1, 1988 APPOINTMENT. Such THE INITIAL

19 appointees shall become BE licensed ~~within one-year-of-their~~
20 ~~appointments-or-as-soon-as-an-examination,-developed-or~~

21 ~~acquired~~ pursuant to section ~~12-43-503-(2)-(a)-or-12-43-603~~
22 ~~(2)-(a),-has-been-successfully-taken,-whichever-comes-first~~

23 12-43-502 (3) OR 12-43-602 (3). The governor shall remove a
24 board member for failure to comply with the requirements of

25 this section.

26 SECTION 3. Safety clause. The general assembly hereby
27 finds, determines, and declares that this act is necessary

1 for the immediate preservation of the public peace, health,
2 and safety.

A BILL FOR AN ACT

1 CONCERNING THE DEFINITION OF "UNLICENSED PSYCHOTHERAPIST"
2 UNDER THE MENTAL HEALTH LAW.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Clarifies the definition of "unlicensed psychotherapist" to exclude any person who is licensed to practice psychotherapy under title 12.

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

4 SECTION 1. 12-43-201 (10), Colorado Revised Statutes,
5 1985 Repl. Vol., as amended, is amended to read:

6 12-43-201. Definitions. (10) "Unlicensed
7 psychotherapist" means any ~~unlicensed~~ person:

- 8 (a) (I) Whose primary practice is psychotherapy; or
9 (II) Who holds himself out to the public as being able
10 to practice psychotherapy for compensation; and
11 (b) (I) Who is not a certified school psychologist; OR
12 (II) WHO IS NOT LICENSED UNDER THIS TITLE, TO PRACTICE

1 PSYCHOTHERAPY.

2 SECTION 2. 12-43-701 (10), Colorado Revised Statutes,
3 1985 Repl. Vol., as amended, is amended to read:

4 12-43-701. Definitions. (10) "Unlicensed
5 psychotherapist" means any ~~unlicensed~~ person:

- 6 (a) (I) Whose primary practice is psychotherapy; or
7 (II) Who holds himself out to the public as being able
8 to practice psychotherapy for compensation; and
9 (b) (I) Who is not a certified school psychologist; OR
10 (II) WHO IS NOT LICENSED UNDER THIS TITLE TO PRACTICE
11 PSYCHOTHERAPY.

12 SECTION 3. Safety clause. The general assembly hereby
13 finds, determines, and declares that this act is necessary
14 for the immediate preservation of the public peace, health,
15 and safety.

1 CCR 203-1) and rules 47-127.2 A. 1. and 47-127.2 B. 1. (1 CCR
 2 203-2) of the rules of the department of revenue are amended
 3 to read as follows:
 4 46-111.1 Excise Tax Reports
 5 A. Importers and Nonresident Manufacturers (Out of State)
 6 1. Reporting of Shipments
 7 Every person, firm, company, partnership, or corporation
 8 shipping any alcoholic liquors into the State of Colorado
 9 shall forward to the Department of Revenue, Excise Tax
 10 Section, ~~1375-Sherman-Street, Denver, 60-80261~~ on or before
 11 the 20th day of the month succeeding the month of shipment, a
 12 completed report of form 1511A and a copy of all invoices
 13 showing invoice number, date of shipment, carrier, name and
 14 address of consignor, and license account number of consignor,
 15 name and address of consignee to include consignee's Colorado
 16 license account number, size of individual containers, number
 17 of containers per case, number of cases, brand name, the
 18 number of total liters of wine, liters of spirits and gallons
 19 of malt liquor.
 20 B. Manufacturers and Wholesalers (In State)
 21 1. Reporting of Alcoholic Liquors Received or
 22 Manufactured
 23 Each licensed manufacturer or wholesaler whose licensed
 24 premises are located within Colorado shall forward to the
 25 Department of Revenue, Excise Tax Section, ~~1375-Sherman~~
 26 ~~Street, Denver, 60-80261~~ on or before the 20th day of the
 27 month succeeding the month of receipt or manufacture, a

A BILL FOR AN ACT

1 CONCERNING THE DELETION PURSUANT TO 24-34-913 (4.5), COLORADO
 2 REVISED STATUTES, OF PROVISIONS IN ADMINISTRATIVE RULES
 3 AND REGULATIONS WHICH ARE UNNECESSARY FOR THE
 4 ADMINISTRATIVE FUNCTIONS OF THE AFFECTED AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced
and does not necessarily reflect any amendments which may be
subsequently adopted.)

Deletes portions of rules of administrative agencies
 which the joint legislative sunrise and sunset review
 committee has determined are not necessary.

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

6 SECTION 1. Intent of general assembly. To further
 7 intent of the general assembly as expressed in section
 8 24-34-913 (4.5), Colorado Revised Statutes, section 2 of this
 9 act deletes portions of such rules and regulations, which are
 10 unnecessary for the administrative functions of the affected
 11 state agencies.

12 SECTION 2. Rules 46-111.1 A. 1. and 46-111.1 B. 1. (1

1 completed report on form 1511 and a copy of all invoices
2 covering shipments received or manufactured during the month
3 reported upon. The invoices shall include invoice numbers,
4 date of shipment, name and address of the consignor to include
5 consignor's Colorado license account number, name and address
6 of consignee, size of individual containers, number of
7 containers per case, number of cases, brand name, and the
8 number of liters of wines, liters of spirits, and gallons of
9 malt liquor.

10 47-127.2 Excise Tax Reports

11 A. Importers and Nonresident Manufacturers (Out of State)

12 1. Reporting of Shipments

13 Every person, firm, company, partnership, or corporation
14 shipping any alcoholic liquors into the State of Colorado
15 shall forward to the Department of Revenue, Excise Tax
16 Section, ~~1375-Sherman-Street, Denver, CO-80261~~ on or before
17 the 20th day of the month succeeding the month of shipment, a
18 completed report on form 1511A and a copy of all invoices
19 showing invoice number, date of shipment, carrier, name and
20 address of consignor, and license account number of consignor,
21 name and address of consignee to include consignee's Colorado
22 license account number, size of individual containers, number
23 of containers per case, number of cases, brand name, the
24 number of total liters of wine, liters of spirits and gallons
25 of malt liquor.

26 B. Manufacturers and Wholesalers (In State)

27 1. Reporting of Alcoholic Liquors Received or

1 Manufactured

2 Each licensed manufacturer or wholesaler whose licensed
3 premises are located within Colorado shall forward to the
4 Department of Revenue, Excise Tax Section, ~~1375--Sherman~~
5 ~~Street, Denver, CO-80261~~ on or before the 20th day of the
6 month succeeding the month of receipt or manufacture, a
7 completed report on form 1511 and a copy of all invoices
8 covering shipments received or manufactured during the month
9 reported upon. The invoices shall include invoice numbers,
10 date of shipment, name and address of the consignor to include
11 consignor's Colorado license account number, name and address
12 of consignee, size of individual containers, number of
13 containers per case, number of cases, brand name, and the
14 number of liters of wines, liters of spirits, and gallons of
15 malt liquor.

16 SECTION 3. Safety clause. The general assembly hereby
17 finds, determines, and declares that this act is necessary
18 for the immediate preservation of the public peace, health,
19 and safety.

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A BILL FOR AN ACT

CONCERNING RULES REVIEWED BY THE JOINT LEGISLATIVE SUNRISE AND
SUNSET REVIEW COMMITTEE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Specifies that only that portion of any rule specifically recommended for disapproval by the joint sunrise and sunset review committee and disapproved by act of the general assembly shall no longer be effective and that the remainder of the rule shall retain its character as an administrative rule. Requires the joint sunrise and sunset review committee to notify the secretary of state whenever a rule published in the Code of Colorado Regulations is rescinded or a portion thereof is deleted by the general assembly, and requires the secretary of state to direct the removal from the code of material so deleted or rescinded.

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

SECTION 1. 24-34-913 (4.5), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-34-913. Rules affecting small business. (4.5) The office shall notify the joint legislative sunrise and sunset review committee of any proposed rules which the office

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believes are unnecessary for the administrative functions of a particular agency. The committee shall have the authority to review such rules and to introduce legislation which rescinds or deletes the rules or portions of such rules which the committee believes to be unnecessary for the administrative functions of a particular agency. ONLY THAT PORTION OF ANY RULE SPECIFICALLY DISAPPROVED BY ACT OF THE GENERAL ASSEMBLY SHALL NO LONGER BE IN EFFECT, AND THAT PORTION OF THE RULE WHICH REMAINS AFTER DELETION OF A PORTION THEREOF SHALL RETAIN ITS CHARACTER AS AN ADMINISTRATIVE RULE. THE JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE SHALL NOTIFY THE SECRETARY OF STATE WHENEVER A RULE PUBLISHED IN THE CODE OF COLORADO REGULATIONS IS RESCINDED OR A PORTION THEREOF IS DELETED, AND THE SECRETARY OF STATE SHALL DIRECT THE REMOVAL FROM THE CODE OF MATERIAL SO DELETED OR RESCINDED. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT RULES DELETED OR RESCINDED PURSUANT TO THIS SUBSECTION (4.5) SHALL NOT BE SUBSTANTIVE IN NATURE.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

BILL 14