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0382 Joint Legislative Sunrise and Sunset Review Committee



Joint Legislative

Sunrise and Sunset

Review Committee

Report to the

COLORADO

GENERAL ASSEMBLY

**Colorado Legislative Council
Research Publication No. 382
December 1993**

RECOMMENDATIONS FOR 1994

**JOINT LEGISLATIVE SUNRISE AND SUNSET
REVIEW COMMITTEE**

**Report to the
Colorado General Assembly**

**Research Publication No. 382
December 1993**

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December 13, 1993

To Members of the Fifty-Ninth Colorado General Assembly:

Submitted herewith is the final report for 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 of Representatives. The purpose of the committee is to review the termination of divisions, boards or agencies pursuant to the statutory sunrise provisions (sections 24-3-104.1, C.R.S.).

At its meeting on November 15, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Joint legislative Sunrise Sunset Committee to the Fifty-Ninth General Assembly was also approved.

Respectfully submitted,

/s/ Senator Bill Schroeder
Chairman
Colorado Legislative Council

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JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE

Members of the Committee

Representative Vickie Agler,
Chair
Representative Russell George
Representative Wayne Knox

Senator Bill Schroeder,
Vice-chair
Senator Elsie Lacy
Senator Bob Martinez

Legislative Council Staff

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Bart Miller
Senior Staff Attorney

Duane Gall
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Mark Hamby
Staff Attorney

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JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE REPORT

Statutory Authority and Responsibility

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 (sunset) and to consider proposals for the regulation of occupations and professions not presently regulated (sunrise) (Section 2-3-1202, et seq., C.R.S., and Rule 35 of the Joint Rules of the Senate and House of Representatives). In addition, the Department of Regulatory Agencies (DORA) is required to analyze and evaluate those professions seeking state regulation, and the performance of each division, board, agency or function of an agency that is scheduled for termination (Section 24-34-104, et seq., C.R.S.).

During the 1993 interim, the committee held eleven days of meetings. The committee reviewed findings and recommendations prepared by the Office of Policy and Research in DORA. Concerned citizens, interest groups, and representatives of regulatory entities and advisory committees testified before the committee. The committee conducted nine sunset reviews of existing state agency regulatory functions, three sunrise reviews of applications for state occupational regulation, and five advisory committee reviews. Thirteen bills are recommended for action during the 1994 legislative session.

A. Sunset Reviews of Existing Regulatory Programs Regulatory Functions

During their sunset analysis of each agency, the committee and DORA are required by statute to consider several factors regarding the need for the entity being reviewed. The factors to be considered follow:

1. Whether regulation by the agency is necessary to protect the public health, safety, and welfare.
2. Whether the conditions which led to the initial regulation have changed.
3. Whether other conditions have arisen which would warrant more, less, or the same degree of regulation.
4. If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms.

5. Whether agency rules enhance the public interest and are within the scope of legislative intent.
6. Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.
7. Whether an analysis of agency operations indicates that the agency is performing its statutory duties efficiently and effectively.
8. Whether the composition of the agency's board or commission adequately represents the public interest.
9. Whether the agency encourages public participation in its decision rather than participation only by the people it regulates.
10. The economic impact of regulation and whether the agency stimulates or restricts competition.
11. Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether disposition of complaints are in the public interest or self-serving to the profession.
12. Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.
13. Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest (Section 24-34-104 (9)(b), C.R.S.).

DORA prepares a report of its findings and distributes the report to the Joint Legislative Sunrise and Sunset Review Committee no later than July 1 of the year prior to the entity's termination date. The report provides the basis for discussion in public hearings which the Sunrise Sunset Committee conducts during the legislative interim.

The committee conducted sunset reviews of three divisions, one board, and five other regulatory programs during the 1993 interim. These were:

- River Outfitters' Licensing Program;
- Commercial Driving Schools;
- Division of Financial Services;
- Division of Securities;
- Licensing of Persons to Sell or Issue Money Orders;
- Licensing of Debt Management;
- Division of Banking;
- Board of Registrations for Professional Engineers and Land Surveyors; and
- Kennel and Pet Dealership Regulation.

Summary of Committee Activities and Recommendations

Bill 1 - Licensing of River Outfitters

Summary. Bill 1 continues and expands regulatory authority of the Division of Parks and Outdoor Recreation and the Board of Parks and Outdoor Recreation over river outfitters until October 1, 2004.

The bill expands the board's authority to promulgate regulations specifically outlining the procedures to be followed by the board and the enforcement section of the division in the event of a death or serious injury during a regulated trip. Other provisions of the bill:

- specifically exclude any person from regulation who is conducting a trip exclusively for friends or family;
- provide for the director of the division to grant to river outfitters variances from regulations;
- prohibit persons under the influence of drugs or alcohol from operating or controlling a vessel during a regulated trip;
- empower the division to issue a cease and desist order to any party who is violating the law;
- provide remedies to persons who are the object of a cease and desist order;
- allow the board to place a licensee on probation or to issue a letter of admonition to a licensee or applicant;
- allow a person subject to disciplinary action to appeal to the court of appeals; and
- repeal all regulations adopted by the board related to the regulation of river outfitters so that the regulations may be reviewed and repromulgated.

Background. In 1985, both the Division and Board of Parks and Outdoor Recreation were authorized to license river outfitters. DORA's study of the program found that continued regulation is needed to ensure professional competence and expertise, and minimum safety standards for equipment. In addition, DORA recommended various statutory changes to clarify the law and to allow for improved enforcement of the program.

A representative of the division stated that the DORA recommendations would improve the regulatory scheme, although, he raised concern with the recommendation requiring outfitters and guides to determine whether a passenger was under the influence of alcohol, controlled substances or other drugs. DORA's recommendation

required that if the trip was underway and such a determination was made, the intoxicated person may be let off at a suitable location on the river bank. Division testimony indicated that this recommendation was troublesome because it may require a guide to leave an intoxicated passenger out in the wilderness.

Additionally, the division disagreed with DORA's recommendation that the board promulgate regulations specifically outlining the procedures to be followed by the board and the enforcement section of the division in the event of a death or serious injury on a trip. DORA recommended that the maximum suspension of a guide be seventy-two hours. The division and members of the industry were confident that outfitters had the expertise to determine when a guide was ready to return to the water.

Public testimony was provided by the Chairman of the Colorado River Outfitters Association. The chairman voiced the same concerns as the division representative.

After consideration of the testimony and the DORA report, the committee voted to continue the licensure of river outfitters through **Bill 1**.

Bill 2 - Commercial Driving Schools

Summary. **Bill 2** continues the functions of the Department of Revenue related to the regulation of commercial driving schools until July 1, 2004.

The bill removes the requirement that commercial driving instructors take and pass an examination administered by the department before they can be licensed. In addition, the bill removes the limits for liability insurance coverage and directs the department to set such limits by rules and regulations based upon a recommendation by the insurance commissioner. The bill also requires all commercial driving instructors to be named individually on a liability insurance policy for a commercial driving school. Other provisions of the bill:

- specify that the department be notified directly by an insurance company if it cancels liability coverage for a licensee;
- remove the requirement that the Department of Revenue consult with the Department of Education when determining what curriculum must be offered by a commercial driving school;
- change the renewal period for licenses from December 31 of the year issued for all instructors and schools to twelve months after the date issued;
- remove certain licensing requirements for driving instructors;
- eliminate the requirement that a license issued to an instructor specify the school for which the instructor is licensed to teach;
- delete the requirement that an instructor carry a license and instead requires the instructor to carry an identification card issued by the department; and

- remove the specifications of equipment with which a vehicle used for instruction must be equipped and allow the department to set out such specifications in rules and regulations.

Background. The regulation of schools and instructors who teach the operation of standard automobiles was created in 1970 as part of a nationwide effort to improve the quality of instruction. The Motor Vehicle Division of the Department of Revenue currently regulates 16 commercial driving schools throughout Colorado.

In the sunset report, DORA found insufficient public harm or potential for harm to justify the existing levels of regulation of commercial driving schools and therefore recommended allowing the statute to sunset. DORA claimed that although the repeal of portions of article 15 of title 12 would terminate the program, the remaining subsections would provide for self-enforcing regulation of commercial driving schools.

A member of the division testified that the division did not agree with DORA's recommendation to allow the program to terminate. The witness stressed the importance of the requirement that insurance companies notify the division when a school loses its liability insurance. This notification allows the division to revoke the school's operating license. Additionally, testimony indicated that the division believes that regulation fosters growth in the industry. Additional division testimony explained that various insurance companies recommend that schools maintain coverage of \$1 million as opposed to the current \$300,000 coverage obtained by some schools. The committee's concern for adequate insurance coverage prompted them to modify and continue the program through **Bill 2**.

Bill 3 - Division of Financial Services

Summary. **Bill 3** continues the functions of the Division of Financial Services until July 1, 2004. The bill requires the Commissioner of Financial Services to conduct investigations to determine if incorporators and organizers of credit unions are qualified, including an investigation into their background to determine if they have been convicted of criminal activity. The bill also:

- authorizes the commissioner to determine if investigations by other agencies may be treated equivalent to those conducted by the commissioner for purposes of this act;
- grants the commissioner the authority to establish reporting dates for certain reports required of credit unions and savings and loan associations;
- states that persons directly affected by a final order of the commissioner or the Financial Services Board may obtain judicial review by filing an action with the Colorado Court of Appeals instead of a district court;
- authorizes the commissioner to suspend or remove any director, officer, or employee of a credit union or savings and loan association if the

commissioner believes the person received financial gain by violating the law or breaching a fiduciary duty;

- provides that a suspension or removal order may be issued if the commissioner finds that any director, officer, or employee of a credit union or savings and loan association has entered a plea of guilty or nolo contendere, has been convicted of a felony, or was disciplined or fined for an act that is a violation of state financial laws;
- requires that suspension and removal orders include a description of the charges, and that copies of such orders be sent to the institution and its board of directors;
- clarifies that the maximum amount of civil penalties assessed against a credit union shall be based on the number of days that a cease and desist order or an order of suspension or removal has been violated;
- clarifies provisions concerning when credit unions which issue interest refunds on loans shall pay such refunds;
- deletes the requirement that savings and loan associations obtain approval of the commissioner prior to agreeing to service loans not held or originated by the association;
- eliminates the requirement that the commissioner and the board have a seal of office; and
- removes the requirements that savings and loan associations must have their principal office in Colorado to be treated as an "eligible public depository."

Background. Since few consumers can adequately determine the soundness of a financial institution in which they are considering depositing money or becoming members, the Division of Financial Services provides regulatory oversight of such institutions as credit unions, savings and loan associations, life care institutions and small business credit corporations.

In the sunset report, DORA recommended that the regulatory functions of the division continue with the exception of the regulation of small business credit corporations. Testimony indicated that there had not been a single application for licensure since this regulatory scheme's inception in 1988. Other testimony included representatives from the division and the industry who agreed with the DORA recommendations.

The committee accepted the DORA recommendations continuing the functions of the Division of Financial Services. **Bill 3** addresses this continuation and the other DORA recommendations.

Bill 4 - Division of Securities

Summary. **Bill 4** continues the regulatory authority of the Division of Securities until July 1, 2004. Other provisions of the bill:

- specify that banks are excluded from the definition of "broker-dealer" only if they are acting on behalf of their own accounts or as trustees or fiduciaries;
- specify an effective period of one year for a registration statement filed on behalf of an investment company which is registered under the federal "Investment Company Act of 1940";
- require that certain investment companies pay a registration renewal fee in an amount set by the Securities Commissioner;
- empower the commissioner to issue summary orders based on certain conduct which violates the "Colorado Securities Act" (Section 11-51-101, et. seq. C.R.S.);
- outline the remedies available to any person to whom a summary order has been issued;
- specify how consent orders may be issued and what may be included in any such order;
- define confidential documents received by the division as criminal justice records and specify that the division shall be treated as a criminal justice agency for purposes of the public records law;
- make violation of an order issued by the commissioner under certain sections of the law a civil contempt violation under the "Colorado Securities Act";
- change the court which conducts any appellate review of an administrative decision by the division from the District Court of the City and County of Denver to the state Court of Appeals; and
- allow the commissioner to respond to requests from interested persons for confirmation of the applicability of particular exclusions from the "Colorado Commodity Code."

Background. The Colorado securities industry has been regulated since 1923. The Division of Securities' mission is to protect those who invest in securities from fraud and illegal dealings by the sellers of securities. In addition, the division maintains public confidence in the securities markets while avoiding unreasonable regulatory burdens on participants in capital markets. In 1990, the legislature adopted the Colorado Securities Act in response to serious abuses occurring in the Colorado capital markets.

In the sunset report, DORA discussed the impact of the Colorado Securities Act and the effectiveness of the division in carrying out the act. DORA claimed that the division provided efficient regulation to the industry and effectively protected the public. DORA recommended continuing the division and improving existing statutes in order to allow the division to operate as effectively as intended by the legislature. Testimony from division and industry representatives expressed support for the DORA report and recommendations.

The committee voted to continue the regulation of the industry with minor statutory changes. These changes are reflected in **Bill 4**.

Bill 5 - Licensing of Persons to Sell or Issue Money Orders

Summary. **Bill 5** continues the functions of the Banking Board and the Commissioner of Banking related to the regulation of money orders until July 1, 2004.

The bill adds money transmission to the regulatory provisions of the "Money Order Act." In addition, the bill requires persons transmitting money to be licensed the same as persons issuing or selling money orders. Other provisions of the bill:

- require persons seeking licensure to be qualified and experienced as required by board rules;
- set a penalty for not submitting required statements or reports to the commissioner without good cause;
- increase the maximum penalty assessment from \$1,000 to \$10,000 for violating the act; and
- specify that any investments of a licensee shall be deemed to be held in trust for the purchasers and holders of the licensee's outstanding payment instruments if the licensee declares bankruptcy.

Background. The Division of Banking has regulated persons who sell or issue money orders since 1959. In the 34 years of regulation, the volume of exchange issued in Colorado has increased dramatically. The number of licensees has also increased. DORA recommended that the division continue its regulation of money order issuers. Public testimony expressed support for continued regulation of the industry. In addition, testimony from the public suggested licensing businesses that wire money because of the potential for public harm due to fraud.

After considering the DORA report and public testimony, the committee voted to continue the licensure of persons who sell or issue money orders. **Bill 5** continues this function of the Division of Banking.

Bill 6 - Regulation of Debt Adjusters

Summary. Bill 6 continues the licensing of debt management through the Banking Board and the bank commissioner until July 1, 2000.

The bill makes violations of the laws regulating debt management companies and debt adjusters a deceptive trade practice. The bill specifies that any person claiming an exemption from the licensure requirement for debt management companies or debt adjusters bears the burden of proving the need for such an exemption. Other provisions of the bill also:

- specify that an application for licensure or an application for license renewal is valid for all offices of a licensee and that a separate application for each branch office is not necessary;
- remove the five-day notice requirement that the commissioner must give to a licensee before examining the licensee's books and operation;
- clarify the period in which a person may bring an action pursuant to the article regulating debt management companies and debt adjusters;
- specify that all moneys collected by the board or the commissioner pursuant to this article shall be deposited in the Division of Banking cash fund; and
- include limited liability companies in the group of entities which may be licensed as debt management companies.

Background. The Division of Banking has regulated debt management companies since 1965. Debt adjusting companies help consumers who have incurred excessive debt to pay off their debts by collecting money from the consumer and distributing it to various creditors. The debt adjuster and the creditors, with the approval of the debtor, agree on a modified plan for repayment.

Prior to April 1993, the division reviewed the records of debt adjusters only when an examiner had time. This year, however, the division promulgated new rules requiring the division to conduct mandatory, annual, full-scope examinations of all licensed debt adjusters.

Representatives of DORA testified that the regulation of debt adjusting companies should be allowed to sunset. DORA stated that deregulation of the industry can be accomplished while providing a high degree of consumer protection through various disclosures, and penalties mandated by statute. DORA suggested that the "Colorado Deceptive Trade Practices Act" provides recourse for those injured by debt management companies. Testimony from representatives of the division and the public did not agree with DORA's recommendation.

Testimony from the division indicated that the debt adjuster program had been more aggressively implemented in the last two years. Division representatives argued

that the fiduciary responsibility of debt adjusters is the same as banks. In addition, the testimony indicated that a client's money held by a debt management company is not discretionary money and that if such companies mismanage funds, the potential harm to the client is great. Public testimony also pointed out that deregulation may draw unscrupulous debt management companies to Colorado and that the state's Consumer Protection Act does not provide sufficient safeguards to prevent abuses of debt adjusters.

After considering all the evidence presented, the committee voted to continue the regulation of debt management companies by the Division of Banking. The committee recommends **Bill 6** which provides for this continuation.

Bill 7 - Division of Banking

Summary. **Bill 7** continues the Division of Banking in the Department of Regulatory Agencies until July 1, 2004. The bill requires that not less than one and not more than two members of the Banking Board shall be from any one congressional district, that no more than four members shall be from the same major political party, and that at all times one member of the board shall reside west of the continental divide. In addition, the banking commissioner shall publish an annual report summarizing the operations of the division during that year. Other provisions of the bill:

- clarify provisions of law governing public documents of the division and the admissibility of these records as evidence;
- add engaging in or participating in any unsafe or unsound practice in connection with a bank, an industrial bank, or a trust company to the grounds on which the board may assess civil penalties;
- authorize the board to establish by rule the qualifications and experience required of persons to be directors or officers of state banks;
- authorize the board to set by rule and regulation the capital requirements for out-of-state bank holding companies to acquire Colorado bank holding companies or Colorado banks; and
- clarify terms governing the involuntary liquidation of trust companies to reflect that action may be taken by the board if serious losses to customers of a trust company may result if the board does not take possession of the trust company.

Background. The Division of Banking and the State Banking Board are responsible for monitoring the soundness of all state-chartered commercial banks, industrial banks, trust departments, trust companies, and public depositories. In addition, the division and board protect the public from risks arising from unsound

financial operations and ensure industry compliance with various statutes, rules and regulations.

DORA's sunset report discussed the changes within the division and industry since the last sunset review in 1983. DORA recommended that the division and the board be continued, and that other statutory changes be made to preserve and promote financial stability and organizational competence within the industry, as well as protecting Colorado consumers.

Members of the industry testified on the recent efforts and outstanding performance of the division. Members of the trust company industry recommended adding another trust company representative to the board. The committee did not respond to this recommendation.

Members of the committee expressed concerns with a recent study by the Colorado Civil Rights Commission that reported poor lending practices by banks to minority groups. Banking Commissioner Barbara Walker responded to committee concerns by explaining that only 4 percent (seven) of the banks studied were state-chartered banks, and of those seven, four had excellent records of lending to minorities. Mr. Joe Garcia, Executive Director, DORA, told the committee that examining the lending practices of banks is a priority for DORA and that it intends to study the issue further.

In light of public testimony and the DORA report, the committee voted to recommend **Bill 7** to continue the Division of Banking.

Bill 8 - Board of Professional Engineers and Land Surveyors

Summary. **Bill 8** continues the functions of the State Board of Registration for Professional Engineers and Professional Land Surveyors until July 1, 2004. The bill changes exemptions from licensure under the laws regulating engineers. The bill also adds limited liability companies to the list of nonnatural persons which may perform engineering or land surveying work if there is a licensed engineer or land surveyor in responsible charge of the work. Other provisions of the bill:

- grant the board the power to assess fines against any party acting unlawfully as an engineer or land surveyor;
- grant the board the power to limit the scope of practice of an engineer or land surveyor who has violated the laws regulating engineers or land surveyors;
- include certain acts as the basis for disciplinary action against an engineer or land surveyor by the board;
- empower the board to issue cease and desist orders against any person violating the laws regulating engineers or land surveyors;

- change the requirement that the board automatically reinstate any retired engineer or land surveyor and allow the board to require any such retiree to be examined as it deems appropriate;
- add certain individuals to the list of those who are immune from civil liability in connection with a professional review of an engineer or land surveyor;
- change the requirement that the board mail a copy of the roster of engineers to all licensed engineers and a copy of the roster of land surveyors to all licensed land surveyors to making a copy of such roster available to all licensees;
- change the term used to refer to persons training to become professional engineers or land surveyors from engineers-in-training to engineer-interns and from surveyors-in-training to land surveyor-interns;
- remove the requirement that the board mail certificates to individuals who become certified as engineer-interns or land surveyor-interns;
- remove certain restrictions on the use of official seals by engineers and land surveyors; and
- repeal and reenact the articles regulating survey plats and monument records, standards for land surveys and plats, and perpetuation of land survey monuments, without substantially affecting the substantive provisions of those articles.

Background. Since its creation in 1919, the Board of Professional Engineers and Land Surveyors has changed in size and scope of authority. The board created in 1919 was the Colorado State Board of Engineer Examiners. In 1921, land surveyors were placed under the regulatory authority of the board. Currently, the board consists of nine members: four professional engineers, one professional engineer and land surveyor, two professional land surveyors, and two public members. The statute outlines the powers and duties of the board, defines the practice of engineering and land surveying, and provides exemptions to these definitions.

DORA recommended continuing the board's authority and suggested a number of statutory changes, the most controversial of which was deleting the "municipal exemption," that exempts from statutory compliance a person who is employed by and performs engineering services solely for a local government. DORA argued that the public should be assured the same protection from those who work within the public sector as they do from those who work in the private sector. Local government representatives argued that the exemption had not created problems and that there was no need to delete it. In addition, they argued that, without the exemption, the definition of "engineer" could include the everyday maintenance of county property. The committee discussed whether the issue of removing the "municipal exemption" was a

question of public safety or a disagreement over who would determine a locality's definition of engineering.

DORA also recommended removing the "agricultural exemption." Opponents to this recommendation argued that most agricultural work is performed on private property and does not affect the public. Committee discussion regarding this argument centered on the general definition of public safety and how the definition relates to private land.

The committee raised concerns that the board was not complying with the statute requiring distribution of the rosters of engineers and surveyors to all licensees. This issue was resolved by allowing the board to provide a copy of the rosters to only those licensees who request one.

The committee voted to continue the authority of the board and adopted several of DORA's recommendations through **Bill 8**. The committee did not remove either the municipal or agricultural exemptions.

Bill 9 - Colorado Kennel and Pet Dealership Regulation

Summary. **Bill 9** adopts the "Pet Animal Care and Facilities Act" and transfers from the Department of Health to the Department of Agriculture regulatory and licensing power over any place or premise used in whole or in part for the keeping of pet animals for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading or otherwise transferring pet animals (pet animal facility). The bill requires persons operating pet animal facilities to hold a license. Other provisions of the bill:

- exempt from licensure certain research facilities, zoos, kennels, veterinary facilities, and other specified facilities;
- set forth the procedure for obtaining a license;
- require that each location of such a facility be separately licensed and that licenses be renewed annually;
- require pet facilities to maintain records in the form and manner designated by the Commissioner of Agriculture;
- state the duties of persons operating pet animal facilities, including the provision of sanitary conditions for the animals, adequate ventilation and nutrition, and health care;
- provide that certain acts shall constitute a deceptive trade practice and a violation of the "Colorado Consumer Protection Act";
- state the powers and duties of the commissioner with respect to the act;

- provide that the commissioner may make such investigations as are necessary to insure compliance with the act;
- grant the commissioner access during regular business hours, upon consent or obtaining an administrative search warrant, to all areas in which animals are kept;
- authorize the commissioner to issue cease and desist orders and letters of admonition;
- authorize the commissioner to deny, suspend, refuse to renew, restrict, or revoke any license authorized under the act;
- state that persons who violate the act shall be subject to a civil penalty, after notice and opportunity for a hearing;
- require that fees and fines collected under the act be credited to the Pet Animal Care and Facility Fund;
- establish a Pet Animal Advisory Committee to assist the commissioner in establishing regulations and to provide an ongoing review of the act; and
- authorize agents of the Bureau of Animal Protection in the Department of Agriculture to enforce the provisions of the act.

Background. Pet animal facilities have been regulated in some fashion since the late 1950's. The Colorado Department of Health (DOH) is currently statutorily responsible for regulating these facilities; however, the funding of the regulatory program was terminated in 1991 due to executive branch budget cuts.

The DORA report claimed that the program should be allowed to sunset since current circumstances, such as a small amount of money available for operations and a low priority accorded them, result in a weak regulatory program. DORA suggested that the use of private non-profit organizations made up of concerned citizens could take the place of the traditional licensing and inspection program and refer any substantial problems which arise to the appropriate civil and criminal authorities.

Public testimony indicated the continued need for regulation. Members of the public discussed the development of the Pet Facilities Coalition Task Force which was organized to develop legislation that would maintain the integrity of the industry. The task force membership included representatives from retail stores, breeders' associations, veterinarians' associations, animal welfare agencies, animal control officers, and kennels. A representative from the task force outlined the goals of the task force which included assurance of: 1) excellence in breeding; 2) reasonable consumer protection; and 3) ongoing retail standards and compliance. Persons testifying also suggested moving the licensing functions to the Department of Agriculture.

Further testimony from DOH provided background information on the department's regulation of the pet industry. The department discussed the role of local health departments in regulating the pet industry. Often, the same inspector inspected both restaurants and pet facilities. DOH claimed that the regulation of the pet industry was not a public health concern, but rather an animal welfare concern.

After considering the DORA report and public testimony, the committee requested that the Pet Facilities Coalition Task Force draft legislation addressing the concerns of the committee and the task force. As a result of the task force's work, the committee recommends **Bill 9** for consideration during the 1994 legislative session.

B. Sunrise Review of Occupations Requesting State Regulation

During the 1993 interim, the committee reviewed three applications -- naturopathic physicians, dieticians, and respiratory care practitioners -- for licensure, registration, or other forms of state regulation submitted pursuant to section 24-34-104.1(2), C.R.S. When considering whether or not to regulate a profession or occupation the committee must consider the following criteria:

1. Whether the practice of the unregulated profession or occupation clearly harms or endangers the health, welfare, or safety of the public.
2. Whether the potential for harm is easily recognizable rather than remote or dependent on tenuous argument.
3. Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence.
4. Whether the public can be adequately protected by other means in a more cost-effective manner.

Summary of Committee Activities and Recommendations

Bill 10 - Naturopathic Physicians

Summary. Bill 10 adopts the "Naturopathic Health Care Practice Act." The bill describes the scope of practice of naturopathic physicians and requires that persons practicing naturopathic medicine be licensed by the Board of Naturopathic Medicine. The scope of practice permits diagnosis by performing or ordering common diagnostic procedures and employing, for the purpose of prevention and therapeutic treatment, all natural medicines and therapies, naturopathic physical medicines as well as non-prescription medications, minor office procedures, lifestyle modification techniques, therapeutic devices, public health measures including immunizations, and limited prescription rights. The bill also grants naturopathic physicians the exclusive right to use certain terms indicating their status as naturopathic physicians. Other provisions of the bill:

- establish qualifications for licensure and license renewal;
- exempt from the scope of the act individuals who are otherwise licensed and perform services within the scope of their license;
- grant reciprocity to individuals licensed by other states;
- require that naturopathic physicians have the same responsibility as other health care professionals with respect to public health laws, reporting of

diseases, and recording of vital statistics, consistent with their authorized scope of practice;

- establish the Naturopathic Board of Examiners in the Division of Registrations;
- provide that board members be appointed by the governor with the consent of the Senate;
- empower the board to administer and enforce the provisions of the act;
- grant the board rule-making authority;
- establish a subcommittee charged with maintaining a list of medicines which naturopathic physicians are allowed to administer;
- prohibit naturopathic physicians from practicing naturopathic childbirth without first obtaining a certificate of specialty practice;
- set forth grounds for disciplinary action;
- provide that persons who violate the provisions of the bill are guilty of a class 3 misdemeanor for each offense and may be enjoined by a district court; and
- establish a sunset date of the board for July 1, 1999.

Background. The committee reviewed the Colorado Association of Naturopathic Physicians' application for licensure during the 1993 interim. Naturopathic medicine is defined as the "practice by naturopaths of the art and science of the diagnosis, prevention, and treatment of disorders of the body by stimulation or support, or both, of the natural processes of the human body." Naturopathic physicians suggested that state licensure would provide added credibility to their profession. In addition, they maintained that licensure ensures adequate training of naturopathic physicians, who can be important participants in the health care system in Colorado.

Naturopathic physicians who testified discussed: the philosophy of naturopathic medicine, emphasizing its commitment to wellness, prevention, and seeking the underlying causes of illness; the harm that has been caused by unqualified naturopathic physicians in other states; and the harm caused by schools which only require 100 hours of training to become a "naturopathic physician." Other representatives of the industry discussed the criteria for graduation from naturopathic medical schools. They stated that the criteria are similar to conventional medical schools with an emphasis on homeopathic study for the second two years.

Public testimony in favor of licensure was provided by persons who had received care from naturopathic physicians. In addition, a number of medical doctors

testified that they often refer patients who are not responding to conventional methods of medicine to naturopathic physicians.

Groups in opposition to licensure cited concerns with naturopaths' scope of practice, specifically their desire to prescribe drugs and to perform duties associated with physical therapy. A representative of the Colorado Medical Society testified that they were not familiar with the practice of naturopathic medicine, but would be concerned if their scope of practice was to include: prescribing drugs, venipuncture, obstetrics/gynecology, and colonic irrigation. Other concerns centered on naturopaths' use of the term "physician" since the definition of physician includes a full range of diagnosis and treatment techniques.

DORA recommended against licensure because of limited evidence of public harm by the unregulated practice of naturopathic physicians. Despite DORA's recommendation, the committee voted to recommend licensure and requested that the applicants, along with various other medical societies, draft legislation providing for the licensure of naturopathic physicians. This group presented a bill to the committee, which was adopted with minor amendments. **Bill 10** is recommended for action during the 1994 legislative session.

Bill 11 - Dieticians

Summary. **Bill 11** amends the definition of "deceptive trade practices" to include persons who claim orally or in writing that they are a "dietitian," "dietician," "certified dietitian," "certified dietician," or who use the abbreviation "C.D.," or "D.," but have not met certain experiential requirements and do not hold at least a baccalaureate degree in nutrition from an accredited or other specified institution.

Background. The committee reviewed the Colorado Dietetic Association's (CDA) application for title protection during the 1993 interim. This was the fourth attempt of the CDA to limit the use of certain titles. Currently, twenty-nine states provide for some form of regulation for dieticians.

DORA recommended against any title protection, registration, certification, licensing or other regulation of dieticians/nutritionists. DORA found no convincing evidence of harm being caused to Colorado consumers by the operation of dietitians, either in private practice or in institutional settings. In addition, DORA found that cases of harm related to the nutritional practice by other persons are few compared with the number of nutritional decisions made by Colorado consumers. Finally, the report stated that consumers bear the responsibility to educate themselves to make better choices.

Members of CDA testified that limiting the use of titles such as licensed dietitian, licensed nutritionist, certified dietitian and certified nutritionist would help the public identify those persons best qualified to address their nutritional needs. Dieticians stated that they stress wellness, prevention of degenerative diseases and promote health care cost containment through the benefits of good nutrition. Others suggested that

dieticians could strengthen the role of good nutrition in the health care process. Experts in the field of nutrition discussed the role of good nutrition in controlling childhood diabetes and treating other diseases. Some members of the CDA claimed that citizens were confused over the definition of good nutrition. Still others suggested that receiving the wrong nutritional advice could have negative financial and health consequences.

Opposition to the proposal centered on the consumer's freedom of choice and the concern that dieticians would gain title protection and then start to gain other privileges of licensure. Many witnesses who work in the health food field claimed that dieticians wanted to limit retailers' ability to sell nutritional products and restrict their communication with customers. These witnesses maintained that the citizens of Colorado had a right to free access to nutritional information. Others explained that dieticians should not be considered the only source of nutritional information.

After consideration of the DORA report and public testimony the committee voted not to license dietician. However, at a subsequent meeting the committee reconsidered the application and voted to recommend **Bill 11**. This bill provides title protection for "certified dieticians" through the definition of "deceptive trade practice."

Bill 12 - Respiratory Care Practitioners

Summary. **Bill 12** establishes the "Respiratory Care Practice Act" and describes the powers and duties of the Director of the Division of Registrations, DORA, under the act. The bill requires that persons who practice respiratory care be certified by the division. Other provisions of the bill:

- set forth the requirements for certification and includes a provision for reciprocity;
- provide that persons who are practicing respiratory care as of July 1, 1994 shall be issued a certificate, but persons who do not apply for and receive their certification prior to June 30, 1995 must meet the regular certification requirements;
- allow for issuance of temporary certification to students of respiratory care;
- empower the director to set fees for certification, conduct necessary hearings, employ administrative law judges, and seek injunctive relief;
- require the director to deposit all fees with the state treasurer who shall credit them to the Division of Registrations' cash fund;
- provide that the director may reinstate a lapsed certificate if the request for reinstatement is made within sixty days after the end of the renewal period and the requisite fees are paid;

- provide that practitioners who desire to have an inactive status shall not be charged a fee for such status, but if they desire to change to active status they must meet all the requirements for certification;
- restrict the use of the term "respiratory care practitioner" and the abbreviation "R.C.P." to those who are certified;
- describe the grounds that will entitle the director to take disciplinary action against a certified practitioner;
- state that disciplinary action shall consist of revocation or suspension of certification, placement on probation, or the issuance of a letter of admonition;
- provide that it is unlawful for any person to practice respiratory care or to represent oneself as a respiratory care practitioner unless certified;
- describe exceptions to the certification which include certain students, self-care by patients or family members, emergency services, and services rendered by other persons who are trained and licensed by the state;
- provide that nothing in this act permits the practice of medicine as defined in the "Colorado Medical Practice Act;"
- classify certain acts as a misdemeanor and provides that imprisonment shall not be imposed; and
- provide for a sunset date of July 1, 2000.

Background. The Colorado Society of Respiratory Care (CSRC) submitted a certification application for review by the committee during the 1993 interim. Respiratory care is the practice of therapy management and rehabilitation and support services for patients with breathing deficiencies and abnormalities. The practitioner provides care in hospitals, medical centers, physicians' offices, retirement homes, skilled nursing facilities, and patients' homes.

In its sunrise report, DORA recommended against licensure, certification, or registration of respiratory care practitioners. DORA claimed that regulatory schemes in other states have proven to be ineffective and that evidence is lacking to prove potential harm. DORA stated that the profession is already effectively monitored by three separate national organizations. DORA also argued that the requirement that respiratory care practitioners be supervised by qualified physicians further protects the public from harm.

Members of the CSRC explained that this was their third attempt to gain state certification. During previous attempts, the respiratory care practitioners were asked by the committee to identify cases of harm or potential harm. Testimony from the society identified specific cases of harm and indicated that a number of additional cases

exist which are not made public by institutions. Other representatives told of persons hired as respiratory care practitioners who had criminal backgrounds and subsequently committed criminal acts against patients.

Further testimony from members of CSRC indicated that members of the industry welcome licensure as a way to help institutions and persons who hire respiratory care practitioners evaluate a practitioner's qualifications and work history. Testimony indicated that certification is the only way to adequately protect the public due to the lack of uniform standards of care and education for practitioners.

A representative of the Colorado Hospital Association (CHA) stated that respiratory care industry regulates itself effectively, that licensure would result in salary increases and no improvements in care, and that licensing would allow practitioners to bill insurance providers directly.

During the first hearing, both the motion to license and the motion not to license failed on a tie vote. The committee reconsidered the application at a subsequent meeting and voted to recommend **Bill 12**.

Third Party Administrators

The application for the sunrise review of Third Party Administrators was withdrawn by the applicants prior to the public hearing.

C. Sunset Review of Advisory Committees

Each advisory committee scheduled to terminate must submit the following information to the Sunrise Sunset Review Committee to be used in determining whether or not to continue the advisory committee:

- the names of the current members of the advisory committee;
- revenues and 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.

Summary of Committee Activities and Recommendations

Bill 13 - Continuation of Advisory Bodies

Summary. **Bill 13** continues the following advisory bodies scheduled for repeal on July 1, 1994:

- the Correctional Education Program Advisory Board;
- the Breeders, Owners and Stallion Awards and Supplemental Purses Advisory Committee; and
- the Motion Picture and Television Advisory Committee.

In addition, the bill deletes obsolete provisions related to the Advisory Committee to Advise and Consult on Matters Concerning the Law Enforcement Radio System and the Population Advisory Council.

Background. During the 1993 interim, the committee reviewed the three advisory committees noted above as well as the Space Advisory Council and the State Medical Assistance and Service Advisory Council.

At the recommendation of the Governor's Office, the Space Advisory Council was allowed to sunset. (The Medical Advisory Council was reviewed, although the council is not scheduled to sunset until July 1, 1997.)

D. Additional Committee Reviews

Voluntary Registration for System Automobile Repair Facilities and Technicians

Pursuant to House Bill 93-1340, DORA prepared a report concerning the Voluntary Registration for System Automobile Repair Facilities and Technicians. A representative of the Colorado Department of Health discussed the department's role in implementing the program. He told the committee that the cost of the registration program could be provided for within existing departmental resources. The committee took no action on the report.

MATERIALS AVAILABLE

The following materials relevant to the Joint Legislative Sunrise and Sunset Review Committee hearings are available from the Legislative Council office.

1. Summary of Meetings:

- | | |
|--------------------|---|
| June 22, 1993 | — Advisory Committees, and Commercial Driving Schools Sunset |
| June 23, 1993 | — River Outfitters Licensing Program and Colorado Kennel & Pet Dealership Regulations Sunset |
| July 1, 1993 | — Division of Securities and Division of Financial Services Sunset |
| August 16, 1993 | — Division of Banking Sunset |
| August 17, 1993 | — Licensing of Debt Management Companies and Licensing of Persons to Sell or Issue Money Orders Sunset |
| August 23, 1993 | — Board of Registration for Professional Engineers and Professional Land Surveyors Sunset, and Naturopathic Physicians Sunrise |
| August 24, 1993 | — Colorado Dietetic Association and Respiratory Care Practitioners Sunrise |
| September 14, 1993 | — Bill Drafts |
| September 15, 1993 | — Bill Drafts |
| October 5, 1993 | — Bill Drafts, Other Issues - Registration of Repair Facilities (Air Pollution/Emissions), Naturopathic Physicians (continued), Board of Registration for Professional Engineers and Professional Land Surveyors (continued), Colorado Dietetic Association (reconsidered), and Respiratory Care Practitioners (reconsidered) |
| October 19, 1993 | — Respiratory Care Practitioners -- Bill Draft |

2. DORA Reports

Detailed reports on all sunrise and sunset issues were prepared and submitted to the Legislative Council Library by the Office of Policy and Research, DORA.

3. Advisory committee information submitted by the advisory committees.

APPENDICES

APPENDIX A

SUNSET TERMINATION SCHEDULE

(Sunset Reviews Are Conducted One Year Prior to Termination)

JULY 1, 1993

Division Racing Events
Public Utilities Commission
Passenger Tramway Safety Board
Board Of Examiners Of Nursing
 Home Administrators
Licensing Of Professional Bondsmen
Outfitter Registration
Licensing Of Bingo And Games Of
 Chance
Certification Of Nurse Aides

JULY 1, 1994

The Division of Banking
The Division of Financial Services
The Division of Securities
Board of Registration for Professional
 Engineers and Professional
 Land Surveyors
Licensing of Commercial Driving
Schools
Licensing of Debt Management
Companies
Licensing of Persons to Sell or Issue
 Money Orders
Licensing of Pet Animal or Psittacine
 Bird Dealerships
Licensing of Kennels
Licensing of River Outfitters

JULY 1, 1995

Board of Chiropractic Examiners
Board of Medical Examiners
Board of Nursing
Podiatry Board
Permitting for Specific Weather
 Modifications Operations
Underground Storage Tank
 Installers
Licensing of Slaughter,
 Processing, and Sale of Meat
Licenses Related to Measurement
 Standards
Licensing Relating to Poultry
 Eggs
Apple Storage Facilities
The Functions of the Workers'
 Compensation Medical Care
 Accreditation Commission
 and the Accreditation of
 Health Care Providers Under
 the Workers' Compensation
 System
Commodity Warehouses
Frozen Food Provisioners
Psychiatric Technicians
Licensing of Functions Relating to
 Fireworks
Asbestos Control Functions

JULY 1, 1996

Board of Dental Examiners
Board of Pharmacy
Colorado Joint Review Process
Motor Clubs
Plant Operators Certification
 Board
Vessel Registration
Snowmobile Registration
Commercial Pesticide Applicators
Qualified Supervisors and
 Certified Operators

JULY 1, 1997

**The Office of Regulatory Reform
The Division of Insurance
The Functions of the Department of
Social Services Relating to the
Expending of Moneys from
the Central Fund for State and
Veterans Nursing Homes
created by section 26-12-106,
C.R.S.**

JULY 1, 1998

**Board of Examiners of Architects
State Electrical Board
Examining Board of Plumbers**

JULY 1, 1999

**Division of Civil Rights
Real Estate Commission
Board of Real Estate Appraisers**

JULY 1, 2000

**State Board of Accountancy
State Board of Barbers and
Cosmetologists
Collection Agency Board**

JULY 1, 2001

**The State Board of Veterinary
Medicine**

JULY 1, 2002

**Board of Optometric Examiners
Licensing of Massage Parlors
Registration of Acupuncturists**

**APPENDIX B
BOARDS AND COMMISSIONS REVIEWED BY THE JOINT LEGISLATIVE SUNRISE SUNSET REVIEW
COMMITTEE**

AGENCY	YEAR REVIEWED	STATUS AFTER SUNSET REVIEW	NEXT SUNSET DATE IS JULY 1 OF
State Board of Accountancy	1980 1989	modified and continued; modified and continued;	2000
State Board of Examiners of Architects	1980 1987	modified and continued; modified and continued;	1998
Division of Banking	1980 1983 1993	modified and continued; modified and continued; modified and legislation pending;	2004
State Board of Barbers and Cosmetologists (created in 1977 by consolidation of state board of barbers and state board of cosmetology)	1980 1989	modified and continued; modified and continued;	2000
State Board of Chiropractic Examiners	1977 1984	modified and continued; modified and continued;	1995
Division of Civil Rights and Colorado Civil Rights Commission	1978 1988	modified and continued; modified and continued;	1999
Collection Agency Board	1977 1989	modified and continued; modified and continued;	2000
Office of Consumer Counsel (Office of the Attorney General)	1987 1992	modified and continued; modified and continued;	1998
State Board of Dental Examiners	1978 1985	modified and continued; modified and continued; independent practice for dental hygienists authorized;	1996
State Electrical Board.	1977 1980 1987	modified and continued; modified and continued; modified and continued;	1998

NEXT SUNSET DATE IS JULY 1 OF	STATUS AFTER SUNSET REVIEW	YEAR REVIEWED	AGENCY
2004	modified and continued; modified and legislation pending;	1980 1983 1993	Division of Financial Services (Pre-1989 Division of Savings and Loans)
2002	modified and continued;	1991	Grievance Board (created 1988)
1997	modified and continued; modified and continued; modified and continued;	1977 1982 1991	Colorado Division of Insurance
2002	modified and continued;	1991	State Board of Marriage and Family Therapist Examiners (created 1988)
1995	modified and continued;	1978 1984	State Board of Medical Examiners
1998	modified and continued;	1991	Motor Vehicle Dealer Licensing Board (Dept. of Revenue)
1995	modified and continued;	1978 1984	State Board of Nursing (practical nursing board merged with nursing board, effective 7/1/80)
1999	modified and continued;	1977 1982	Board of Examiners of Nursing Home Administrators
1995	modified and continued;	1978 1984	State Board of Optometric Examiners
2001	modified and continued; modified and continued; modified and continued;	1977 1982 1992	Passenger Tramway Safety
1996	modified and continued;	1978 1985	State Board of Pharmacy
1998	modified and continued;	1980 1987	State Board of Plumbing Examiners
1995	separated from medical board, effective 7/1/85; modified and continued;	1984 1989	Colorado Podiatry Board
2002	modified and continued;	1991	State Board of Licensed Professional Counselor Examiners (created 1988)

AGENCY	YEAR REVIEWED	STATUS AFTER SUNSET REVIEW	NEXT SUNSET DATE IS JULY 1 OF
State Board of Registration for Professional Engineers and Professional Land Surveyors	1980 1987 1993	modified and continued; modified and continued; modified, and legislation pending;	2004
State Board of Psychologist Examiners	1980 1986 1991	modified and continued; board re-established as part of mental health practice law; modified and continued;	2002
Public Utilities Commission	1977 1982 1992	modified and continued; modified and continued; modified and continued;	1998
Division of Racing Events (Dept. of Revenue)	1977 1982 1992	modified and continued; modified and continued; modified and continued;	1999
Board of Real Estate Appraisers (created 1990)			1996
Real Estate Commission	1978 1988	modified and continued; modified and continued;	1999
Office of Regulatory Reform	1982 1986 1990	modified and continued; modified and continued; modified and continued;	1997
Division of Securities	1980 1983 1993	modified and continued; modified and continued; modified and legislation pending;	2004
State Board of Social Work Examiners	1980 1986 1991	modified and continued; board re-established as part of mental health practice law; modified and continued;	2002
State Board of Veterinary Medicine	1978 1990	modified and continued; modified and continued;	2001

**APPENDIX C
BOARDS AND COMMISSIONS ALLOWED TO SUNSET**

AGENCY	YEAR REVIEWED	STATUS AFTER SUNSET REVIEW
Board of Abstractor Examiners	1980	terminated , effective 7/1/82
Colorado Hospital Commission	1979	terminated , effective 3/1/80
Colorado Outfitter's Licensing Board	1987	terminated , licensing functions transferred to the Director of the Division of Registrations
State Athletic Commission of Colorado	1977	terminated , effective 7/1/77
State Board of Examiners of Barbers	1977	consolidated with cosmetology and continued, effective 7/1/77.
State Board of Cosmetology	1977	consolidated with barber board, effective 7/1/77;
State Board of Hearing Aid Dealers	1980 1985	modified and continued; terminated , effective 4/17/86; a thirty-day rescission period for purchases of hearing aids enacted
Life Care Institutions Board of Examiners of Institutions for Aged Persons	1977 1980	name changed to Board of Examiners of Life Care Institutions and continued; terminated ; modified statutory functions transferred to Division of Insurance, effective 5/22/81
CO Manufactured Housing Board (Pre-1988 Mobile Home Licensing Board)	1980 1987 1991	modified and continued; modified and continued, name change; terminated by General Assembly ;
Board of Mortuary Science	1977 1980	modified and continued; terminated , effective 7/1/82;
State Board of Physical Therapy	1978 1985	modified and continued; terminated , effective 7/1/86; licensing functions transferred to the Director of the Division of Registrations
State Board of Practical Nursing	1978	terminated and consolidated with nursing board, effective 7/1/80
Board of Registration for Professional Sanitarians	1977	terminated , effective 7/1/78
State Board of Shorthand Reporters	1977	terminated , effective 7/1/77; standards administered by state court administrator
Commission on the Status of Women	1978	terminated , effective 7/1/80

UPDATED BY LEGISLATIVE COUNCIL STAFF - NOVEMBER 1993

APPENDIX D
OTHER LICENSING FUNCTIONS OF STATE DEPARTMENTS

The following list shows those licensing functions of state departments, not listed in Appendix B, reviewed by the Joint Legislative Sunrise Sunset Review Committee.

Department of Agriculture

1. Licensing of slaughter, processing, and sale of meat
2. Licenses related to measurement standards
3. Licensing relating to poultry eggs
4. Licensing of operators of apple storage facilities
5. Licensing of dealers, agents and transporters of farm products and commodity warehouses
6. Licensing of butchers and slaughterers of livestock, State Board of Stock Inspection Commissioners
7. Registration relating to nurseries
8. Licensing of public livestock markets, State Board of Stock Inspection Commissioners
9. Licensing of commercial pesticide applicators, qualified supervisors and certified operators

Department of Health

1. Licensing of pet animal or psittacine bird dealerships
2. Licensing of kennels
3. Asbestos control functions
4. Specific regulations promulgated by the Air Quality Control Commission
5. Medication Aide Program
6. Water and waste-water treatment plant operators certification board

Department of Labor and Employment

1. Underground storage tank installers (State Inspector of Oils)
2. The functions of the workers' compensation medical care accreditation commission

Department of Revenue, Division of Motor Vehicles

1. Licensing of commercial driving schools

Department of Natural Resources

1. Joint Review Process

Division of Parks and Outdoor Recreation

1. Vessel registration
2. Snowmobile registration
3. Licensing of River Outfitters
4. Permitting for specific weather modifications operations

Department of Public Safety

1. Licensing of functions relating to fireworks

Department of Regulatory Agencies

Division of Banking

1. Licensing of debt management companies
2. Licensing of persons to sell or issue money orders

Division of Civil Rights

1. Subpoena powers granted to the Director of the Division of Civil Rights

Division of Insurance

1. Licensing of professional bondsmen

Division of Registrations

1. Outfitter registration
2. Registration of acupuncturists
3. Licensing of physical therapists

State Board of Nursing

1. Psychiatric technicians
2. Certification of nurse aides

Secretary of State

1. Licensing of bingo and games of chance
2. Notaries Public

Department of Social Services

1. The functions of the Department of Social Services relating to the expenditure of moneys from the central fund for state and veterans nursing homes

Local Licensing Authorities

1. Licensing of massage parlors

Licensing Functions Eliminated

1. Licensing and regulation of landscape architects (1977);
2. State licensing of beekeepers (1990)
3. Licensing and examination requirements for artificial inseminators (1991)
4. Regulation of motor clubs (1992)
5. State regulation of cemeteries (1992)
6. Nursing home penalty cash fund (1993)

**APPENDIX E
SUNRISE APPLICATION HISTORY**

The following chronological table summarizes the sunrise actions of the Sunrise Sunset Committee from 1985 to July 1993.

<u>Year Reviewed</u>	<u>Outcome/ Legislation Introduced</u>
<u>1985</u>	
1. Dietitians	No licensure recommended
2. Lay Midwives	No licensure recommended
3. Marriage and Family Therapists	No licensure recommended
4. Modeling Agencies	No licensure recommended
5. Private Investigators	No licensure recommended
6. Professional Counselors	No licensure recommended
7. Commercial Health and Fitness Club Managers	No licensure recommended
<u>1986</u>	
1. Acupuncturists	Committee recommended additional study
2. Respiratory Therapists	No licensure recommended
3. Professional Counselors	Legislation recommended but not approved by the Legislative Council
<u>1987</u>	
1. Athletic Trainers	No licensure recommended
2. Community Living Specialists	No licensure recommended (HB 1065, Persons Who Administer Medications, adopted)
3. Hearing Aid Dealers	Application withdrawn
4. Occupational Therapists	No licensure recommended
5. Private Investigators	No licensure recommended
6. Respiratory Therapists	Application withdrawn

Year Reviewed

Outcome/ Legislation Introduced

1988

- | | |
|--|---|
| 1. Acupuncturists | Licensure legislation enacted (SB 9) |
| 2. Creative Arts Therapists | No licensure recommended |
| 3. Repossessors | No licensure recommended (SB 14, Repossession of Collateral, adopted) |
| 4. Underground Storage Tank Installers | Licensure legislation enacted (HB 1299) |

1989

- | | |
|--|--|
| 1. Asbestos Air Samplers | No licensure recommended |
| 2. Creative Arts Therapists | No licensure recommended |
| 3. Dietitians | No licensure recommended |
| 4. Fire Supressional System Installers | No licensure recommended (SB 90-4, Fire Suppression Program, adopted) |
| 5. Interior Designers | No licensure recommended |
| 6. Landscape Architects | No licensure recommended |
| 7. Locksmiths | No licensure recommended |
| 8. Massage Therapists | No licensure recommended (SB 90-37, Define Massage Therapists, adopted) |
| 9. Pesticide Dealer/Managers | No licensure recommended |
| 10. Real Estate Appraisers | Licensure enacted (SB 90-34) |
| 11. Security Guards | No licensure recommended |
| 12. X-Ray Assistants | No licensure recommended (HB 90-1006, X-ray Assistants Qualifications, Postponed Indefinitely) |

Year Reviewed

Outcome/ Legislation Introduced

1990

- | | |
|-----------------------------------|---|
| 1. Athletic Trainers | No licensure recommended (HB 91-1127, Athletic Trainers Exception, adopted) |
| 2. Dietitians | No licensure recommended |
| 3. Locksmiths | No licensure recommended |
| 4. Massage Therapists | No licensure recommended |
| 5. Mortuary Science Practitioners | No licensure recommended |
| 6. Occupational Therapists | No licensure recommended |
| 7. Private Security Officers | No licensure recommended (HB 91-1014, Security Guard Criminal Data by CBI, adopted) |

1991

- | | |
|--|---|
| 1. Lay Midwives | Recommendation for licensure failed (HB 92-1010) |
| 2. Financial Planners | Recommendation for licensure failed (HB 92-1005) |
| 3. Hearing Aid Dealers, Speech-Language Pathologists, Audiologists | No licensure recommended (SB 92-83, Code Violation on Sale of Hearing Aids, adopted)) |
| 4. Property Managers | No licensure recommended (SB 92-100, Manage Common Interest Communities, adopted) |
| 5. Plumbing Contractors | No licensure recommended (SB 92-98, Term Plumbing Contractor, adopted) |
| 6. Tanning Facilities | No licensure recommended |
| 7. Professional Boxing | No licensure recommended |
| 8. Domestic Violence Counselors | No licensure recommended |
| 9. Sign Language Interpreters | No licensure recommended |

Year Reviewed

Outcome/ Legislation Introduced

1992

- | | |
|---|---|
| 1. Private Utilization Review | No licensure recommended (SB 93-21, Health Care Coverage Entities, adopted) |
| 2. Colorado Seed Sellers | Licensure legislation enacted SB 93-17 |
| 3. Direct-Entry Midwives | Licensure legislation enacted HB 93-1051 |
| 4. Interpreters for the Deaf | Recommendation for licensure failed (HB 93-1044) |
| 5. Radon Service Providers | No licensure recommended (SB 93-58, Procedures for Presence of Radon, Postponed Indefinitely) |
| 6. Hemodialysis Technicians | No licensure recommended |
| 7. Consumer Electronics Service Technicians | No licensure recommended |

1993

- | | |
|-----------------------------------|--|
| 1. Third Party Administrators | Application withdrawn |
| 2. Naturopathic Physicians | Licensure recommended for 1994 session |
| 3. Dieticians | Title protection recommended for 1994 session |
| 4. Respiratory Care Practitioners | Certification recommended for 1994 session |

BILL 1

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF RIVER OUTFITTERS.

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 regulatory authority of the board of parks and outdoor recreation and the division of parks and outdoor recreation in the department of natural resources over river outfitters, subject to the provisions of the sunset law.

Expands the scope of coverage of activities regulated by the river outfitter laws. Specifically excludes any person from regulation who is conducting a trip exclusively for friends or family. Authorizes the board of parks and outdoor recreation to adopt certain regulations.

Grants the director of the division of parks and outdoor recreation the power to grant variances to river outfitters from regulations adopted by the board under certain conditions.

Prohibits persons from operating or controlling a vessel during a regulated trip if such person is under the influence of drugs, alcohol, or a combination of drugs and alcohol.

Empowers the division of parks and outdoor recreation to issue a cease and desist order to any party who is violating the law. Provides remedies to persons who are the object of a cease and desist order. Allows the board to place a licensee on probation or to issue a letter of admonition to a licensee or applicant under certain specified circumstances. Allows a person who has been the subject of a disciplinary action to appeal to the court of appeals.

Repeals all regulations adopted by the board of parks and outdoor recreation related to the regulation of river outfitters so that such regulations may be reviewed and repromulgated as necessary.

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

2 **SECTION 1.** 33-32-101, Colorado Revised Statutes, 1984 Repl. Vol., as amended,
3 is amended to read:

4 **33-32-101. Legislative declaration.** The general assembly declares that it is the
5 policy of this state to promote and encourage residents and nonresidents alike to participate in
6 the enjoyment and use of the rivers of this state and, to that end, in the exercise of the police
7 powers of this state for the purpose of safeguarding the health, safety, welfare, and freedom
8 from injury or danger of such residents and nonresidents, to license and regulate those persons
9 who for compensation provide RIVER-RUNNING SERVICES IN THE NATURE OF equipment or

1 personal services to such residents and nonresidents for the purpose of floating on rivers in this
2 state UNLESS THE PROVIDER OF SUCH RIVER-RUNNING SERVICES IS PROVIDING SUCH
3 RIVER-RUNNING SERVICES EXCLUSIVELY FOR FAMILY OR FRIENDS. It is not the intent of the
4 general assembly to interfere in any way with private land owner rights along rivers or to
5 prevent the owners of whitewater equipment from using said equipment to accommodate friends
6 when no consideration is involved; nor is it the intent of the general assembly to interfere in any
7 way with the general public's ability to enjoy the recreational value of state rivers when the
8 services of ~~commercial~~ river outfitters are not utilized or to interfere with the right of the United
9 States to manage public lands and waters under its control. The general assembly recognizes
10 that ~~commercial~~ river outfitters, as an established business on rivers flowing within and without
11 this state, make a significant contribution to the economy of this state and that the number of
12 residents and nonresidents who are participating in river-running is steadily increasing.

13 **SECTION 2.** 33-32-102 (1), (5), and (6), Colorado Revised Statutes, 1984 Repl.
14 Vol., as amended, are amended, and the said 33-32-102 is further amended BY THE
15 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

16 **33-32-102. Definitions.** As used in this article, unless the context otherwise
17 requires:

18 (1) ~~"Board" means the board of parks and outdoor recreation.~~ "ADVERTISE" OR
19 "ADVERTISEMENT" MEANS ANY MESSAGE IN ANY NEWSPAPER, MAGAZINE, LEAFLET, FLYER, OR
20 CATALOG, ON RADIO, TELEVISION, OR A PUBLIC ADDRESS SYSTEM, IN DIRECT MAIL LITERATURE
21 OR OTHER PRINTED MATERIAL, ON ANY INTERIOR OR EXTERIOR SIGN OR DISPLAY, IN ANY
22 WINDOW DISPLAY, OR IN ANY POINT-OF-TRANSACTION LITERATURE WHICH IS DELIVERED OR
23 MADE AVAILABLE TO ANY PERSON INCLUDING A CUSTOMER OR PROSPECTIVE CUSTOMER IN ANY
24 MANNER WHATSOEVER AND INCLUDES ANNOUNCEMENTS OR STATEMENTS MADE IN A CHURCH,
25 SCHOOL, OR OTHER NONCOMMERCIAL SETTING.

26 (1.4) "BOARD" MEANS THE BOARD OF PARKS AND OUTDOOR RECREATION.

1 (5) "Person" means any individual, sole proprietorship, partnership, corporation,
2 NONPROFIT CORPORATION OR ORGANIZATION AS DEFINED IN SECTION 13-21-115.5 (3), C.R.S.,
3 LIMITED LIABILITY COMPANY, firm, association, or other legal entity either LOCATED within or
4 ~~without~~ OUTSIDE OF this state.

5 (5.5) (a) "REGULATED TRIP" MEANS ANY RIVER TRIP FOR WHICH RIVER-RUNNING
6 SERVICES ARE PROVIDED WHICH HAS BEEN THE SUBJECT OF AN ADVERTISEMENT OR FOR WHICH
7 A FEE HAS BEEN CHARGED REGARDLESS OF WHETHER SUCH FEE IS:

8 (I) CHARGED EXCLUSIVELY FOR THE RIVER TRIP OR AS PART OF A PACKAGED TRIP,
9 RECREATIONAL EXCURSION, OR CAMP; OR

10 (II) CALCULATED TO MONETARILY PROFIT THE RIVER OUTFITTER OR IS CALCULATED
11 MERELY TO OFFSET SOME OR ALL OF THE ACTUAL COSTS OF THE RIVER TRIP.

12 (b) "REGULATED TRIP" DOES NOT INCLUDE A TRIP IN WHICH A PERSON IS PROVIDING
13 RIVER-RUNNING SERVICES EXCLUSIVELY FOR FAMILY OR FRIENDS AS PART OF A SOCIAL
14 GATHERING OF SUCH FAMILY OR FRIENDS.

15 (6) "River outfitter" means any person ~~soliciting~~ ADVERTISING to provide or
16 providing ~~for compensation~~ RIVER-RUNNING SERVICES IN THE NATURE OF facilities, guide
17 services, or transportation for the ~~primary~~ purpose of river-running; except that "river outfitter"
18 does not include any person whose only service is providing motor vehicles, vessels, and other
19 equipment for rent, ~~or~~ any person whose only service is providing instruction in canoeing or
20 kayaking skills, OR ANY PERSON WHO IS PROVIDING RIVER-RUNNING SERVICES EXCLUSIVELY
21 FOR FAMILY OR FRIENDS.

22 SECTION 3. 33-32-103, Colorado Revised Statutes, 1984 Repl. Vol., as amended,
23 is amended to read:

24 **33-32-103. Powers and duties of the board.** The board shall promulgate regulations
25 to govern the licensing of river outfitters, to regulate river outfitters, guides, trip leaders, and
26 guide instructors, to ensure the safety of associated river-running activities, to establish

1 guidelines to enable a river outfitter, guide, or trip leader, to make a determination that the
2 condition of the river constitutes a hazard to the life and safety of certain persons, and to carry
3 out the purposes of this article THE BOARD MAY PROMULGATE REGULATIONS SPECIFICALLY
4 OUTLINING THE PROCEDURES TO BE FOLLOWED BY THE BOARD AND BY THE ENFORCEMENT
5 SECTION OF THE DIVISION IN THE EVENT OF A DEATH OR SERIOUS INJURY DURING A REGULATED
6 TRIP.

7 SECTION 4. Article 32 of title 33, Colorado Revised Statutes, 1984 Repl. Vol.,
8 as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

9 **33-32-103.5. Powers of the director.** THE DIRECTOR OF THE DIVISION MAY GRANT
10 VARIANCES FROM REGULATIONS ADOPTED BY THE BOARD PURSUANT TO SECTION 33-32-103 TO
11 ANY RIVER OUTFITTER ON A CASE-BY-CASE BASIS IF THE DIRECTOR DETERMINES THAT THE
12 HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC WILL NOT BE ENDANGERED BY THE
13 ISSUANCE OF SUCH VARIANCE.

14 SECTION 5. 33-32-107 (3), Colorado Revised Statutes, 1984 Repl. Vol., as
15 amended, is amended, and the said 33-32-107 is further amended BY THE ADDITION OF A
16 NEW SUBSECTION, to read:

17 **33-32-107. River outfitters - prohibited operations - penalties.** (3) ~~A river~~
18 ~~outfitter, for a first offense, shall be punished as provided in section 18-4-503 or 18-4-504,~~
19 ~~C.R.S., for criminal trespass if during a commercial trip a river outfitter or a river outfitter's~~
20 ~~trip leader, guide, or guide instructor has been convicted of or has entered a plea of not~~
21 ~~contenders or guilty to a violation of either of said sections, except in an emergency situation.~~
22 ~~Upon a second offense, the river outfitter's license shall be revoked.~~

23 (4) (a) NO RIVER OUTFITTER OR GUIDE SHALL OPERATE OR MAINTAIN PHYSICAL
24 CONTROL OF OR ALLOW ANY OTHER PERSON TO OPERATE OR MAINTAIN PHYSICAL CONTROL OF
25 A VESSEL ON A REGULATED TRIP IF SUCH RIVER OUTFITTER, GUIDE, OR PERSON IS UNDER THE
26 INFLUENCE OF ALCOHOL OR ANY CONTROLLED SUBSTANCE OR ANY COMBINATION THEREOF, AS

1 SPECIFIED IN SECTION 33-13-108.1.

2 (b) ANY PERSON WHO VIOLATES THIS SUBSECTION (4) COMMITS A CLASS 1
3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

4 SECTION 6. 33-32-108, Colorado Revised Statutes, 1984 Repl. Vol., is amended
5 to read:

6 33-32-108. Enforcement. (1) (a) Every peace officer, as defined in this section,
7 has the authority to enforce the provisions of this article and in the exercise of such authority
8 is authorized to stop and board any vessel.

9 (b) As used in this section, "peace officer" means any parks and recreation officer
10 or division of wildlife officer or any sheriff or city and county law enforcement officer certified
11 by the Colorado law enforcement training academy.

12 (2) (a) Any actual expenses incurred by a governmental entity for search and rescue
13 efforts stemming from any river running activity conducted for consideration by a river outfitter
14 pursuant to the provisions of this article shall be reimbursed by said river outfitter. Such
15 expenses shall include but not be limited to ~~manhours~~ HOURS WORKED, fuel, a reasonable fee
16 for use of equipment, and equipment repair or replacement costs, if any.

17 (b) Pursuant to the provisions of paragraph (a) of this subsection (2), any expenses
18 incurred by governmental entities stemming from search and rescue efforts which are
19 reimbursed by a river outfitter shall be distributed as follows:

20 (I) If to local law enforcement agencies, on a pro rata basis in proportion to the
21 amount of assistance rendered thereby;

22 (II) If to the division of parks and outdoor recreation, credited to the parks and
23 outdoor recreation cash fund, CREATED IN SECTION 33-10-111;

24 (III) If to the division of wildlife, credited to the wildlife cash fund, CREATED IN
25 SECTION 33-1-112.

26 (3) (a) (I) IF AN AUTHORIZED REPRESENTATIVE OF THE DIVISION CONDUCTS AN

1 INSPECTION OR INVESTIGATION AND DETERMINES THAT ANY PROVISION OF THIS ARTICLE OR
2 ANY REGULATION PROMULGATED PURSUANT TO THIS ARTICLE HAS BEEN VIOLATED AND THAT
3 SUCH VIOLATION CREATES OR MAY CREATE AN EMERGENCY CONDITION WHICH MAY HAVE A
4 SIGNIFICANT ADVERSE EFFECT ON THE HEALTH, SAFETY, OR WELFARE OF ANY PERSON, THEN
5 SUCH AUTHORIZED REPRESENTATIVE SHALL IMMEDIATELY ISSUE AN ORDER TO THE VIOLATING
6 PARTY TO CEASE AND DESIST THE VIOLATING ACTIVITY.

7 (II) ANY ORDER ISSUED PURSUANT TO THIS PARAGRAPH (a) SHALL SET FORTH:

8 (A) THE SECTION OF THIS ARTICLE OR THE REGULATION PROMULGATED PURSUANT
9 TO THIS ARTICLE ALLEGEDLY VIOLATED;

10 (B) THE FACTUAL BASIS FOR THE ALLEGATION OF A VIOLATION; AND

11 (C) A MANDATE THAT ALL VIOLATING ACTIVITIES CEASE IMMEDIATELY.

12 (III) (A) THE RECIPIENT OF ANY CEASE AND DESIST ORDER ISSUED PURSUANT TO
13 THIS PARAGRAPH (a) MAY REQUEST A HEARING TO DETERMINE WHETHER A VIOLATION OF THIS
14 ARTICLE OR OF ANY REGULATION PROMULGATED PURSUANT TO THIS ARTICLE HAS ACTUALLY
15 OCCURRED IF SUCH REQUEST IS MADE IN WRITING WITHIN THIRTY DAYS AFTER THE DATE OF
16 THE SERVICE OF THE CEASE AND DESIST ORDER.

17 (B) ANY HEARING CONDUCTED PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE
18 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

19 (b) IF A PERSON FAILS TO COMPLY WITH A CEASE AND DESIST ORDER ISSUED
20 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE DIRECTOR MAY REQUEST THE
21 ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT IN WHICH THE
22 ALLEGED VIOLATION OCCURRED TO BRING AN ACTION FOR A TEMPORARY RESTRAINING ORDER
23 AND FOR INJUNCTIVE RELIEF TO ENFORCE SUCH CEASE AND DESIST ORDER.

24 (c) NO STAY OF A CEASE AND DESIST ORDER MAY BE ISSUED UNTIL A HEARING AT
25 WHICH ALL PARTIES ARE PRESENT HAS BEEN HELD.

26 SECTION 7. 33-32-109, Colorado Revised Statutes, 1984 Repl. Vol., as amended.

1 is amended to read:

2 **33-32-109. Denial, suspension, or revocation of license - disciplinary actions.**

3 (1) The board may deny, suspend, or revoke a river outfitter's OUTFITTER license, PLACE A
4 LICENSED RIVER OUTFITTER ON PROBATION, OR ISSUE A LETTER OF ADMONITION TO A LICENSED
5 RIVER OUTFITTER if the applicant or holder:

6 (a) VIOLATES SECTION 33-32-105 OR 33-32-106 OR USES FRAUD, MISREPRESENTATION,
7 OR DECEIT IN APPLYING FOR OR ATTEMPTING TO APPLY FOR LICENSURE;

8 (b) UNLAWFULLY ACTS AS A RIVER OUTFITTER IF SUCH VIOLATION RESULTS IN A
9 CONVICTION;

10 (c) ADVERTISES AS A RIVER OUTFITTER IN THIS STATE WITHOUT FIRST OBTAINING
11 A RIVER OUTFITTER LICENSE;

12 (d) VIOLATES ANY PROVISION OF LAW REGULATING THE PRACTICE OF RIVER
13 OUTFITTING IN ANOTHER JURISDICTION IF SUCH VIOLATION RESULTED IN DISCIPLINARY ACTION
14 AGAINST THE APPLICANT OR HOLDER. EVIDENCE OF SUCH DISCIPLINARY ACTION SHALL BE
15 PRIMA FACIE EVIDENCE FOR THE POSSIBLE DENIAL OF A LICENSE OR OTHER DISCIPLINARY
16 ACTION IN THIS STATE IF THE VIOLATION RESULTING IN THE DISCIPLINARY ACTION IN SUCH
17 OTHER JURISDICTION WOULD BE GROUNDS FOR DISCIPLINARY ACTION IN THIS STATE.

18 (e) VIOLATES SECTION 18-4-503 OR 18-4-504, C.R.S., RESULTING IN TWO OR MORE
19 SECOND OR THIRD DEGREE CRIMINAL TRESPASS CONVICTIONS WITHIN ANY THREE-TO FIVE-YEAR
20 PERIOD WHILE ACTING AS A RIVER OUTFITTER OR GUIDE; EXCEPT THAT THE BOARD SHALL BE
21 GOVERNED BY SECTION 24-5-101, C.R.S., WHEN CONSIDERING ANY SUCH CONVICTION;

22 (f) VIOLATES SECTION 33-32-105.5(1) BY EMPLOYING ANY PERSON AS A GUIDE WHO
23 FAILS TO MEET THE REQUIREMENTS OF SUCH SECTION; OR

24 (g) VIOLATES ANY ORDER OF THE DIVISION OR BOARD OR any OTHER provision of
25 this article or any regulations established under this article.

26 (2) A plea of nolo contendere or a deferred prosecution shall be considered a

1 violation for the purposes of this section. ~~The board may deny an application for a river
2 outfitter's license or a renewal of a river outfitter's license if the applicant does not meet the
3 requirements specified in section 33-32-105 or 33-32-106.~~

4 (3) (a) Any proceeding to deny, suspend, or revoke a license granted under this
5 article OR TO PLACE A LICENSEE ON PROBATION shall be pursuant to sections 24-4-104 and
6 24-4-105, C.R.S. Such proceeding may be conducted by an administrative law judge designated
7 pursuant to part 10 of article 30 of title 24, C.R.S.

8 (b) ANY PROCEEDING CONDUCTED PURSUANT TO THIS SUBSECTION (3) SHALL BE
9 DEEMED FINAL FOR PURPOSES OF JUDICIAL REVIEW. ANY APPEAL OF ANY SUCH PROCEEDING
10 SHALL BE MADE TO THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

11 (4) THE BOARD MAY DENY AN APPLICATION FOR A RIVER OUTFITTER LICENSE OR
12 A RENEWAL OF A RIVER OUTFITTER'S LICENSE IF THE APPLICANT DOES NOT MEET THE
13 REQUIREMENTS SPECIFIED IN SECTION 33-32-105 OR 33-32-106.

14 **SECTION 8.** 33-32-112, Colorado Revised Statutes, 1984 Repl. Vol., as amended,
15 is amended to read:

16 **33-32-112. Repeal of article.** This article is repealed, effective ~~October 1, 1994~~
17 ~~OCTOBER 1, 2004.~~ The licensing function of the division shall also terminate on ~~October 1,~~
18 ~~1994 OCTOBER 1, 2004.~~ Prior to such termination, the licensing function shall be reviewed as
19 provided for in section 24-34-104, C.R.S.

20 **SECTION 9.** 24-34-104 (23.2), Colorado Revised Statutes, 1988 Repl. Vol., is
21 repealed as follows:

22 **24-34-104. General assembly review of regulatory agencies and functions for**
23 **termination, continuation, or reestablishment.** (23.2) ~~The following boards and the functions~~
24 ~~of the specified agencies shall terminate on October 1, 1994. The function of licensing of river~~
25 ~~outfitters through the board of parks and outdoor recreation and the division of parks and~~
26 ~~outdoor recreation in accordance with article 32 of title 33, C.R.S.~~

1 **SECTION 10.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,

2 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

3 **24-34-104. General assembly review of regulatory agencies and functions for**
4 **termination, continuation, or reestablishment.** (34) THE FOLLOWING FUNCTION OF THE
5 SPECIFIED AGENCIES SHALL TERMINATE ON OCTOBER 1, 2004: THE FUNCTION OF LICENSING
6 OF RIVER OUTFITTERS THROUGH THE BOARD OF PARKS AND OUTDOOR RECREATION AND THE
7 DIVISION OF PARKS AND OUTDOOR RECREATION IN ACCORDANCE WITH ARTICLE 32 OF TITLE 33,
8 C.R.S.

9 **SECTION 11. Repeal of rules.** To further the general assembly's intent to rescind
10 or delete rules unnecessary for the administrative functions of an agency as expressed in section
11 24-34-914, Colorado Revised Statutes, and to require the board of parks and outdoor recreation
12 in the department of natural resources to repromulgate necessary rules, all rules of the board
13 of parks and outdoor recreation concerning river outfitters found in chapter 3 of 2 CCR 405-1,
14 are hereby expressly repealed, effective January 1, 1995.

15 **SECTION 12. Effective date.** This act shall take effect July 1, 1994.

16 **SECTION 13. Safety clause.** The general assembly hereby finds, determines, and
17 declares that this act is necessary for the immediate preservation of the public peace, health, and
18 safety.

BILL 2

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF COMMERCIAL DRIVING SCHOOLS BY THE DEPARTMENT OF
102 REVENUE.

Bill Summary

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

Continues until a certain date the functions of the department of revenue related to the regulation of commercial driving schools.

Removes the requirement that commercial driving instructors take and pass an examination administered by the department of revenue before they can be licensed. Removes the limits for liability insurance coverage set forth in the laws regulating commercial driving schools and directs the department to set such limits by rules and regulations based upon a recommendation by the insurance commissioner. Requires all commercial driving instructors to be named individually on a liability insurance policy for a commercial driving school. Specifies that the department shall be notified directly by an insurance company if it cancels liability coverage for a license.

Removes the requirement that the department of revenue consult with the department of education when determining what curriculum must be offered by a commercial driving school. Changes the renewal period for licenses from December 31 of the year issued for all instructors and schools to twelve months after the date issued.

Removes certain licensing requirements for driving instructors. Removes the requirement that a license issued to an instructor specify on such license the school for which the instructor is licensed to teach. Removes the requirement that an instructor carry a license and instead requires such instructor to carry an identification card issued by the department. Removes the specifications of equipment with which a vehicle used for instruction must be equipped and allows the department of revenue to set out such specifications in rules and regulations.

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

2 SECTION 1. 12-15-101, Colorado Revised Statutes, 1991 Repl. Vol., is amended
3 to read:

4 12-15-101. Definitions. As used in this article, unless the context otherwise
5 requires:

6 (1) "Clock hour" means a full hour consisting of sixty minutes.

1 (2) "Commercial driving instructor" means an individual who ~~has been~~ IS employed
2 by a commercial driving school FOR DRIVER TRAINING.

3 (3) "Commercial driving school" means ~~any business or any person who, for~~
4 ~~compensation, provides or offers to provide instruction in the operation of a motor vehicle; with~~
5 ~~the exceptions of secondary schools and institutions of higher education offering programs~~
6 ~~approved by the department of education and private occupational schools offering programs~~
7 ~~approved by the private occupational school division. Such term shall not include any~~
8 ~~motorcycle operator safety training program established pursuant to section 42-4-1702, C.R.S.~~
9 DRIVER TRAINING; EXCEPT THAT SUCH TERM DOES NOT INCLUDE ANY PERSON EMPLOYED BY
10 A SCHOOL DISTRICT ORGANIZED PURSUANT TO ARTICLE 30 OF TITLE 22, C.R.S., WHILE SUCH
11 PERSON IS USING A MOTOR VEHICLE OWNED OR LEASED BY SUCH SCHOOL DISTRICT OR ANY
12 PRIVATE OCCUPATIONAL SCHOOL APPROVED BY THE PRIVATE OCCUPATIONAL SCHOOL DIVISION
13 PURSUANT TO PART 7 OF ARTICLE 60 OF TITLE 23, C.R.S., OR ANY PERSON EMPLOYED BY ANY
14 SUCH SCHOOL WHILE SUCH PERSON IS USING A MOTOR VEHICLE OWNED OR LEASED BY SUCH
15 SCHOOL.

16 (4) "Department" means the department of revenue.

17 (4.5) "DRIVER TRAINING" MEANS TEACHING AN INDIVIDUAL HOW TO OPERATE A
18 MOTOR VEHICLE IN A SAFE AND LAWFUL MANNER AND INCLUDES THE TERMS "DRIVER
19 EDUCATION", "DRIVER IMPROVEMENT", AND "VEHICLE SAFETY".

20 (5) ~~"Laboratory instruction" means an extension of classroom instruction which~~
21 ~~provides students with opportunities for traffic experiences under real and simulated conditions.~~

22 (5.5) "LIABILITY INSURANCE" MEANS LEGAL LIABILITY COVERAGE FOR BODILY
23 INJURY OR DEATH AND FOR PROPERTY DAMAGE ARISING OUT OF THE USE OF A MOTOR VEHICLE
24 TO A LIMIT SET PURSUANT TO SECTION 12-15-103.

25 (6) "Person" means an individual, partnership, corporation, firm, or association.

26 SECTION 2. 12-15-102. Colorado Revised Statutes, 1991 Repl. Vol., as amended,

1 is amended to read:

2 **12-15-102. License required.** ~~On and after January 1, 1970,~~ It is unlawful for any
3 person to operate a commercial driving school without having obtained a license therefor from
4 the department. A separate license is required for each branch office of a commercial driving
5 school.

6 **SECTION 3.** 12-15-103, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
7 is amended to read:

8 **12-15-103. Application - fee.** (1) Application for a commercial driving school
9 license shall be made on forms furnished by the department, and shall include the following:

10 (a) The name and address of the applicant COMMERCIAL DRIVING SCHOOL, and the
11 address of each branch office of ~~the~~ SUCH applicant, if any;

12 (b) Evidence that each motor vehicle used by the commercial driving school is
13 covered by liability insurance meeting the following requirements:

14 (I) The policy shall be issued by an insurance company authorized to do business
15 in this state;

16 (II) The limits on the policy shall be ~~if the accident has resulted in bodily injury or~~
17 ~~death, not less than one hundred thousand dollars because of bodily injury to or death of one~~
18 ~~person in any one accident, subject to said limit for one person, to a limit of not less than three~~
19 ~~hundred thousand dollars because of bodily injury to or death of two or more persons in any~~
20 ~~one accident, and if the accident has resulted in injury to or destruction of property, to a limit~~
21 ~~of not less than ten thousand dollars because of injury to or destruction of property of others~~

22 ~~in any one accident~~ IN COMPLIANCE WITH ANY RULES AND REGULATIONS SETTING LIABILITY
23 LIMIT REQUIREMENTS PROMULGATED BY THE DEPARTMENT BASED UPON RECOMMENDATIONS
24 BY THE COMMISSIONER OF INSURANCE; and

25 (III) The insureds under said policy shall be the commercial driving school, ALL
26 COMMERCIAL DRIVING INSTRUCTORS OF SUCH SCHOOL WHO SHALL BE NAMED INDIVIDUALLY

1 ON SAID POLICY, and any ~~instructor or student or both,~~ OF SUCH SCHOOL who ~~use~~ USES an
2 automobile for ~~purposes of~~ driver training;

3 (c) Such other information as the department deems necessary in order to allow the
4 department to pass upon the qualifications of the applicant.

5 (2) The application shall be ~~subscribed under oath and shall be~~ accompanied by an
6 application fee of one hundred dollars. ~~The first fifty dollars of said application fee shall cover~~
7 ~~the costs of investigation of said application and, as such, is not refundable.~~

8 (3) A separate ~~license application and~~ license application fee shall be required for
9 each branch office of a commercial driving school.

10 **SECTION 4.** 12-15-104, Colorado Revised Statutes, 1991 Repl. Vol., is amended
11 to read:

12 **12-15-104. Qualifications for commercial driving schools.** (1) The department
13 ~~of revenue in cooperation with the department of education,~~ shall adopt guidelines for
14 commercial driving school qualification and course content and curricula. ~~The department of~~
15 ~~education shall provide advisory services to help commercial driving schools to meet the~~
16 ~~minimum requirements established by the department of revenue pursuant to rules and~~
17 ~~regulations adopted pursuant to section 12-15-116; except that~~ The department shall not issue
18 a commercial driving school license to an applicant therefor unless:

19 (a) The applicant has an established place of business in this state;

20 (b) The applicant has in its employ at least one COMMERCIAL DRIVING instructor
21 licensed by the department under the provisions of this article;

22 (c) The applicant, ~~in the case of an individual, is a resident of this state, and,~~ in the
23 case of a corporation or other association, is incorporated or otherwise authorized to do business
24 in this state.

25 **SECTION 5.** 12-15-106, Colorado Revised Statutes, 1991 Repl. Vol., is amended
26 to read:

1 12-15-106. Commercial driving school license - expiration - renewal - fee.

2 (1) Every license issued under the provisions of section 12-15-105 shall expire on ~~December~~
3 ~~31 of the year for which~~ ON THE FIRST DAY OF THE MONTH TWELVE MONTHS AFTER THE
4 MONTH IN WHICH IT IS ISSUED.

5 (2) A license may be renewed by making application therefor to the department
6 during the month of ~~December~~ PRIOR TO THE EXPIRATION DATE FOR SUCH LICENSE. The
7 application shall be on forms furnished by the department and shall contain such information
8 as the department may require. The application FOR RENEWAL shall be accompanied by a fee
9 of fifty dollars.

10 SECTION 6. 12-15-107, Colorado Revised Statutes, 1991 Repl. Vol., is amended

11 to read:

12 12-15-107. Commercial driving instructor license required. ~~On and after January~~

13 ~~1, 1970, it shall be~~ IT IS unlawful for any person to be employed or act as a commercial driving
14 instructor without having obtained a license therefor from the department.

15 SECTION 7. 12-15-108, Colorado Revised Statutes, 1991 Repl. Vol., is amended

16 to read:

17 12-15-108. Qualifications of commercial driving instructors. (1) An applicant for

18 a commercial driving instructor license shall possess the following qualifications:

- 19 (a) ~~He~~ THE APPLICANT shall be at least twenty-one years of age; AND
- 20 (b) ~~He shall be of good moral character;~~
- 21 (c) ~~He~~ THE APPLICANT shall hold a valid Colorado driver's license.
- 22 (d) ~~He has, as evidenced by his driving record, manifested good driving habits and~~
- 23 ~~a respect for traffic laws;~~
- 24 (e) ~~He has successfully completed driving instructor courses, approved by the~~

25 department as follows:

- 26 (f) ~~A minimum of eighty clock hours of formal classroom and laboratory preparation~~

1 for eligibility to teach both laboratory and classroom phases;

2 (H) ~~A minimum of forty clock hours of formal classroom and laboratory preparation~~
3 ~~for eligibility to teach the laboratory phase only.~~

4 (2) Repealed, L. 75, p. 208, § 14, effective July 16, 1975.

5 (3) ~~An applicant who is qualified to teach driver education in the public school~~
6 ~~system shall be deemed to have met the qualifications of paragraph (e) of subsection (1) of this~~
7 ~~section and section 12-15-110 (1) (e) and (1) (d).~~

8 (4) ~~In determining the character of an applicant, the department shall be governed~~
9 ~~by the provisions of section 24-5-101, C.R.S.~~

10 SECTION 8. 12-15-109, Colorado Revised Statutes, 1991 Repl. Vol., is amended

11 to read:

12 12-15-109. Application for license - fee. Application for a commercial driving

13 instructor license shall be made on forms furnished by the department and shall set forth such
14 information as may be required by the department in order to allow the department to pass upon
15 the qualifications of the applicant. The application shall be ~~subscribed under oath and shall be~~
16 accompanied by an application fee of twenty-five dollars.

17 SECTION 9. 12-15-110, Colorado Revised Statutes, 1991 Repl. Vol., is repealed

18 as follows:

19 12-15-110. Examinations required. (1) ~~An applicant for a commercial driving~~

20 ~~instructor license shall be required to take and successfully pass an examination administered~~
21 ~~by the department. Such examination shall include, but not be limited to, the following:~~

- 22 (a) ~~An examination of the applicant's vision;~~
- 23 (b) ~~An actual demonstration of the applicant's ability to operate a motor vehicle~~
- 24 ~~safely;~~
- 25 (c) ~~The ability of the applicant to give driver training to others;~~
- 26 (d) ~~A written examination which shall cover such matters as the department may~~

1 (2) Licenses may be renewed by making application therefor to the department.
 2 Application shall be on forms furnished by the department and shall contain such information
 3 as the department may require. ~~Before a license is issued the applicant shall pass the~~
 4 ~~examination required under section 12-15-110.~~ Application for renewal shall be accompanied
 5 by a fee of ten dollars.
 6 SECTION 13, 12-15-114, Colorado Revised Statutes, 1991 Repl. Vol., is repealed
 7 as follows:
 8 12-15-114. Equipment of vehicles. (1) Every motor vehicle used by a commercial
 9 driving school in the conduct of its course of driver training shall be equipped as follows:
 10 (a) The vehicle shall be equipped as provided in article 4 of title 42, C.R.S.
 11 (b) The vehicle shall be equipped with dual controls on the foot brake and on the
 12 clutch, if any, which will enable the commercial driving instructor to bring the car under control
 13 in case of emergency.
 14 (c) The vehicle shall have an outside rear vision mirror on the commercial driving
 15 instructor's side of the vehicle.
 16 (d) The vehicle shall be equipped with four-way emergency flashers.
 17 (e) The vehicle shall be equipped with an ignition toggle switch on the commercial
 18 driving instructor's side of the vehicle so as to allow the instructor to shut off the vehicle's
 19 power in the case of an emergency.
 20 (f) The vehicle shall be equipped with seat belts for the operator of the vehicle and
 21 for the commercial driving instructor.
 22 SECTION 14, 12-15-116, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 23 to read:
 24 12-15-116. Rules and regulations. (1) The department is authorized to promulgate
 25 such rules and regulations necessary to carry out the provisions of this article.
 26 (2) Specifically, the department shall have power to adopt rules and regulations upon

1 prescribed by rule and regulation.
 2 SECTION 10, 12-15-111, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 3 to read:
 4 12-15-111. Issuance of commercial driving instructor licenses and identification
 5 cards. The department shall issue to every applicant qualifying therefor a commercial driving
 6 instructor license ~~which license~~ AND A COMMERCIAL DRIVING INSTRUCTOR IDENTIFICATION
 7 CARD. SUCH IDENTIFICATION CARD shall bear thereon the photograph, ~~of the licensee,~~ the full
 8 name, date of birth, residence address, and a brief description of the license, and the name of
 9 the commercial driving school by which the licensee is employed. A commercial driving
 10 instructor license is valid only when the instructor is employed by a licensed commercial driving
 11 school.
 12 SECTION 11, 12-15-112, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 13 to read:
 14 12-15-112. Possession and display requirements - commercial driving instructor
 15 identification cards. Every commercial driving instructor licensed under this article shall carry
 16 the license IDENTIFICATION CARD issued to him upon his person SUCH INSTRUCTOR at all times
 17 when he is engaged in WHILE conducting driver training in a motor vehicle. Upon request the
 18 licensee shall display the license IDENTIFICATION CARD to any student taking instruction from
 19 him SUCH LICENSEE and to any other person authorized to demand the exhibition of licensees
 20 PROOF OF LICENSES under section 42-2-113, C.R.S.
 21 SECTION 12, 12-15-113, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 22 to read:
 23 12-15-113. Expiration of commercial driving instructor license - renewal - fee.
 24 (1) Every license issued under section 12-15-111 shall expire on ~~December 31 of the year for~~
 25 ~~which~~ ON THE FIRST DAY OF THE MONTH TWELVE MONTHS AFTER THE MONTH IN WHICH IT IS
 26 issued.

1 the following matters:

- 2 (a) Prescribe the content of courses of instruction;
- 3 (b) Prescribe the type of equipment to be used in said courses of instruction;
- 4 (c) Prescribe records to be kept by a commercial driving school;
- 5 (d) ~~Prescribe the form of contracts and agreements used by commercial driving~~
- 6 ~~schools;~~

7 (e) PRESCRIBE THE SPECIFIC EQUIPMENT AND MARKINGS THAT A MOTOR VEHICLE
 8 USED IN A COMMERCIAL DRIVING SCHOOL DRIVER TRAINING COURSE SHALL HAVE IN ADDITION
 9 TO ANY EQUIPMENT REQUIRED FOR PRIVATE PASSENGER VEHICLES PURSUANT TO FEDERAL OR
 10 STATE LAW.

11 (3) In adopting such rules and regulations the department shall use the guidelines
 12 concerning commercial driving schools promulgated by the United States department of
 13 transportation.

14 (4) Rules and regulations adopted pursuant to this section shall be adopted in
 15 accordance with section 24-4-103, C.R.S.

16 **SECTION 15.** 12-15-119, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 17 to read:

18 **12-15-119. Department to be informed of cancellation of insurance.** If any policy
 19 of liability insurance issued pursuant to the requirements of section 12-15-103 (1) (b) is
 20 cancelled by the insurance company issuing said policy, the licensee AND THE DEPARTMENT
 21 shall BE immediately notify the department NOTIFIED BY THE INSURANCE COMPANY in writing
 22 of such cancellation. Upon receipt by the licensee of such cancellation, he SUCH LICENSEE shall
 23 cease to use any motor vehicle covered by the policy that has been cancelled in the conduct of
 24 the SUCH licensee's commercial driving school.

25 **SECTION 16.** 12-15-121, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 26 to read:

1 **12-15-121. Repeal - review of functions.** Sections 12-15-102 to ~~12-15-113,~~
 2 ~~12-15-115 and 12-15-117 to 12-15-119~~ are repealed, effective ~~July 1, 1994~~ JULY 1, 2004. Prior
 3 to such repeal, the licensing functions of the department shall be reviewed as provided for in
 4 section 24-34-104, C.R.S.

5 **SECTION 17.** 24-34-104 (23.1) (a), Colorado Revised Statutes, 1988 Repl. Vol.,
 6 is repealed as follows:

7 **24-34-104. General assembly review of regulatory agencies and functions for**
 8 **termination, continuation, or reestablishment.** (23.1) The following boards and the functions
 9 of the specified agencies shall terminate on July 1, 1994:

10 (a) ~~The licensing of commercial driving schools through the department of revenue~~
 11 ~~in accordance with article 15 of title 12, C.R.S.;~~

12 **SECTION 18.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,
 13 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

14 **24-34-104. General assembly review of regulatory agencies and functions for**
 15 **termination, continuation, or reestablishment.** (34) THE FOLLOWING FUNCTION OF THE
 16 SPECIFIED AGENCY SHALL TERMINATE ON JULY 1, 2004: THE LICENSING OF COMMERCIAL
 17 DRIVING SCHOOLS THROUGH THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH ARTICLE 15
 18 OF TITLE 12, C.R.S.

19 **SECTION 19. Effective date.** This act shall take effect July 1, 1994.

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

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BILL 2

A BILL FOR AN ACT

101 CONCERNING THE REGULATORY AUTHORITY OF THE DIVISION OF FINANCIAL SERVICES.

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 functions of the division of financial services until a certain date. Requires the state commissioner of financial services to conduct investigations to determine if incorporators and organizers of credit unions are qualified, including an investigation into their background to determine if they have been convicted of criminal activity. Authorizes the commissioner to determine if investigations by other agencies may be treated as substantially equivalent to those conducted by the commissioner for purposes of this act. Grants the commissioner the authority to establish reporting dates for certain reports required of credit unions and savings and loan associations.

States that persons directly affected by a final order of the commissioner or the financial services board may obtain judicial review by filing an action with the Colorado court of appeals instead of a district court.

Authorizes the commissioner to suspend or remove any director, officer, or employee of a credit union or savings and loan association if the commissioner believes such person received financial gain by violating the law or breaching a fiduciary duty, if such violation or breach demonstrated willful disregard for the institution or involved personal dishonesty. Provides that a suspension or removal order may be issued if the commissioner finds that the person has entered a plea of guilty or nolo contendere, has been convicted of a felony, or was disciplined or fined for an act that is a violation of state law. Requires that suspension and removal orders include a description of the grounds therefor, and that copies of such orders be sent to the institution and its board of directors.

Clarifies that the maximum amount of civil penalties that may be assessed against a credit union shall be based on the number of days that a cease and desist order or an order of suspension or removal has been violated.

Clarifies provisions concerning when credit unions which issue interest refunds on loans shall pay such refunds.

Deletes the requirement that savings and loan associations obtain prior approval of the commissioner of financial services prior to agreeing to service loans not held or originated by the association.

Eliminates the requirement that the state commissioner of financial services and the financial services board have a seal of office. Removes the requirements that savings and loan associations must have their principal office in Colorado to be treated as an "eligible public depository", and that such depositories must file their report with the commissioner within twenty days after each valuation date.

1 SECTION 1. 11-30-101 (3), Colorado Revised Statutes, 1987 Repl. Vol., as
2 amended, is amended to read:

3 11-30-101. Definitions - organization - charter - investigation. (3) (a) An
4 application in such form as may be prescribed by the commissioner together with the articles
5 of incorporation and the bylaws shall be filed with the commissioner in triplicate upon the
6 payment of a filing fee, as determined from time to time by the commissioner, to cover the
7 reasonable and necessary expense to the division attributable to such application. Within thirty
8 days after such filing and payment of such fee, the commissioner shall determine whether the
9 same conform to the provisions of this article and whether such a credit union would benefit the
10 members and proposed members thereof, consistent with the purposes of this article, the general
11 character and fitness of the incorporators, and the economic advisability of establishing the
12 proposed credit union. Except for a community charter application, which application shall be
13 submitted to the board for hearing pursuant to section 11-30-101.7, the commissioner may
14 approve or deny an application without notice and hearing.

15 (b) THE COMMISSIONER SHALL MAKE OR CAUSE TO BE MADE AN INVESTIGATION TO
16 DETERMINE WHETHER THE INCORPORATORS AND ORGANIZERS ARE QUALIFIED AND WHETHER
17 THEIR QUALIFICATIONS AND FINANCIAL EXPERIENCE ARE CONSISTENT WITH THEIR
18 RESPONSIBILITIES AND DUTIES. AN INVESTIGATION SHALL ALSO BE CONDUCTED TO DETERMINE
19 IF AN INCORPORATOR OR ORGANIZER HAS BEEN CONVICTED OF ANY CRIMINAL ACTIVITY. THE
20 COMMISSIONER MAY ESTABLISH BY RULE THE CONTENT OF SUCH INVESTIGATIONS AND WHAT,
21 IF ANY, INVESTIGATIONS BY OTHER AGENCIES OR AUTHORITIES MAY BE TREATED AS
22 SUBSTANTIALLY EQUIVALENT TO AND ACCEPTED IN LIEU OF AN INVESTIGATION BY THE
23 COMMISSIONER.

24 SECTION 2. 11-30-106 (1) (b), (2), (4), and (8), Colorado Revised Statutes, 1987
25 Repl. Vol., as amended, are amended to read:

26 11-30-106. Examinations - reports - powers of commissioner. (1) (b) ~~For the~~

1 ~~fiscal year beginning July 1, 1992, and for each fiscal year thereafter,~~ The commissioner shall
2 establish the division's annual assessment to be collected at least semiannually in such amounts
3 as are sufficient to generate the moneys appropriated by the general assembly to the division for
4 each ~~such~~ fiscal year.

5 (2) ~~On or before February 1 of each year,~~ ANNUALLY, every credit union shall file
6 a FINANCIAL report with the commissioner on A DATE ESTABLISHED BY THE COMMISSIONER,
7 USING forms prescribed and supplied by ~~him~~ for ~~the~~ SUCH purpose. Said commissioner may
8 require that additional reports be filed. For failure to file a report when due, unless excused
9 for cause, a credit union shall pay to said commissioner a penalty, as prescribed by regulation,
10 for each day of delinquency in filing.

11 (4) EXCEPT IN CASES WHERE THERE IS A STATUTORY RIGHT TO APPEAL TO THE
12 BOARD, any person aggrieved and directly affected by ~~any~~ A FINAL order of the commissioner
13 may obtain judicial review thereof by filing an action for review ~~in the district court for the~~
14 ~~judicial district in which any credit union affected thereby is located~~ WITH THE COLORADO
15 COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S., within thirty days after the
16 date of issuance of such order.

17 (8) (a) (I) The commissioner may suspend or remove a ANY director, officer, or
18 employee of a credit union who in the opinion of the commissioner ~~violates~~ HAS:

19 (A) VIOLATED the provisions of this article or a lawful regulation or order issued
20 thereunder; ~~who has~~

21 (B) Engaged or participated in any unsafe or unsound practice in the conduct of
22 credit union business; ~~or who has~~

23 (C) Committed or engaged in any act, omission, or practice which constitutes a
24 breach of fiduciary duty to the credit union, and the credit union has suffered or will PROBABLY
25 suffer ~~substantial~~ financial loss or other damage, or the interests of members or account holders
26 may be seriously prejudiced thereby; ~~A suspension or removal order shall specify the grounds~~

1 ~~for the suspension or removal. A copy of the order shall be sent to the credit union concerned~~
2 ~~and to each member of its board of directors.~~ OR

3 (D) RECEIVED FINANCIAL GAIN BY REASON OF A VIOLATION, PRACTICE, OR BREACH
4 OF FIDUCIARY DUTY THAT INVOLVED PERSONAL DISHONESTY OR DEMONSTRATED A WILLFUL
5 OR CONTINUING DISREGARD FOR THE SAFETY OR SOUNDNESS OF THE CREDIT UNION.

6 (II) THE COMMISSIONER MAY SUSPEND OR REMOVE ANY DIRECTOR, OFFICER, OR
7 EMPLOYEE OF A CREDIT UNION WHO, UNDER THE LAWS OF THIS STATE, THE UNITED STATES,
8 OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES:

9 (A) HAS ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO OR BEEN
10 CONVICTED OF A CRIME INVOLVING THEFT OR FRAUD THAT IS CLASSIFIED AS A FELONY; OR

11 (B) IS SUBJECT TO AN ORDER REMOVING OR SUSPENDING SUCH INDIVIDUAL FROM
12 OFFICE, OR PROHIBITING SUCH INDIVIDUAL'S PARTICIPATION IN THE CONDUCT OF THE AFFAIRS
13 OF ANY CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, BANK, OR OTHER FINANCIAL
14 INSTITUTION.

15 (b) (I) A SUSPENSION OR REMOVAL ORDER SHALL SPECIFY THE GROUNDS FOR THE
16 SUSPENSION OR REMOVAL. A COPY OF THE ORDER SHALL BE SENT TO THE CREDIT UNION
17 CONCERNED AND TO EACH MEMBER OF ITS BOARD OF DIRECTORS. The commissioner shall send
18 written notice by certified mail, return receipt requested, to any person affected by paragraph
19 (a) of this subsection (8), at least ten days prior to a hearing held pursuant to section 24-4-105,
20 C.R.S., at which the commissioner shall preside.

21 (II) If the commissioner determines that ~~a specific case involves~~ extraordinary
22 circumstances ~~which~~ require immediate action, ~~he may suspend or remove~~ a person MAY BE
23 SUSPENDED OR REMOVED under paragraph (a) of this subsection (8) without notice or a hearing,
24 but ~~he~~ THE COMMISSIONER shall conduct a hearing under section 24-4-105, C.R.S., within thirty
25 days after such suspension or removal.

26 (III) In extraordinary circumstances, upon order of the commissioner, any hearing

1 conducted pursuant to this section shall be exempt from any provision of law requiring that
2 proceedings of the commissioner be conducted publicly. Such extraordinary circumstances occur
3 when specific concern arises about prompt withdrawal of moneys from the institution.

4 (IV) Any person who performs any duty or ~~who~~ exercises any power of a credit
5 union after receipt of a suspension or removal order under paragraph (a) of this subsection (8)
6 commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

7 **SECTION 3.** 11-30-106.5 (3), Colorado Revised Statutes, 1987 Repl. Vol., as
8 amended, is amended to read:

9 **11-30-106.5. Assessment of civil money penalties.** (3) In determining the amount
10 of the civil money penalty to be assessed, the commissioner shall consider the good faith of the
11 person assessed, the gravity of the violation, any previous violations by the person assessed, the
12 financial resources of the person assessed, and such other matters as the commissioner may
13 deem appropriate; except that the civil money penalty shall be not more than one thousand
14 dollars per day for each day the person assessed ~~remains~~ IS DETERMINED BY THE COMMISSIONER
15 TO BE in violation OF A CEASE AND DESIST ORDER OR AN ORDER OF SUSPENSION OR REMOVAL.

16 **SECTION 4.** The introductory portion to 11-30-109 (1) and 11-30-109 (1) (b),
17 Colorado Revised Statutes, 1987 Repl. Vol., are amended to read:

18 **11-30-109. Directors and officers - compensation.** (1) At its first meeting after
19 the annual election, the board of directors shall elect from its own number an executive officer,
20 who may be designated as ~~chairman~~ CHAIR of the board or president; a ~~vice-chairman~~
21 VICE-CHAIR of the board or one or more vice-presidents; a treasurer; and a secretary. The
22 offices of secretary and treasurer may be combined into one office known as secretary-treasurer.
23 The persons so elected shall be the executive officers of the corporation. ~~It is the duty of The~~
24 board of directors ~~to have~~ SHALL BE RESPONSIBLE FOR the general management of the affairs
25 of the credit union, particularly AND MORE SPECIFICALLY to:

26 (b) Set policies, terms, and conditions under which loans will be available to

1 members, ~~to~~ determine interest rates on loans and on deposits, ~~and to~~ determine whether an
2 interest refund shall be made to members, and ~~to~~ declare the rates of any such interest refund
3 and the classes of loans to which such refund shall apply. Any such refund shall be paid from
4 interest income of the credit union ~~prior to any transfer to reserves~~ and shall be paid only to
5 members who paid interest to the credit union during the period and who were members of
6 record of the credit union at the close of such period, but no refund shall be paid to a member
7 whose loan is delinquent more than the period of time specified by the board of directors.

8 **SECTION 5.** 11-30-117.5 (1) and (3), Colorado Revised Statutes, 1987 Repl. Vol.,
9 are amended to read:

10 **11-30-117.5. Share insurance required.** (1) ~~No later than July 1, 1982,~~ Each
11 credit union shall apply for insurance on its shares and deposits as provided by the national
12 credit union administration board under section 201 of the "Federal Credit Union Act", 12
13 U.S.C. sec. 1781, or comparable insurance approved by the commissioner. Credit unions with
14 debt and equity capital consisting primarily of funds from other credit unions shall not be
15 subject to the requirements of this section.

16 (3) ~~On or after July 1, 1981,~~ No credit union shall be granted a charter by the
17 commissioner unless such credit union has applied for insurance on its shares and deposits as
18 provided in this section.

19 **SECTION 6.** 11-41-115 (3), Colorado Revised Statutes, 1987 Repl. Vol., is
20 amended to read:

21 **11-41-115. Interest rates on loans.** (3) Each mortgage loan sold by an association
22 may be sold with or without recourse and, if under a contract to service the same, shall be sold
23 on a basis which will reimburse the association adequately for the cost of such servicing. All
24 sale and servicing agreements shall be in writing and on file in the association. ~~No association~~
25 ~~shall commit itself to service loans not held or originated by it unless approved by the~~
26 ~~commissioner. The limitation upon the sale of loans may be adjusted in the case of any~~

1 ~~association upon application to and approval by the commissioner when such association~~
2 ~~requires cash for purposes other than for the making of loans.~~

3 SECTION 7. 11-44-101.5 (2), Colorado Revised Statutes, 1987 Repl. Vol., as
4 amended, is amended to read:

5 11-44-101.5. Division subject to termination - repeal of article. (2) This article
6 is repealed, effective ~~July 1, 1994~~ JULY 1, 2004.

7 SECTION 8. 11-44-101.7 (8), Colorado Revised Statutes, 1987 Repl. Vol., as
8 amended, is repealed as follows:

9 11-44-101.7. Powers of the financial services board. (8) ~~The board shall have a~~
10 ~~seal of office containing the words "Financial Services Board of Colorado" in the form of a~~
11 ~~circle and the word "seal" within the circle.~~

12 SECTION 9. 11-44-101.8 (2), Colorado Revised Statutes, 1987 Repl. Vol., as
13 amended, is amended to read:

14 11-44-101.8. Review of commissioner actions by financial services board -
15 judicial review. (2) Any credit union, savings and loan association, small business development
16 credit corporation, or life care institution or provider, or any officer, director, employee, agent,
17 advisor, or volunteer thereof, aggrieved or directly affected by a final order of the board may
18 obtain judicial review thereof by filing an action for review pursuant to the provisions of section
19 24-4-106, C.R.S., ~~in the district court of the county where any such entity has its principal~~
20 ~~office or the district court of the city and county of Denver~~ WITH THE COLORADO COURT OF
21 APPEALS PURSUANT TO SECTION 24-4-106(11), C.R.S. The commencement of such proceeding
22 does not, unless specifically ordered by the court, operate as a stay of the board's ruling, order,
23 decision, or other action.

24 SECTION 10. 11-44-106.5 (1), Colorado Revised Statutes, 1987 Repl. Vol., as
25 amended, is amended, and the said 11-44-106.5 is further amended BY THE ADDITION OF
26 A NEW SUBSECTION, to read:

1 11-44-106.5. Suspension or removal of directors, officers, or employees.

2 (1) (a) The commissioner may suspend or remove a ANY director, officer, or employee of an
3 association who in the opinion of the commissioner ~~violates~~ HAS

4 (I) VIOLATED the savings and loan association ~~law~~ LAWS or a lawful regulation or
5 order issued thereunder; ~~who has~~

6 (II) Engaged or participated in any unsafe or unsound practice in the conduct of
7 savings and loan business; ~~who has~~

8 (III) Committed or engaged in any act, omission, or practice which constitutes a
9 breach of fiduciary duty to the association and the association has suffered or will probably
10 suffer ~~substantial~~ financial loss or other damage or the interests of account holders may be
11 seriously prejudiced thereby; or ~~who has~~

12 (IV) Received financial gain by reason of ~~such~~ A violation, ~~or~~ practice, or breach
13 of fiduciary duty ~~and such violation or practice or breach of fiduciary duty is one involving~~
14 THAT INVOLVED personal dishonesty ~~on the part of such director, officer, or employee, or one~~
15 ~~which demonstrates~~ OR DEMONSTRATED a willful or continuing disregard for the safety or
16 soundness of the association. ~~A suspension or removal order shall specify the grounds for the~~
17 ~~suspension or removal. A copy of the order shall be sent to the association concerned and to~~
18 ~~each member of its board of directors.~~

19 (b) THE COMMISSIONER MAY SUSPEND OR REMOVE ANY DIRECTOR, OFFICER, OR
20 EMPLOYEE OF AN ASSOCIATION WHO, UNDER THE LAWS OF THIS STATE, THE UNITED STATES,
21 OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES:

22 (I) HAS ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO OR BEEN CONVICTED
23 OF A CRIME INVOLVING THEFT OR FRAUD THAT IS CLASSIFIED AS A FELONY; OR

24 (II) IS SUBJECT TO AN ORDER REMOVING OR SUSPENDING SUCH INDIVIDUAL FROM
25 OFFICE, OR PROHIBITING SUCH INDIVIDUAL'S PARTICIPATION IN THE CONDUCT OF THE AFFAIRS
26 OF ANY CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, BANK, OR OTHER FINANCIAL

1 INSTITUTION.

2 (1.2) A SUSPENSION OR REMOVAL ORDER ISSUED PURSUANT TO SUBSECTION (1) OF
3 THIS SECTION SHALL INCLUDE A DESCRIPTION OF THE GROUNDS FOR THE SUSPENSION OR
4 REMOVAL. A COPY OF THE ORDER SHALL BE SENT TO THE ASSOCIATION CONCERNED AND TO
5 EACH MEMBER OF ITS BOARD OF DIRECTORS.

6 **SECTION 11.** 11-44-108, Colorado Revised Statutes, 1987 Repl. Vol., as amended,
7 is repealed as follows:

8 **11-44-108. Seal of commissioner.** ~~The commissioner shall have a seal of office
9 containing the words "state commissioner of financial services of Colorado", in the form of a
10 circle, and the word "seal" within the circle.~~

11 **SECTION 12.** 11-47-103 (6), Colorado Revised Statutes, 1987 Repl. Vol., is
12 amended to read:

13 **11-47-103. Definitions.** (6) "Eligible public depository" means any state-chartered
14 savings and loan association or any federally chartered savings and loan association ~~having its~~
15 ~~principal office in this state~~ which is authorized by the laws of the United States to accept
16 deposit accounts, which deposits are insured by the federal ~~savings and loan~~ DEPOSIT insurance
17 corporation OR ITS SUCCESSOR, and which depository has been designated as an eligible public
18 depository by the commissioner.

19 **SECTION 13.** 11-47-111, Colorado Revised Statutes, 1987 Repl. Vol., is amended
20 to read:

21 **11-47-111. Reports required - when filed - contents.** ~~Within twenty days after each~~
22 ~~valuation date,~~ ON A DATE SPECIFIED BY THE COMMISSIONER, every eligible public depository
23 shall file a report with the commissioner WHICH HAS BEEN signed and sworn to by an executive
24 officer of such depository ~~which shall contain~~ AND CONTAINS such information as required by
25 the commissioner. The commissioner may ~~in his discretion,~~ require more frequent reports from
26 eligible public depositories.

1 **SECTION 14.** 24-34-104 (23) (a) (II), Colorado Revised Statutes, 1988 Repl. Vol.,
2 as amended, is repealed as follows:

3 **24-34-104. General assembly review of regulatory agencies and functions for**
4 **termination, continuation, or reestablishment.** (23) (a) The following divisions in the
5 department of regulatory agencies shall terminate on July 1, 1994:

6 (II) ~~The division of financial services, created by article 44 of title 11, C.R.S.;~~

7 **SECTION 15.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,
8 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

9 **24-34-104. General assembly review of regulatory agencies and functions for**
10 **termination, continuation, or reestablishment.** (34) THE FOLLOWING DIVISION IN THE
11 DEPARTMENT OF REGULATORY AGENCIES SHALL TERMINATE ON JULY 1, 2004: THE DIVISION
12 OF FINANCIAL SERVICES, CREATED BY ARTICLE 44 OF TITLE 11, C.R.S.

13 **SECTION 16. Effective date.** This act shall take effect July 1, 1994.

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

BILL 4

A BILL FOR AN ACT

101 CONCERNING THE REGULATORY AUTHORITY OF THE DIVISION OF SECURITIES.

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 regulatory authority of the division of securities until a certain date subject to review by the joint legislative sunrise and sunset review committee.

Specifies that banks are excluded from the definition of "broker-dealer" only if they are acting on behalf of their own accounts or as trustees or fiduciaries. Specifies the effective period for a registration statement filed on behalf of an investment company which is registered under the federal "Investment Company Act of 1940".

Requires that certain investment companies pay a registration renewal fee in an amount set by the securities commissioner.

Empowers the securities commissioner to issue summary orders based on certain conduct which violates the "Colorado Securities Act". Specifies the process by which such an order may be issued. Outlines the remedies available to any person to whom an order has been issued. Specifies how consent orders may be issued and what may be included in any such order.

Defines confidential documents received by the securities division as criminal justice records for purposes of treatment of such records under the public records law. Specifies that the securities division shall be treated as a criminal justice agency for purposes of the public records law.

Makes violation of an order issued by the securities commissioner under certain sections of the law civil contempt under the "Colorado Securities Act".

Changes the court which conducts any appellate review of an administrative decision by the securities division from the district court of the city and county of Denver to the court of appeals.

Allows the securities commissioner to respond to interpretive questions concerning the "Colorado Commodity Code".

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

2 SECTION 1. 11-51-201 (2), Colorado Revised Statutes, 1987 Repl. Vol., as
3 amended, is amended to read:

4 11-51-201. Definitions. (2) "Broker-dealer" means a person engaged in the business
5 of effecting purchases or sales of securities for the accounts of others or in the business of

1 purchasing and selling securities for the person's own account The term does not include the
2 following:

- 3 (a) A sales representative;
- 4 (b) An issuer with respect to purchasing and selling the issuer's own securities;
- 5 (c) A bank WHEN ACTING ON SUCH BANK'S OWN ACCOUNT OR WHEN EXERCISING
6 TRUST OR FIDUCIARY POWERS GRANTED BY STATE OR FEDERAL LAW OR REGULATION; or
- 7 (d) Any other person or class of persons the securities commissioner designates by
8 rule or order.

9 SECTION 2. 11-51-302 (7), Colorado Revised Statutes, 1987 Repl. Vol., as
10 amended, is amended to read:

11 11-51-302. General registration provisions. (7) (a) EXCEPT AS PROVIDED IN
12 PARAGRAPH (b) OF THIS SUBSECTION (7), a registration statement FILED AND EFFECTIVE under
13 section 11-51-303 is effective for one year after its effective date and thereafter is effective
14 during the period or periods, but only those periods, when the prospectus contained in the
15 registration statement filed under the federal "Securities Act of 1933" meets the requirements
16 of subsection (a) of section 10 of such federal "Securities Act of 1933".

17 (b) (I) A REGISTRATION STATEMENT FILED AND EFFECTIVE UNDER SECTION
18 11-51-303 OR 11-51-304 ON BEHALF OF AN INVESTMENT COMPANY REGISTERED UNDER THE
19 FEDERAL "INVESTMENT COMPANY ACT OF 1940" IS EFFECTIVE FOR ONE YEAR AFTER ITS
20 EFFECTIVE DATE AND MAY BE RENEWED BY FILING A RENEWAL NOTICE WITH THE SECURITIES
21 COMMISSIONER.

22 (II) ANY PERSON FILING A RENEWAL NOTICE PURSUANT TO THIS PARAGRAPH (b)
23 SHALL PAY A RENEWAL FEE PURSUANT TO SECTION 11-51-707.

24 (c) A registration statement FILED AND EFFECTIVE under section 11-51-304 is
25 effective for one year after its effective date unless the securities commissioner by rule or order
26 extends the period of effectiveness.

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1 (d) A registration statement EFFECTIVE under section 11-51-303 or 11-51-304 may
2 be terminated or withdrawn upon the request of the issuer or the person who filed the
3 registration statement and with the consent of the securities commissioner. (e) All outstanding
4 securities of the same class as a registered security are considered to be registered for the
5 purpose of a nonissuer transaction or series of transactions while the registration statement is
6 effective.

7 SECTION 3. 11-51-306 (2), Colorado Revised Statutes, 1987 Repl. Vol., as
8 amended, is amended to read:

9 11-51-306. Denial, suspension, or revocation of registration. (2) The securities
10 commissioner may, by summary order under ~~section 11-51-606 (2)~~ SECTION 11-51-606 (3) (b),
11 summarily postpone or suspend the effectiveness of a registration statement pending final
12 determination of any proceeding under this section.

13 SECTION 4. 11-51-310 (1) (b), Colorado Revised Statutes, 1987 Repl. Vol., as
14 amended, is amended to read:

15 11-51-310. Denial or revocation of exemptions. (1) (b) The securities
16 commissioner may, by summary order under ~~section 11-51-606 (2)~~ SECTION 11-51-606 (3) (c),
17 summarily suspend the exemption specified in section 11-51-307 (1) (g) as to a specific security
18 or issuer pending final determination of any proceeding under this subsection (1).

19 SECTION 5. 11-51-410 (1) (d) and (1) (f) (I), Colorado Revised Statutes, 1987
20 Repl. Vol., as amended, are amended, and the said 11-51-410 is further amended BY THE
21 ADDITION OF A NEW SUBSECTION, to read:

22 11-51-410. Denial, suspension, or revocation. (1) The securities commissioner
23 may by order deny an application for a license, suspend or revoke a license, censure a licensed
24 person, limit or impose conditions on the securities activities that a licensed person may conduct
25 in this state, and bar a person from association with any licensed broker-dealer in the conduct
26 of its business in this state in such capacities and for such period as the order specifies. These

1 sanctions may be imposed only if the securities commissioner makes a finding, in addition to
2 the findings required by section 11-51-704 (2), that the applicant or licensed person or, in the
3 case of a broker-dealer, a partner, officer, director, person occupying a similar status or
4 performing similar functions, or person directly or indirectly controlling the broker-dealer:

5 (d) ~~Has been found in a final decree~~ IS SUBJECT TO A TEMPORARY OR PERMANENT
6 INJUNCTION issued by a court of competent jurisdiction ~~within the past five years~~, in an action
7 instituted by the securities commissioner, the securities agency or administrator of another state
8 or a ~~Canadian province or territory~~ FOREIGN JURISDICTION, the securities and exchange
9 commission, or the commodity futures trading commission, ~~to have violated~~ FOR VIOLATING any
10 securities registration or broker-dealer or similar license requirement in any federal, state, or
11 provincial FOREIGN law or ~~to have engaged~~ FOR ENGAGING in fraudulent conduct;

12 (f) Is currently the subject of any of the following orders issued within the past five
13 years:

14 (I) An order by the securities agency or administrator of another state or a ~~Canadian~~
15 ~~province or territory~~ FOREIGN JURISDICTION, entered after notice and opportunity for hearing
16 and based upon fraudulent conduct, denying or revoking the person's license as a broker-dealer,
17 sales representative, or investment adviser, or the substantial equivalent of those terms, or
18 suspending or barring the right of the person to be associated with a broker-dealer.

19 (4) THE SECURITIES COMMISSIONER MAY SUSPEND THE LICENSE OF A LICENSEE
20 PURSUANT TO A SUMMARY ORDER ISSUED UNDER SECTION 11-51-606 (4) (a) AND SUCH ORDER
21 SHALL BE VALID PENDING A FINAL DETERMINATION IN ANY PROCEEDING BROUGHT PURSUANT
22 TO THIS SECTION SUBJECT TO ANY MODIFICATION MADE TO SUCH ORDER UNDER SECTION
23 11-51-606 (4) (c).

24 SECTION 6. 11-51-601 (5), Colorado Revised Statutes, 1987 Repl. Vol., as
25 amended, is amended to read:

26 11-51-601. Investigations and subpoenas. (5) (a) Information in the possession of,

1 filed with, or obtained by the securities commissioner in connection with a private investigation
 2 under this section shall be confidential. No such information may be disclosed by the securities
 3 commissioner or any of the officers or employees of the division of securities ~~except after~~
 4 ~~authorization in writing by the securities commissioner or any designee of such commissioner~~
 5 ~~that disclosure of information in the case is~~ UNLESS necessary or appropriate in connection with
 6 a particular investigation or proceeding under this article or for any law enforcement purpose.
 7 ~~The absence of written authorization pursuant to this subsection (5) shall not be proof of the lack~~
 8 ~~of authorization in fact and shall not constitute grounds for the exclusion of any such~~
 9 ~~information as evidence in any proceeding.~~

10 (b) AS IT RELATES SOLELY TO THE PRESERVATION OF THE CONFIDENTIALITY OF
 11 DOCUMENTS AND OTHER INFORMATION OBTAINED BY THE SECURITIES COMMISSIONER OR ANY
 12 OFFICER OR EMPLOYEE OF THE DIVISION OF SECURITIES PURSUANT TO THIS SECTION, THE
 13 DIVISION OF SECURITIES SHALL BE CONSTRUED AS A CRIMINAL JUSTICE AGENCY AS DEFINED IN
 14 SECTION 24-72-302 (3), C.R.S., AND SUCH DOCUMENTS AND OTHER INFORMATION SHALL BE
 15 TREATED AS CRIMINAL JUSTICE RECORDS AS DEFINED IN SECTION 24-72-302 (4), C.R.S.

16 (c) EXCEPT AS SET FORTH IN THIS SUBSECTION (5), no provision of this article either
 17 creates or derogates from any privilege which exists at common law or otherwise when
 18 documentary or other evidence is sought under a subpoena directed to the securities
 19 commissioner or any of the officers or employees of the division of securities.

20 SECTION 7. 11-51-604, Colorado Revised Statutes, 1987 Repl. Vol., as amended,
 21 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22 **11-51-604. Civil liabilities.** (14) FOR ANY WILLFUL VIOLATION OF, OR WILLFUL
 23 REFUSAL TO COMPLY WITH OR OBEY, ANY ORDER ISSUED BY THE SECURITIES COMMISSIONER
 24 PURSUANT TO SECTION 11-51-410 OR 11-51-606 THE DISTRICT COURT OF THE CITY AND
 25 COUNTY OF DENVER, UPON APPLICATION BY THE SECURITIES COMMISSIONER, MAY ISSUE AN
 26 ORDER REQUIRING THE VIOLATING PARTY TO APPEAR BEFORE THE COURT REGARDING SUCH

1 VIOLATION. IF THE SECURITIES COMMISSIONER ESTABLISHES BY A PREPONDERANCE OF
 2 EVIDENCE THAT SUCH PARTY WILLFULLY VIOLATED OR REFUSED TO COMPLY WITH OR OBEY
 3 THE ORDER, THE COURT MAY HOLD SUCH PARTY IN CONTEMPT OF COURT AND MAY IMPOSE
 4 LEGAL AND EQUITABLE RELIEF AS IT DEEMS APPROPRIATE.

5 SECTION 8. 11-51-606, Colorado Revised Statutes, 1987 Repl. Vol., as amended,
 6 is amended to read:

7 **11-51-606. Conduct of proceedings - consent orders - summary orders - issued**
 8 **by securities commissioner.** (1) Any administrative proceeding under this article shall be
 9 conducted pursuant to the provisions of ~~section~~ SECTIONS 24-4-104 AND 24-4-105, C.R.S.;
 10 EXCEPT THAT SECTION 24-4-104 (3), C.R.S., SHALL NOT APPLY TO ANY PROCEEDING
 11 CONDUCTED PURSUANT TO THIS ARTICLE. EXCEPT AS SPECIFIED IN PARAGRAPH (f) OF
 12 SUBSECTION (3) OF THIS SECTION, the securities commissioner shall refer the conduct of all
 13 hearings to an administrative law judge appointed pursuant to part 10 of article 30 of title 24,
 14 C.R.S. Every hearing in an administrative proceeding shall be public unless the securities
 15 commissioner, in the securities commissioner's discretion, grants a request joined in by all the
 16 respondents that the hearing be conducted privately.

17 (2) ~~No summary order may be entered under section 11-51-306 (2) or section~~
 18 ~~11-51-310 (1) (b) unless the securities commissioner finds, in addition to the findings required~~
 19 ~~under section 11-51-704 (2), that immediate issuance of the order is imperatively necessary for~~
 20 ~~the protection of investors. A summary order is effective when entered and shall be~~
 21 ~~accompanied by a brief statement of findings of fact and conclusions of law. Upon the entry~~
 22 ~~of a summary order, the securities commissioner shall promptly notify each person against~~
 23 ~~whom it has been entered of its entry and the reasons therefor by providing to each such person~~
 24 ~~at their last known mailing address a copy of the order and the accompanying findings of fact~~
 25 ~~and conclusions of law. Within twenty one calendar days from the entry of the order, any~~
 26 ~~person against whom the order was entered may make a written request of the securities~~

~~1 commissioner that the matter be set for a hearing. Within two business days of the receipt of
2 the written request, the securities commissioner shall refer the matter to an administrative law
3 judge for expedited hearing. If no request is received by the securities commissioner within
4 twenty-one calendar days from the entry of the order, the order shall be final.~~ (a) WHENEVER

5 IT APPEARS TO THE SECURITIES COMMISSIONER, BASED UPON SUFFICIENT EVIDENCE PRESENTED
6 TO THE SECURITIES COMMISSIONER IN A STIPULATION BETWEEN AN OFFICER OR EMPLOYEE OF
7 THE DIVISION OF SECURITIES AND ANY PERSON, THAT SUCH PERSON HAS ENGAGED IN OR IS
8 ABOUT TO ENGAGE IN ANY ACT OR PRACTICE CONSTITUTING A VIOLATION OF ANY PROVISION
9 OF THIS ARTICLE, ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE OR ANY ORDER ISSUED
10 UNDER THIS ARTICLE, OR ANY ACT OR PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE
11 SANCTION UNDER THIS ARTICLE, THE SECURITIES COMMISSIONER MAY ISSUE A CONSENT ORDER
12 AGAINST SUCH PERSON.

13 (b) IN ANY CONSENT ORDER ISSUED PURSUANT TO THIS SUBSECTION (2), THE
14 SECURITIES COMMISSIONER MAY:

15 (I) PROHIBIT THE RESPONDENT FROM ANY FURTHER VIOLATION OF ANY PROVISION,
16 RULE, OR ORDER UNDER THIS ARTICLE THAT IS ALLEGED IN THE STIPULATION TO HAVE BEEN
17 VIOLATED OR FROM ENGAGING IN THE CONDUCT ALLEGED IN THE STIPULATION AS GROUNDS
18 FOR SANCTION UNDER THIS ARTICLE; AND

19 (II) IMPOSE CONDITIONS, LIMITATIONS, OR SANCTIONS AS STIPULATED.

20 (3) (a) IF IT APPEARS TO THE SECURITIES COMMISSIONER, BASED UPON SUFFICIENT
21 EVIDENCE AS PRESENTED IN A PETITION FOR A SUMMARY ORDER OF PROHIBITION BY AN
22 OFFICER OR EMPLOYEE OF THE DIVISION OF SECURITIES, THAT ANY PERSON HAS VIOLATED
23 SECTIONS 11-51-301, 11-51-401 (1), OR, IN CONNECTION WITH SUCH VIOLATION, 11-51-501,
24 THE SECURITIES COMMISSIONER MAY ENTER A SUMMARY ORDER OF PROHIBITION AGAINST SUCH
25 PERSON PROHIBITING ANY FURTHER VIOLATION OF SAID SECTIONS.

26 (b) IF IT APPEARS TO THE SECURITIES COMMISSIONER, BASED UPON SUFFICIENT

1 EVIDENCE AS PRESENTED IN A PETITION BY AN OFFICER OR EMPLOYEE OF THE DIVISION OF
2 SECURITIES, THAT ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY PROHIBITED
3 ACT OR PRACTICE AS SPECIFIED IN 11-51-306 (2), THE SECURITIES COMMISSIONER MAY ENTER
4 A SUMMARY STOP ORDER REGARDING ANY REGISTRATION STATEMENT PURSUANT TO SECTION
5 11-51-306 (1) DENYING EFFECTIVENESS TO OR SUSPENDING OR REVOKING THE EFFECTIVENESS
6 OF SUCH REGISTRATION STATEMENT.

7 (c) IF IT APPEARS TO THE SECURITIES COMMISSIONER, BASED UPON SUFFICIENT
8 EVIDENCE AS PRESENTED IN A PETITION BY AN OFFICER OR EMPLOYEE OF THE DIVISION OF
9 SECURITIES, THAT ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY PROHIBITED
10 ACT OR PRACTICE AS SPECIFIED IN SECTION 11-51-310 (1) (b), THE SECURITIES COMMISSIONER
11 MAY ENTER A SUMMARY ORDER SUSPENDING THE EXEMPTION FROM SECURITIES REGISTRATION
12 OF A SECURITY OR A TRANSACTION IN A SECURITY PURSUANT TO SECTION 11-51-310 (1).

13 (d) NO SUMMARY ORDER MAY BE ENTERED PURSUANT TO THIS SUBSECTION (3)
14 UNLESS THE SECURITIES COMMISSIONER DETERMINES, IN ADDITION TO THE FINDINGS REQUIRED
15 UNDER SECTION 11-51-704 (2), THAT IMMEDIATE ISSUANCE OF SUCH SUMMARY ORDER IS
16 IMPERATIVELY NECESSARY FOR THE PROTECTION OF INVESTORS. AN ORDER ISSUED PURSUANT
17 TO THIS SUBSECTION (3) IS EFFECTIVE WHEN ENTERED AND SHALL BE ACCOMPANIED BY A BRIEF
18 STATEMENT OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

19 (e) UPON ENTERING A SUMMARY ORDER, THE SECURITIES COMMISSIONER SHALL
20 PROMPTLY NOTIFY EACH PERSON AGAINST WHOM IT HAS BEEN ENTERED OF ITS ENTRY AND THE
21 BASIS THEREFOR BY PROVIDING TO EACH SUCH PERSON AT SUCH PERSON'S LAST KNOWN
22 MAILING ADDRESS A COPY OF THE ORDER AND THE ACCOMPANYING FINDINGS OF FACT AND
23 CONCLUSIONS OF LAW

24 (f) (I) ANY PERSON AGAINST WHOM A SUMMARY ORDER OF PROHIBITION, SUMMARY
25 STOP ORDER, OR SUMMARY ORDER SUSPENDING EXEMPTION HAS BEEN ENTERED MAY MAKE A
26 WRITTEN REQUEST TO THE SECURITIES COMMISSIONER THAT THE MATTER BE SET FOR A

1 HEARING IF SUCH REQUEST IS MADE WITHIN TWENTY-ONE CALENDAR DAYS AFTER THE DATE
2 OF ENTRY OF THE ORDER. IF SPECIFIED IN THE REQUEST, THE SECURITIES COMMISSIONER
3 SHALL REFER THE MATTER TO AN ADMINISTRATIVE LAW JUDGE FOR AN EXPEDITED HEARING
4 TO DETERMINE WHETHER TO CONTINUE SUCH SUMMARY ORDER. IF A HEARING BEFORE AN
5 ADMINISTRATIVE LAW JUDGE IS NOT SPECIFIED IN THE REQUEST OR IF A HEARING BEFORE THE
6 SECURITIES COMMISSIONER IS SPECIFIED, THE SECURITIES COMMISSIONER SHALL CONDUCT AN
7 EXPEDITED HEARING TO DETERMINE WHETHER TO CONTINUE SUCH SUMMARY ORDER.

8 (II) IF THE SECURITIES COMMISSIONER DOES NOT RECEIVE A REQUEST FOR A
9 HEARING PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (f), THE ORDER SHALL BECOME
10 FINAL TWENTY-ONE CALENDAR DAYS AFTER THE ENTRY OF SUCH ORDER.

11 (4) (a) IF IT APPEARS TO THE SECURITIES COMMISSIONER, BASED UPON SUFFICIENT
12 EVIDENCE AS PRESENTED IN A PETITION BY AN OFFICER OR EMPLOYEE OF THE DIVISION OF
13 SECURITIES, THAT ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY PROHIBITED
14 ACT OR PRACTICE, THE SECURITIES COMMISSIONER MAY ENTER A SUMMARY ORDER OF
15 SUSPENSION OF A LICENSE PURSUANT TO SECTION 11-51-410 (4).

16 (b) ANY PERSON AGAINST WHOM A SUMMARY ORDER OF SUSPENSION OF A LICENSE
17 HAS BEEN ENTERED SHALL BE PROMPTLY NOTIFIED BY THE SECURITIES COMMISSIONER OF THE
18 ENTRY OF SUCH ORDER AND THE BASIS THEREFOR AT SUCH PERSON'S LAST KNOWN MAILING
19 ADDRESS. SUCH NOTICE SHALL INCLUDE A COPY OF THE ORDER AND THE ACCOMPANYING
20 FINDINGS OF FACT AND CONCLUSIONS OF LAWS.

21 (c) ANY PERSON AGAINST WHOM A SUMMARY ORDER OF SUSPENSION OF A LICENSE
22 HAS BEEN ENTERED MAY MAKE A WRITTEN REQUEST NO LATER THAN TEN DAYS AFTER THE
23 ENTRY OF THE ORDER TO THE SECURITIES COMMISSIONER THAT AN EXPEDITED HEARING BE SET
24 EITHER BEFORE AN ADMINISTRATIVE LAW JUDGE OR BEFORE THE SECURITIES COMMISSIONER.
25 THE ADMINISTRATIVE JUDGE OR SECURITIES COMMISSIONER SHALL HEAR ARGUMENT FROM THE
26 SECURITIES DIVISION AND THE RESPONDENT CONCERNING THE PROPRIETY OF THE ORDER AND

1 SHALL CONFIRM, MODIFY, OR VACATE THE SUMMARY ORDER OF SUSPENSION OF A LICENSE.
2 THE SECURITIES COMMISSIONER SHALL THEN ENTER THE DECISION AS A FINAL ORDER FOR
3 PURPOSES OF JUDICIAL REVIEW PURSUANT TO SECTION 11-51-607.

4 (d) ANY SUMMARY ORDER ISSUED PURSUANT TO THIS SUBSECTION (4) SHALL
5 REMAIN IN EFFECT DURING THE PENDENCY OF THE ADMINISTRATIVE HEARING UNLESS MODIFIED
6 OR VACATED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (4).

7 **SECTION 9.** 11-51-607 (1), Colorado Revised Statutes, 1987 Repl. Vol., as
8 amended, is amended to read:

9 **11-51-607. Judicial review of orders.** (1) Any person aggrieved by a final order
10 of the securities commissioner may obtain a review of the order in the ~~district court of the city~~
11 ~~and county of Denver~~ COURT OF APPEALS pursuant to the provisions of section 24-4-106 (11),
12 C.R.S.

13 **SECTION 10.** 11-51-707 (3) (a), Colorado Revised Statutes, 1987 Repl. Vol., as
14 amended, is amended to read:

15 **11-51-707. Collection of fees - division of securities cash fund created.**(3) (a) The
16 division shall set the amount of each fee which it is authorized by law to collect under this
17 article. The budget request and the fees for the division shall reflect direct and indirect costs.
18 The division, in the discretion of the securities commissioner, may set registration fees payable
19 under section 11-51-302 according to a scale of rates applied to the dollar amount of securities
20 to be registered, with a maximum fee specified. The division, in the discretion of the securities
21 commissioner, may set AN INVESTMENT COMPANY REGISTRATION RENEWAL FEE PAYABLE
22 UNDER SECTION 11-51-302 (7) AND an exemption fee payable under section 11-51-307 (1) (k)
23 for each series, portfolio, separate account, or fund of an open-end management company or
24 unit investment trust. The division, in the discretion of the securities commissioner, may set
25 registration fees payable under section 11-51-905 (4), according to a scale of rates applied to
26 the asset size of the trust fund as of the date of registration. The division, in the discretion of

1 the securities commissioner, may set annual fees payable under section 11-51-906 (4) (e),
2 according to a scale of rates applied to the asset size of the trust fund as of the date of the filing
3 of the annual audit.

4 **SECTION 11.** 11-51-803 (1), Colorado Revised Statutes, 1987 Repl. Vol., as
5 amended, is amended to read:

6 **11-51-803. Repeal of article.** (1) This article is repealed, effective ~~July 1, 1994~~
7 JULY 1, 2004.

8 **SECTION 12.** Part 2 of article 53 of title 11, Colorado Revised Statutes, 1987
9 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

10 **11-53-211. Interpretive opinions.** THE SECURITIES COMMISSIONER MAY HONOR
11 REQUESTS FROM INTERESTED PERSONS FOR CONFIRMATION OF THE APPLICABILITY OF
12 PARTICULAR EXCLUSIONS FROM THE DEFINITIONS SET FORTH IN SECTION 11-53-102, FOR THE
13 APPLICABILITY OF EXEMPTIONS SET FORTH IN SECTIONS 11-53-104 AND 11-53-105, AND FOR
14 THE APPLICABILITY OF ANY OTHER PROVISION OF THIS ARTICLE. ANY PERSON MAKING SUCH
15 A REQUEST SHALL PAY A NONREFUNDABLE FEE WHICH SHALL BE SET AND COLLECTED
16 PURSUANT TO SECTION 11-51-707. IN RESPONSE TO ANY REQUEST FOR A CONFIRMATION OR
17 OTHER INTERPRETIVE OPINION RECEIVED PURSUANT TO THIS SECTION, THE SECURITIES
18 COMMISSIONER MAY WAIVE ANY CONDITION IMPOSED UNDER THIS ARTICLE AS IT APPLIES TO
19 THE PERSON MAKING THE REQUEST.

20 **SECTION 13.** 24-34-104 (23) (a) (III), Colorado Revised Statutes, 1988 Repl. Vol.,
21 is repealed as follows:

22 **24-34-104. General assembly review of regulatory agencies and functions for**
23 **termination, continuation, or reestablishment.** (23) (a) The following divisions in the
24 department of regulatory agencies shall terminate on July 1, 1994:

25 (III) ~~The division of securities, created by article 51 of title 11, C.R.S.~~

26 **SECTION 14.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,

1 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

2 **24-34-104. General assembly review of regulatory agencies and functions for**
3 **termination, continuation, or reestablishment.** (34) THE FOLLOWING DIVISION IN THE
4 DEPARTMENT OF REGULATORY AGENCIES SHALL TERMINATE ON JULY 1, 2004: THE DIVISION
5 OF SECURITIES, CREATED PURSUANT TO ARTICLE 51 OF TITLE 11, C.R.S.

6 **SECTION 15. Effective date.** This act shall take effect July 1, 1994.

7 **SECTION 16. Safety clause.** The general assembly hereby finds, determines, and
8 declares that this act is necessary for the immediate preservation of the public peace, health, and
9 safety.

BILL 5

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF PERSONS LICENSED UNDER THE "MONEY ORDER ACT".

Bill Summary

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

Continues until a certain date the functions of the banking board and the commissioner of banking related to the regulation of money orders.

Includes money transmission in the regulatory provisions of the "Money Order Act". Requires persons transmitting money to be licensed the same as persons issuing or selling exchange. Requires persons seeking licensure to be qualified and experienced as required by the banking board pursuant to rule. Sets a penalty for not submitting required statements or reports to the banking commissioner without good cause. Increases the maximum penalty assessment for violating the act.

Specifies that any investments of a licensee shall be deemed to be held in trust for the purchasers and holders of the licensee's outstanding payment instruments if the licensee declares bankruptcy.

Makes conforming amendments.

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

2 SECTION 1. 11-2-103 (1), Colorado Revised Statutes, 1987 Repl. Vol., as
3 amended, is amended to read:

4 11-2-103. Powers of banking board. (1) The banking board is the policy-making
5 and rule-making authority for the division of banking and has the power to:

6 (a) Make, modify, reverse, and vacate rules and regulations for the proper
7 enforcement and administration of this code and the "Public Deposit Protection Act", article
8 10.5 of this title; and

9 (b) ~~Regulate its own procedure and practice.~~ MAKE, PROMULGATE, ALTER, AMEND,
10 OR REVISE REASONABLE RULES AND REGULATIONS AS MAY BE NECESSARY FOR THE
11 ENFORCEMENT AND EXECUTION OF THE PROVISIONS OF THE "MONEY ORDER ACT", ARTICLE

1 52 OF TITLE 12, C.R.S.; AND

2 (c) REGULATE PROCEDURE AND PRACTICE OF THE BANKING BOARD.

3 SECTION 2. 12-52-103 (5), Colorado Revised Statutes, 1991 Repl. Vol., is
4 amended, and the said 12-52-103, as amended, is further amended BY THE ADDITION OF
5 A NEW SUBSECTION, to read:

6 12-52-103. Definitions. As used in this article, unless the context otherwise
7 requires:

8 (4.3) "MONEY TRANSMISSION" MEANS THE SALE OR ISSUANCE OF EXCHANGE OR
9 ENGAGING IN THE BUSINESS OF RECEIVING MONEY FOR TRANSMISSION OR TRANSMITTING MONEY
10 WITHIN THE UNITED STATES OR TO LOCATIONS ABROAD BY ANY AND ALL MEANS INCLUDING
11 BUT NOT LIMITED TO PAYMENT INSTRUMENT, WIRE, FACSIMILE, OR ELECTRONIC TRANSFER.

12 (5) "Person" means any natural person, firm, association, partnership, syndicate,
13 joint stock company, unincorporated company or association, LIMITED LIABILITY COMPANY,
14 common law trust, or any corporation organized under the laws of the United States or of any
15 state or territory of the United States or of any foreign country.

16 SECTION 3. 12-52-104, Colorado Revised Statutes, 1991 Repl. Vol., is amended
17 to read:

18 12-52-104. License required. A person shall not engage in the business of selling
19 or issuing exchange OR IN THE BUSINESS OF MONEY TRANSMISSION without first procuring a
20 license from the banking board; except that no license under this article shall be required of any
21 agent, subagent, or representative of a licensee or employee of such agent, subagent, or
22 representative who acts on behalf of such licensee in the sale of exchange issued by the licensee.

23 SECTION 4. 12-52-106 (1) (b), Colorado Revised Statutes, 1991 Repl. Vol., is
24 amended to read:

25 12-52-106. Application for license. (1) Application for a license shall be made in
26 writing, under oath, to the banking board on such form as it may prescribe. The application

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1 shall:

2 (b) Contain evidence ~~of the good moral character and business experience~~ of THAT
 3 the applicant ~~if the applicant is an individual, or of the partners, if the applicant is a partnership~~
 4 ~~or a syndicate~~ POSSESSES QUALIFICATIONS AND EXPERIENCE AS REQUIRED BY THE BANKING
 5 BOARD PURSUANT TO RULE. If the applicant is a joint stock association, common law trust,
 6 unincorporated company or association, LIMITED LIABILITY COMPANY, or corporation, the
 7 secretary or any assistant secretary thereof shall certify the name and address of each of the
 8 officers, directors, trustees, or other managing officials together with a designation of the office
 9 or offices held by each and evidence ~~of the good moral character and business~~ THAT EACH SUCH
 10 INDIVIDUAL POSSESSES THE QUALIFICATIONS AND experience ~~of each~~ REQUIRED BY THE
 11 BANKING BOARD PURSUANT TO RULE and shall submit such certificate to the banking board with
 12 the application.

13 **SECTION 5.** 12-52-107, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
 14 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

15 **12-52-107. Bond - condition - amount.** (5) PERMISSIBLE INVESTMENTS, EVEN IF
 16 COMMINGLED WITH OTHER ASSETS OF THE LICENSEE, SHALL BE DEEMED BY OPERATION OF LAW
 17 TO BE HELD IN TRUST FOR THE BENEFIT OF THE PURCHASERS AND HOLDERS OF THE LICENSEE'S
 18 OUTSTANDING PAYMENT INSTRUMENTS IN THE EVENT OF THE BANKRUPTCY OF THE LICENSEE.

19 **SECTION 6.** 12-52-110, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
 20 is amended to read:

21 **12-52-110. Examination - fee - financial statements and reports to commissioner.**

22 (1) (a) The commissioner shall examine the books and records of every licensee as often as
 23 deemed advisable and to the extent required by the banking board; shall make and file in his
 24 THE office OF THE COMMISSIONER a correct report in detail disclosing the results of such
 25 examination; and shall mail a copy of such report to the licensee examined. If the licensee's
 26 records are located outside this state, the licensee shall, at his THE option OF SUCH LICENSEE,

1 either make them available to the commissioner at a convenient location within this state or pay
 2 the reasonable and necessary expenses for the commissioner or his THE COMMISSIONER'S
 3 representative to examine them at the place where they are maintained. The commissioner may
 4 designate representatives, including comparable officials of the state in which the records are
 5 located, to inspect them on his behalf OF THE COMMISSIONER. For such examination, the
 6 commissioner shall charge a fee in an amount set by the banking board pursuant to section
 7 11-2-103 (11), C.R.S. If any licensee refuses to permit the commissioner to make an
 8 examination, such licensee shall be subject to such penalty as the commissioner may assess, not
 9 in excess of one hundred dollars for each day any such refusal shall continue. (b) In
 10 lieu of any examination required by this section to be made by the commissioner, the
 11 commissioner may accept the audit of an independent certified public accountant or an
 12 independent registered accountant, but the cost of such audit shall be borne by the licensee.

13 (2) (a) Every licensee shall file an annual financial statement with the commissioner,
 14 audited by an independent certified public accountant or an independent registered accountant,
 15 within one hundred twenty days following the close of the licensee's fiscal year. Such financial
 16 statements shall include a balance sheet, a profit and loss statement, and a statement of retained
 17 earnings of the licensee and his THE LICENSEE'S agents and subagents relating to their selling
 18 or issuing exchange under this article.

19 (b) Every licensee shall make and file with the commissioner not less than three
 20 reports during each calendar year according to the form which may be prescribed by the
 21 commissioner. Each such report shall exhibit in detail, as may be required by the
 22 commissioner, the resources and liabilities of the licensee at the close of business on the day
 23 past to be specified by said commissioner in writing.

24 (c) IF ANY LICENSEE FAILS TO SUBMIT ANY STATEMENT OR REPORT TO THE
 25 COMMISSIONER AS REQUIRED BY THIS SUBSECTION (2), SUCH LICENSEE SHALL PAY TO THE
 26 COMMISSIONER A PENALTY ASSESSMENT IN AN AMOUNT NOT TO EXCEED TWENTY-FIVE DOLLARS

1 FOR EACH ADDITIONAL DAY OF DELINQUENCY AS SET BY THE BANKING BOARD PURSUANT TO
2 SECTION 11-2-103 (11), C.R.S.; EXCEPT THAT, IF IN THE OPINION OF THE BANKING BOARD THE
3 DELAY IS EXCUSABLE FOR GOOD CAUSE SHOWN, NO ASSESSMENT SHALL BE PAID.

4 SECTION 7. 12-52-111, Colorado Revised Statutes, 1991 Repl. Vol., is amended
5 to read:

6 12-52-111. Multiple locations. Each licensee may conduct his business at such
7 locations within this state as he SUCH LICENSEE may desire and through such agents and
8 subagents as he SUCH LICENSEE may from time to time appoint. Each licensee shall notify the
9 banking board within ten days, by certified mail, of any increase in the number of locations at
10 which it conducts its business and shall provide proof that the bond or securities required have
11 been increased accordingly.

12 SECTION 8. 12-52-115, Colorado Revised Statutes, 1991 Repl. Vol., is amended
13 to read:

14 12-52-115. Penalty for violations. Any person who violates any provision of this
15 article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of
16 not more than one TEN thousand dollars. Each such violation shall constitute a separate offense.

17 SECTION 9. 12-52-116, Colorado Revised Statutes, 1991 Repl. Vol., is amended
18 to read:

19 12-52-116. Notice to banking board. (1) The licensee or his SUCH LICENSEE'S
20 agents or subagents shall give notice to the banking board, by certified mail, of any legal action
21 which shall be brought against him THE LICENSEE and of any judgment which shall be entered
22 against him SUCH LICENSEE, by any creditor or claimant, relating to his selling or issuing
23 exchange OR TRANSMITTING MONEY under this article, together with details sufficient to identify
24 the action or judgment, within ten days after the commencement of any such action or notice
25 to the licensee of entry of any such judgment. Within ten days after it pays any claim of
26 judgment to any such creditor or such claimant, the corporate surety shall give notice to the

1 banking board, by certified mail, of such payment, together with details sufficient to identify
2 the claimant or creditor and the claim or judgment so paid.

3 (2) The licensee or his SUCH LICENSEE'S affiliates, agents, or subagents shall
4 immediately give notice to the banking board, by certified mail, of any information in their
5 possession with regard to money orders issued by them that have been returned to purchasers
6 unpaid.

7 SECTION 10. 12-52-117, Colorado Revised Statutes, 1991 Repl. Vol., is amended
8 to read:

9 12-52-117. Repeal of article - review of functions. (1) This article is repealed,
10 effective July 1, 1994 JULY 1, 2004.

11 (2) Prior to such repeal, the licensing functions of the commissioner and the banking
12 board shall be reviewed as provided for in section 24-34-104, C.R.S.

13 SECTION 11. 24-34-104 (23.1) (c), Colorado Revised Statutes, 1988 Repl. Vol.,
14 is repealed as follows:

15 24-34-104. General assembly review of regulatory agencies and functions for
16 termination, continuation, or reestablishment. (23.1) The following boards and the functions
17 of the specified agencies shall terminate on July 1, 1994:

18 (c) ~~The licensing of persons to sell or issue money orders or other exchange through~~
19 ~~the state bank commissioner in accordance with article 52 of title 12, C.R.S.;~~

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

22 24-34-104. General assembly review of regulatory agencies and functions for
23 termination, continuation, or reestablishment. (34) THE FOLLOWING FUNCTION OF THE
24 SPECIFIED AGENCY SHALL TERMINATE ON JULY 1, 2004: THE LICENSING OF PERSONS TO SELL
25 OR ISSUE MONEY ORDERS OR OTHER EXCHANGE OR TO TRANSMIT MONEY THROUGH THE
26 BANKING BOARD AND THE STATE BANK COMMISSIONER IN ACCORDANCE WITH ARTICLE 52 OF

1 TITLE 12, C.R.S.

2 SECTION 13. **Effective date.** This act shall take effect July 1, 1994.

3 SECTION 14. **Safety clause.** The general assembly hereby finds, determines, and

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

5 safety.

BILL 6

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF DEBT MANAGEMENT.

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 licensing of debt management through the banking board and the state bank commissioner until a certain date subject to review by the joint legislative sunrise and sunset review committee.

Makes violation of the laws regulating debt management companies and debt adjusters a deceptive trade practice. Specifies that any person claiming an exemption from the licensure requirement for debt management companies or debt adjusters bears the burden of proving such exemption. Specifies that an application for licensure or an application for license renewal shall be valid for all offices of a licensee and that a separate application for each branch office shall not be necessary. Removes the five-day notice requirement that the state bank commissioner must give to a licensee before examining such licensee's books and operation. Clarifies the time period in which a person may bring an action pursuant to the article regulating debt management companies and debt adjusters. Specifies that all moneys collected by the banking board or the state bank commissioner pursuant to this article shall be deposited in the division of banking cash fund.

Includes limited liability companies in the group of entities which may be licensed as debt management companies.

Makes conforming amendments.

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

2 SECTION 1. 6-1-105 (1), Colorado Revised Statutes, 1992 Repl. Vol., as amended,
3 is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade
5 practice when, in the course of such person's business, vocation, or occupation, such person:

6 (nn) VIOLATES ANY PROVISION OF ARTICLE 20 OF TITLE 12, C.R.S.

7 SECTION 2. 11-2-103 (1), Colorado Revised Statutes, 1987 Repl. Vol., as
8 amended, is amended to read:

9 11-2-103. Powers of banking board. (1) The banking board is the policy-making

1 and rule-making authority for the division of banking and has the power to:

2 (a) Make, modify, reverse, and vacate rules and regulations for the proper
3 enforcement and administration of this code and the "Public Deposit Protection Act", article
4 10.5 of this title; and

5 (b) ~~Regulate its own procedure and practice.~~ MAKE, PROMULGATE, ALTER, AMEND,
6 OR REVISE REASONABLE RULES AND REGULATIONS AS MAY BE NECESSARY FOR THE
7 ENFORCEMENT AND EXECUTION OF THE PROVISIONS OF ARTICLE 20 OF TITLE 12, C.R.S.; AND

8 (c) REGULATE PROCEDURE AND PRACTICE OF THE BANKING BOARD.

9 SECTION 3. 12-20-102 (3), (5), and (6), Colorado Revised Statutes, 1991 Repl.
10 Vol., are amended to read:

11 12-20-102. Definitions. As used in this article, unless the context otherwise
12 requires:

13 (3) "Debt management" means the planning and management of the financial affairs
14 of a debtor for a fee and the receiving therefrom of money or evidences thereof for the purpose
15 of distributing the same to his SUCH DEBTOR'S creditors in payment or partial payment of his
16 SUCH DEBTOR'S obligations.

17 (5) "Licensee" means any individual, LIMITED LIABILITY COMPANY, partnership,
18 unincorporated association, or corporation licensed under this article.

19 (6) "Office" means each location by street number, building number, city, and state
20 where any person INDIVIDUAL, LIMITED LIABILITY COMPANY, PARTNERSHIP, UNINCORPORATED
21 ASSOCIATION, OR CORPORATION engages in debt management. FOR PURPOSES OF THIS ARTICLE,
22 BRANCH OFFICE IS INCLUDED IN THE DEFINITION OF "OFFICE".

23 SECTION 4. 12-20-103, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
24 is amended to read:

25 12-20-103. Debt management - licensing of companies and individuals. (1) No
26 individual, LIMITED LIABILITY COMPANY, partnership, unincorporated association, or corporation

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BILL 6

1 shall engage in the business of debt management in this state, as defined in section 12-20-102,
2 without a license therefor as provided for in this article; except that the following persons are
3 not required to be licensed when engaged in the regular course of their respective businesses
4 and professions:

- 5 (a) Attorneys-at-law;
- 6 (b) Banks and similar fiduciaries, as duly authorized and admitted to transact
7 business in this state and performing credit and financial adjusting in the regular course of their
8 principal business, or while performing an escrow function;
- 9 (c) Title insurers and abstract companies while performing an escrow function;
- 10 (d) Employees of licensees under this article;
- 11 (e) Judicial officers or others acting under court orders;
- 12 (f) Nonprofit religious, fraternal, or cooperative organizations offering gratuitous
13 debt management service.

14 (1.5) ANY INDIVIDUAL, LIMITED LIABILITY COMPANY, PARTNERSHIP,
15 UNINCORPORATED ASSOCIATION, OR CORPORATION CLAIMING AN EXEMPTION FROM LICENSURE
16 PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL HAVE THE BURDEN OF PROVING SUCH
17 EXEMPTION.

18 (2) The application for such license shall be in writing, under oath, and in the form
19 prescribed by the banking board. The application shall contain the name of the applicant; date
20 of incorporation, if incorporated; ~~the address~~ ANY OFFICE where the business is to be conducted
21 ~~and similar information as to~~ INCLUDING any branch office of the applicant; the name and
22 resident address of the owner or partners or, if a corporation or association, of the directors,
23 trustees, and principal officers; and such other pertinent information as the banking board may
24 require. If the applicant is a partnership, a copy of the certificate of assumed name or articles
25 of partnership shall be filed with the application. If the applicant is a corporation, a copy of the
26 articles of incorporation shall be filed with the application. IF THE APPLICANT IS A LIMITED

1 LIABILITY COMPANY, A COPY OF THE ARTICLES OF ORGANIZATION SHALL BE FILED WITH THE
2 APPLICATION.

3 (3) (a) Each application shall be accompanied by such evidence of a savings account,
4 deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., a surety
5 bond running to the people of the state of Colorado, insurance, or other evidence of financial
6 responsibility as the banking board by rule determines to be necessary and appropriate for the
7 protection of debtors. The amount of the surety bond or the surety bond alternative meeting
8 the requirements of section 11-35-101, C.R.S., shall not exceed twenty-five thousand dollars.
9 The applicant shall attest to faithfully account for all moneys collected upon accounts entrusted
10 to it and its employees and agents. No individual, LIMITED LIABILITY COMPANY, partnership,
11 unincorporated association, or corporation shall engage in the business of debt management until
12 it has complied with this subsection (3) and the rules of the banking board.

13 (b) DEBTOR FUNDS COLLECTED BY A LICENSEE INCLUDING THE SURETY BOND OR
14 SURETY BOND ALTERNATIVE REQUIRED BY THIS SUBSECTION (3), EVEN IF COMMINGLED WITH
15 OTHER ASSETS OF THE LICENSEE, SHALL BE DEEMED BY OPERATION OF LAW TO BE HELD IN
16 TRUST FOR THE BENEFIT OF THE DEBTOR IN THE EVENT OF THE BANKRUPTCY OF THE LICENSEE.

17 (4) Each applicant shall furnish with ~~his~~ SUCH APPLICANT'S application a copy of
18 the contract ~~he~~ SUCH APPLICANT proposes to use between ~~himself~~ THE APPLICANT and the
19 debtor, which shall contain a schedule of fees to be charged the debtor for ~~his~~ THE services OF
20 THE APPLICANT, which shall not exceed ten percent of the total debts to be adjusted, and shall
21 be subject to the approval of the banking board.

22 (5) At the time of making such application, the applicant shall pay to the banking
23 board A LICENSING FEE IN an amount set by the banking board pursuant to section 11-2-103
24 (11), C.R.S., ~~as a license fee for each of his~~ FOR THE LICENSING OF SUCH APPLICANT'S DEBT
25 MANAGEMENT BUSINESS. ONE FEE SHALL COVER THE APPLICANT'S OFFICE AND ANY BRANCH
26 offices LISTED ON SUCH APPLICATION. ~~and an~~ A SEPARATE investigation fee in an amount set

1 by the banking board pursuant to section 11-2-103 (11), C.R.S., ~~A separate application shall~~
2 ~~be made for each office maintained by the applicant.~~ SHALL ALSO BE REQUIRED AND COLLECTED
3 WHEN THE APPLICATION IS SUBMITTED.

4 SECTION 5. 12-20-106, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
5 is amended to read:

6 12-20-106. License renewal. Each licensee, on or before December first, may make
7 application to the banking board for renewal of such licensee's license. The application shall
8 be on the form prescribed by the banking board and shall be accompanied by a fee in an amount
9 set by the banking board pursuant to section 11-2-103 (11), C.R.S., together with evidence of
10 financial responsibility as in the case of an original application; except that the original
11 application shall be accompanied by an additional fee in an amount set by the banking board
12 pursuant to section 11-2-103 (11), C.R.S. ~~A separate application shall be made for each office~~
13 ~~maintained by the applicant.~~ AN APPLICATION FOR RENEWAL OF A LICENSE MADE BY A
14 LICENSEE AND THE ACCOMPANYING FEE SHALL BE VALID FOR THE APPLICANT'S OFFICE AND
15 ALL BRANCH OFFICES USED BY THE APPLICANT AS LISTED ON SUCH APPLICATION FOR RENEWAL.
16 NO SEPARATE FEE OR APPLICATION SHALL BE REQUIRED FOR ANY BRANCH OFFICE LISTED ON
17 THE RENEWAL APPLICATION FOR LICENSURE.

18 SECTION 6. 12-20-108, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
19 is amended to read:

20 12-20-108. Duties of licensee. (1) Each licensee who makes a written contract
21 between ~~himself~~ SUCH LICENSEE and a debtor shall immediately furnish the debtor with a true
22 copy of the contract. The contract shall set forth the complete list of the creditors holding such
23 obligations, the total charges agreed upon for the services of the licensee, and the beginning and
24 expiration date of the contract. No contract shall extend for a period longer than twenty-four
25 months.

26 (2) Each licensee shall maintain a separate bank account for the benefit of debtors

1 in which all payments received from the debtor for the benefit of creditors shall be deposited
2 and in which all payments shall remain until a remittance is made to either the debtor or the
3 creditor Every licensee shall keep, and use in ~~his~~ SUCH LICENSEE'S business, books, accounts,
4 and records which will enable the commissioner to determine whether such licensee is
5 complying with the provisions of this article and with the rules and regulations of the banking
6 board. Every licensee shall preserve such books, accounts, and records for at least seven years
7 after making the final entry on any transaction recorded therein.

8 (3) Each licensee shall keep complete and adequate records during the term of the
9 contract and for a period of six years from the date of cancellation or completion of the contract
10 with each debtor, which records shall contain complete information regarding the contract,
11 extensions thereof, payments, disbursements, and charges and shall be open to inspection by the
12 commissioner and ~~his~~ THE COMMISSIONER'S duly appointed agents during normal business
13 hours.

14 (4) Each licensee shall make remittances to creditors within one month after receipt
15 of any funds, or such shorter period as may be provided under the schedule of repayment
16 pursuant to section 12-20-107, less fees and costs.

17 (5) Each licensee shall, upon request, furnish the debtor a written statement of ~~his~~
18 SUCH DEBTOR'S account each ninety days, or a verbal accounting at any time the debtor may
19 request it during normal business hours.

20 (6) No licensee shall accept an account unless a written and thorough budget analysis
21 indicates that the debtor can adequately meet the requirements determined by the budget
22 analysis.

23 (7) In the event a compromise of a debt is arranged by the licensee with any one or
24 more creditors, the debtor shall have the full benefit of such compromise.

25 SECTION 7. 12-20-109, Colorado Revised Statutes, 1991 Repl. Vol., is amended
26 to read:

1 **12-20-109. Duties and power of commissioner.** (1) The commissioner may
 2 examine ~~upon five days' notice given the licensee~~ the condition and affairs of ~~said~~ ANY licensee
 3 AT SUCH TIMES AS ARE NECESSARY IN THE OPINION OF THE COMMISSIONER AS DIRECTED BY
 4 THE BANKING BOARD. In connection with any examination, the commissioner may examine,
 5 on oath, any licensee and any director, officer, employee, customer, creditor, or stockholder
 6 of a licensee concerning the affairs and business of the licensee. The commissioner shall
 7 ascertain whether the licensee transacts its business in the manner prescribed by law and the
 8 rules and regulations of the banking board issued thereunder. The licensee shall pay the cost
 9 of the examination as determined by the commissioner, which fee shall not exceed a sum per
 10 day of examination set by the banking board pursuant to section 11-2-103 (11), C.R.S. Failure
 11 to pay the examination fee within thirty days of receipt of demand from the commissioner shall
 12 automatically suspend the license until the fee is paid.

13 (2) In the investigation of alleged violations of this article, the BANKING board or
 14 the commissioner may compel the attendance of any person or the production of any books,
 15 accounts, records, and files used therein, and may examine under oath all persons in attendance
 16 pursuant thereto.

17 **SECTION 8.** 12-20-110 (1) (e) and (1) (f), Colorado Revised Statutes, 1991 Repl.
 18 Vol., as amended, are amended to read:

19 **12-20-110. Unlawful acts by licensee.** (1) It is unlawful and a violation of this
 20 article for the holder of any license issued under the terms and provisions of this article:

21 (e) To pay any bonus or other consideration to any individual, LIMITED LIABILITY
 22 COMPANY, partnership, unincorporated association, or corporation for the referral of a debtor
 23 to ~~his~~ SUCH LICENSEE'S business, or to accept or receive any bonus, commission, or other
 24 consideration for referring any debtor to any individual, LIMITED LIABILITY COMPANY,
 25 partnership, unincorporated association, or corporation for any reason:

26 (f) To advertise, ~~his services~~ display, distribute, broadcast, or televise or permit to

1 be displayed, advertised, distributed, broadcast, or televised ~~his~~ SUCH LICENSEE'S services in
 2 any manner inconsistent with law;

3 **SECTION 9.** 12-20-112, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 4 to read:

5 **12-20-112. Violation.** (1) It is unlawful for any individual, LIMITED LIABILITY
 6 COMPANY, partnership, unincorporated association, or corporation to engage in the business of
 7 debt management without first obtaining a license as required by this article. Any individual,
 8 LIMITED LIABILITY COMPANY, partnership, unincorporated association, corporation, or any other
 9 group of individuals, however organized, or any owner, partner, member, officer, director,
 10 employee, agent, or representative thereof who willfully or knowingly engages in the business
 11 of debt management without the license required by this article is guilty of a misdemeanor and,
 12 upon conviction thereof, shall be punished by a fine of not more than one thousand dollars for
 13 each violation, or by imprisonment in the county jail for not more than six months, or by both
 14 such fine and imprisonment.

15 (2) Any licensee who violates any provision of this article is guilty of a misdemeanor
 16 and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars
 17 for the first offense. Upon conviction of each subsequent offense, there may be assessed a fine
 18 of not more than one thousand dollars, or imprisonment in the county jail for a period of not
 19 more than one year, or both such fine and imprisonment.

20 **SECTION 10.** 12-20-113, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 21 to read:

22 **12-20-113. Limitation of actions.** All actions FOR FRAUD, MISREPRESENTATION,
 23 CONCEALMENT, OR DECEIT BROUGHT in any of the courts of this state pursuant to this article
 24 shall be commenced within the time period prescribed in section 13-80-103, C.R.S. ALL OTHER
 25 CIVIL AND CRIMINAL ACTIONS SHALL BE BROUGHT WITHIN THE APPLICABLE STATUTES OF
 26 LIMITATIONS AS PROVIDED BY LAW.

1 SECTION 11. 12-20-114, Colorado Revised Statutes, 1991 Repl. Vol., is amended
2 to read:

3 12-20-114. Commissioner as agent for service of process. (1) No licensee shall
4 transact business until ~~he~~ SUCH LICENSEE has first appointed in writing the commissioner as
5 agent of the licensee for service of process in this state. Service upon the commissioner, or,
6 in the commissioner's absence, the deputy commissioner, is of the same legal force and validity
7 as if served upon any licensee under this article.

8 (2) Whenever lawful process against any licensee is served upon the banking board
9 or the commissioner, two copies shall be furnished, and the commissioner shall forthwith
10 forward a copy of the process served, by registered mail, postpaid and directed to the licensee.
11 For each service of process the sum of two dollars shall be collected which shall be paid by the
12 plaintiff at the time of such service, the same to be recovered by ~~him~~ THE PLAINTIFF as part of
13 the taxable costs if ~~he~~ SUCH PLAINTIFF prevails in the suit.

14 SECTION 12. 12-20-115, Colorado Revised Statutes, 1991 Repl. Vol., is amended
15 to read:

16 12-20-115. Disposition of fees. All moneys received by the banking board and the
17 commissioner from fees, licenses, and examinations pursuant to this article shall be deposited
18 by the banking board and the commissioner with the state treasurer and credited to the ~~general~~
19 DIVISION OF BANKING CASH fund ~~of the state of Colorado~~ CREATED IN SECTION 11-2-114.5,
20 C.R.S.

21 SECTION 13. 12-20-116, Colorado Revised Statutes, 1991 Repl. Vol., is amended
22 to read:

23 12-20-116. Repeal - review of functions. This article is repealed, effective July 1,
24 1994 JULY 1, 2000. Prior to such repeal, the licensing functions of the commissioner and the
25 banking board shall be reviewed as provided for in section 24-34-104, C.R.S.

26 SECTION 14. 24-34-104 (23.1) (b), Colorado Revised Statutes, 1988 Repl. Vol.,

1 is repealed as follows:

2 24-34-104. General assembly review of regulatory agencies and functions for
3 termination, continuation, or reestablishment. (23.1) The following boards and the functions
4 of the specified agencies shall terminate on July 1, 1994:

5 (b) ~~The licensing of debt management companies through the state bank~~
6 ~~commissioner in accordance with article 20 of title 12, C.R.S.;~~

7 SECTION 15. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,
8 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

9 24-34-104. General assembly review of regulatory agencies and functions for
10 termination, continuation, or reestablishment. (29.1) THE FOLLOWING FUNCTION OF THE
11 SPECIFIED AGENCY SHALL TERMINATE ON JULY 1, 2000: THE LICENSING OF DEBT
12 MANAGEMENT THROUGH THE BANKING BOARD AND THE STATE BANK COMMISSIONER IN
13 ACCORDANCE WITH ARTICLE 20 OF TITLE 12, C.R.S.

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

BILL 7

A BILL FOR AN ACT

101 CONCERNING THE REGULATORY AUTHORITY OF THE DIVISION OF BANKING.

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 division of banking in the department of regulatory agencies until a certain date. Requires that not less than one and not more than two members of the banking board shall be from any one congressional district, that no more than four members shall be from the same major political party, and that at all times one member of the banking board shall reside west of the continental divide. Requires the state bank commissioner to publish annually a report containing such information the commissioner deems necessary to summarize the operations of the division of banking during such year. Clarifies provisions of law governing the furnishing of public documents of the division of banking to persons, the certification thereof, and the admissibility of such records in evidence. Adds engaging in or participating in any unsafe or unsound practice in connection with a bank, an industrial bank, or a trust company to the grounds on which the banking board may assess civil penalties. Authorizes the banking board to establish by rule the qualifications and experience required of persons to be directors or officers of state banks. Authorizes the banking board to set by rule and regulation the capital requirements for out-of-state bank holding companies to acquire Colorado bank holding companies or Colorado banks. Clarifies terms in provisions governing the involuntary liquidation of trust companies to reflect that action may be taken by the banking board if serious losses to customers of a trust company may result if the banking board does not take possession of the trust company.

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

2 SECTION 1. 24-34-104 (23) (a) (I), Colorado Revised Statutes, 1988 Repl. Vol.,
3 is repealed as follows:

4 24-34-104. General assembly review of regulatory agencies and functions for
5 termination, continuation, or reestablishment. (23) (a) The following divisions in the
6 department of regulatory agencies shall terminate on July 1, 1994:

7 (I) ~~The division of banking, created by article 2 of title 11, C.R.S.;~~

8 SECTION 2. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,

1 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

2 24-34-104. General assembly review of regulatory agencies and functions for
3 termination, continuation, or reestablishment. (34) THE FOLLOWING DIVISION IN THE
4 DEPARTMENT OF REGULATORY AGENCIES SHALL TERMINATE ON JULY 1, 2004: THE DIVISION
5 OF BANKING, CREATED BY ARTICLE 2 OF TITLE 11, C.R.S.

6 SECTION 3. 11-2-101 (10), Colorado Revised Statutes, 1987 Repl. Vol., as
7 amended, is amended to read:

8 11-2-101. Division of banking - creation - subject to termination - repeal of
9 article. (10) (a) The provisions of section 24-34-104, C.R.S., concerning the termination
10 schedule for regulatory bodies of the state unless extended as provided in that section, are
11 applicable to the division of banking created by this section.

12 (b) This article is repealed, effective ~~July 1, 1994~~ JULY 1, 2004.

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

15 11-2-102. Banking board. (2) (a) There shall be four members who during their
16 tenure are, and shall remain, executive officers of state banks and shall have not less than five
17 years' practical experience as an active executive officer of a bank.

18 (a.1) There shall be one member who during his OR HER tenure is, and shall remain,
19 the executive officer of an industrial bank.

20 (a.2) There shall be one member who during his OR HER tenure is, and shall remain,
21 the executive officer of a trust company.

22 (b) There shall also be two members to serve as public members of the banking
23 board who shall have expertise in finance through their current experience in business, industry,
24 agriculture, or education.

25 (c) ~~Not more than one banker member of the banking board appointed pursuant to~~
26 ~~paragraph (e) of this subsection (2) shall be from any one congressional district, and of the four~~

1 state bank members and the one industrial bank member and one trust company member of the
 2 banking board, not more than three shall be of the same major political party. The two
 3 nonbanker members of the banking board appointed pursuant to paragraph (b) of this subsection
 4 (2) shall not be appointed from the same congressional district, and not more than one of such
 5 members shall be of the same major political party. No member of the banking board shall
 6 have any interest, direct or indirect, in a bank in which another member of the banking board
 7 shall have HAS any such interest. Not more than one of the members shall be an executive
 8 officer or employee of any one bank holding company or affiliate thereof.

9 (d) Of the eight members appointed under this subsection (2), at least one AND NOT
 10 MORE THAN TWO shall be appointed from each congressional district of the state, AND NOT
 11 MORE THAN FOUR SHALL BE OF THE SAME MAJOR POLITICAL PARTY. AT ALL TIMES, AT LEAST
 12 ONE MEMBER SHALL RESIDE WEST OF THE CONTINENTAL DIVIDE.

13 SECTION 5. 11-2-110, Colorado Revised Statutes, 1987 Repl. Vol., as amended,
 14 is amended to read:

15 11-2-110. Commissioner's annual report - publications. ~~(1) The commissioner~~
 16 ~~shall prepare and transmit annually, in the form and manner prescribed by the heads of the~~
 17 ~~principal departments pursuant to the provisions of section 24-1-136, C.R.S., a report~~
 18 ~~accounting to the governor and the general assembly for the efficient discharge of all~~
 19 ~~responsibilities assigned by law or directive to the division.~~

20 ~~(2) The commissioner shall compile annually the text of all rules and regulations of~~
 21 ~~general application of the banking board and commissioner as adopted or altered since the last~~
 22 ~~compilation.~~

23 ~~(3) The commissioner shall prepare an annual analysis of the state banks which shall~~
 24 ~~include:~~

25 ~~(a) A statement of the status and remaining assets and liabilities of each state bank~~
 26 ~~in the possession of the banking board;~~

1 ~~(b) A summary of all the changes occurring since his last previous report by reason~~
 2 ~~of opening or closing state banks, mergers and conversions, increases and decreases in capital,~~
 3 ~~and the like;~~

4 ~~(c) A tabular statement of condition of each state bank as of the date of the most~~
 5 ~~recent report of condition rendered to the commissioner;~~

6 ~~(d) The names of the officers and directors of all state banks during the preceding~~
 7 ~~year.~~

8 ~~(4) Publications of the commissioner circulated in quantity outside the executive~~
 9 ~~branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S. FOR EACH~~
 10 ~~CALENDAR YEAR, THE COMMISSIONER SHALL COMPILER AND PUBLISH AN ANNUAL REPORT IN~~
 11 ~~SUCH FORM AND CONTAINING SUCH INFORMATION AS THE COMMISSIONER MAY DETERMINE~~
 12 ~~NECESSARY TO REASONABLY SUMMARIZE THE OPERATIONS OF THE DIVISION DURING SUCH~~
 13 ~~YEAR.~~

14 SECTION 6. 11-2-111 (3), Colorado Revised Statutes, 1987 Repl. Vol., as
 15 amended, is amended to read:

16 11-2-111. Records. (3) ~~A copy of any document on file with the division which is~~
 17 ~~certified by the official custodian for the banking board as being a true copy may be introduced~~
 18 ~~in evidence as if it were the original. The banking board shall establish a schedule of fees for~~
 19 ~~copies of documents. UPON REQUEST AND UPON PAYMENT OF SUCH REASONABLE CHARGES AS~~
 20 ~~THE COMMISSIONER SHALL PRESCRIBE, THE COMMISSIONER SHALL FURNISH TO ANY PERSON A~~
 21 ~~CERTIFIED COPY OF ANY DOCUMENT ON FILE WITH THE DIVISION WHICH IS A PUBLIC RECORD.~~
 22 ~~SUCH CERTIFIED COPY SHALL BE ADMISSIBLE IN EVIDENCE IN LIEU OF THE ORIGINAL AND~~
 23 ~~SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE CONTENTS OF THE ORIGINAL.~~

24 SECTION 7. 11-2-117 (1) (a) (I), Colorado Revised Statutes, 1987 Repl. Vol., as
 25 amended, is amended to read:

26 11-2-117. Assessment of civil money penalties by banking board. (1) (a) (I) After

1 notice and a hearing as provided in article 4 of title 24, C.R.S., and after making a
2 determination that no other appropriate governmental agency has taken similar action against
3 such person for the same act or practice, the banking board may assess against and collect a
4 civil penalty from:

5 (A) Any person who has violated any final cease and desist order issued by the
6 banking board pursuant to section 11-2-103 (7); and

7 (B) Any state bank which, or any executive officer, director, employee, agent, or
8 other person participating in the conduct of the affairs of such bank who, violates or knowingly
9 permits any person to violate any of the provisions of this code or any rule or regulation
10 promulgated pursuant to this code, OR ENGAGES OR PARTICIPATES IN ANY UNSAFE OR UNSOUND
11 PRACTICE IN CONNECTION WITH A BANK. The civil money penalty shall not exceed one
12 thousand dollars per day for each day such violation continues. This provision shall include, but
13 not be limited to, the following violations: Making, or causing to be made, delinquent payment
14 of assessments under section 11-2-114; submitting, or causing to be submitted, delinquent
15 reports, including but not limited to call reports; or knowingly submitting, or causing to be
16 submitted, to the banking board any report or statement which contains materially false or
17 misleading information.

18 SECTION 8. 11-3-110 (1) (c), Colorado Revised Statutes, 1987 Repl. Vol., as
19 amended, is amended to read:

20 11-3-110. Procedure for granting or denying charter. (1) Within sixty days
21 following the filing of the completed application for charter, the commissioner shall make or
22 cause to be made a careful investigation to determine that the following requirements have been
23 met:

24 (c) That the persons who will serve as directors or officers, insofar as such persons
25 are known, ~~are qualified by character~~ POSSESS THE QUALIFICATIONS and experience REQUIRED
26 UNDER RULES PROMULGATED BY THE BANKING BOARD and that the qualifications and financial

1 status of the incorporators, directors, officers, and persons in control of the bank, as defined
2 in section 11-2-109 (4), are consistent with their responsibilities and duties;

3 SECTION 9. 11-6.4-103 (7), Colorado Revised Statutes, 1987 Repl. Vol., as
4 amended, is amended to read:

5 11-6.4-103. Acquisition of control of bank holding companies and banks by
6 bank holding companies in different states. (7) An out-of-state bank holding company may
7 not acquire control of a Colorado bank holding company or Colorado bank if UNLESS
8 immediately before such acquisition such out-of-state bank holding company has in the aggregate
9 a ratio of total capital to total assets of less than six percent. For the purpose of this subsection
10 ~~(7), if the federal bank holding company act or the regulations, interpretations, and guidelines~~
11 ~~of the federal reserve board thereunder specify from time to time a minimum ratio of total~~
12 ~~capital to total assets of greater than six percent, then such greater percentage shall control. If~~
13 ~~the federal reserve board reduces the ratio below six percent or eliminates the ratio altogether,~~
14 ~~the ratio governing this subsection (7) shall remain at six percent and the general assembly shall~~
15 ~~review the ratio and definitions in this subsection (7) no later than the next regular session of~~
16 ~~the general assembly. For the purpose of this subsection (7), "total capital" means "total~~
17 ~~capital" as defined under the federal bank holding company act and regulations, interpretations,~~
18 ~~and guidelines issued by the federal reserve board thereunder, including Appendix A to 12~~
19 ~~C.F.R. section 225, in effect on January 1, 1988, or as modified thereafter, or as modified by~~
20 ~~a substituted term. For the purpose of this subsection (7), total capital and total assets shall be~~
21 ~~determined based upon the public reports most recently filed with the appropriate federal~~
22 ~~regulatory agency SUCH CAPITAL AS THE BANKING BOARD MAY REQUIRE BY RULE AND~~
23 REGULATION.

24 SECTION 10. 11-22-115.1 (1) (a) (I), Colorado Revised Statutes, 1987 Repl. Vol.,
25 as amended, is amended to read:

26 11-22-115.1. Assessment of civil money penalties by banking board.

1 (1) (a) (I) After notice and a hearing as provided in article 4 of title 24, C.R.S., and after
2 making a determination that no other appropriate governmental agency has taken similar action
3 against such person for the same act or practice, the banking board may assess against and
4 collect a civil penalty from:

5 (A) Any person who has violated any final cease and desist order issued by the
6 banking board pursuant to section 11-22-109 (5) (d); and

7 (B) Any industrial bank which, or any executive officer, director, employee, agent,
8 or other person participating in the conduct of the affairs of such industrial bank who, violates
9 or knowingly permits any person to violate any of the provisions of this article or any rule or
10 regulation promulgated pursuant to this article, OR ENGAGES OR PARTICIPATES IN ANY UNSAFE
11 OR UNSOUND PRACTICE IN CONNECTION WITH AN INDUSTRIAL BANK. The civil money penalty
12 shall not exceed one thousand dollars per day for each day such violation continues. This
13 provision shall include, but need not be limited to, the following violations: Making, or causing
14 to be made, delinquent payment of assessments under this section; submitting, or causing to be
15 submitted, delinquent reports, including but not limited to call reports; or knowingly submitting,
16 or causing to be submitted, to the banking board any report or statement which contains
17 materially false or misleading information.

18 **SECTION 11.** 11-23-119.1 (1) (a) (I), Colorado Revised Statutes, 1987 Repl. Vol.,
19 as amended, is amended to read:

20 **11-23-119.1. Assessment of civil money penalties by banking board.**

21 (1) (a) (I) After notice and a hearing as provided in article 4 of title 24, C.R.S., and after
22 making a determination that no other appropriate governmental agency has taken similar action
23 against such person for the same act or practice, the banking board may assess against and
24 collect a civil penalty from:

25 (A) Any person who has violated any final cease and desist order issued by the
26 banking board pursuant to section 11-23-117 (1) (d); and

1 (B) Any trust company which, or any executive officer, director, employee, agent,
2 or other person participating in the conduct of the affairs of such trust company who, violates
3 or knowingly permits any person to violate any of the provisions of this article or any rule or
4 regulation promulgated pursuant to this article, OR ENGAGES OR PARTICIPATES IN ANY UNSAFE
5 OR UNSOUND PRACTICE IN CONNECTION WITH A TRUST COMPANY. The civil money penalty
6 shall not exceed one thousand dollars per day for each day such violation continues. This
7 provision shall include, but not be limited to, the following violations: Making, or causing to
8 be made, delinquent payment of assessments under this section; submitting, or causing to be
9 submitted, delinquent reports, including but not limited to call reports; or knowingly submitting,
10 or causing to be submitted, to the banking board any report or statement which contains
11 materially false or misleading information.

12 **SECTION 12.** 11-23-122 (2) (d), Colorado Revised Statutes, 1987 Repl. Vol., as
13 amended, is amended to read:

14 **11-23-122. Involuntary liquidation.** (2) (d) If, in the opinion of the banking board,
15 an emergency exists which may result in serious losses to the ~~depositors~~ CUSTOMERS, it may
16 take possession of a trust company without a prior hearing. Within ten days after the board has
17 taken possession, any interested person may file an application with the banking board for an
18 order vacating such possession. The banking board shall grant the application if it finds its
19 action was unauthorized.

20 **SECTION 13. Safety clause.** The general assembly hereby finds, determines, and
21 declares that this act is necessary for the immediate preservation of the public peace, health, and
22 safety.

BILL 8

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF THE PRACTICE OF ENGINEERING AND LAND SURVEYING,
102 AND, IN CONNECTION THEREWITH, PROVIDING FOR THE CONTINUATION OF THE
103 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL
104 LAND SURVEYORS AND REORGANIZING STATUTORY PROVISIONS RELATED THERETO.

Bill Summary

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

Continues until a certain date the functions of the state board of registration for professional engineers and professional land surveyors.

Changes certain exemptions from licensure under the laws regulating engineers. Adds limited liability companies to the list of nonnatural persons which may perform engineering or land surveying work if there is a licensed engineer or land surveyor in responsible charge of such work.

Grants the board power to assess fines against any party acting unlawfully as an engineer or land surveyor. Grants the board the power to limit the scope of practice of an engineer or land surveyor who has violated the laws regulating engineers or land surveyors as applicable. Includes certain acts as the basis for disciplinary action against an engineer or land surveyor by the board. Empowers the board to issue cease and desist orders against any person violating the laws regulating engineers or land surveyors. Changes the requirement that the board automatically reinstate any engineer or land surveyor who has been retired to allow the board to require any such retiree to be examined as it deems appropriate.

Adds certain individuals to the list of individuals who are immune from civil liability in connection with a professional review of an engineer or land surveyor.

Changes the requirement that the board mail a copy of the roster of engineers to all licensed engineers and a copy of the roster of land surveyors to all licensed land surveyors to making a copy of such roster available to all licensees.

Changes the term used to refer to persons training to become engineers or land surveyors from engineers-in-training to engineer-interns and from surveyors-in-training to land surveyor-interns. Removes the requirement that the board mail certificates to individuals who become certified as engineer-interns or land surveyor-interns.

Removes certain restrictions on the use of official seals by engineers and land surveyors.

Repeals and reenacts the provisions of law regulating survey plats and monuments records, standards for land surveys and plats, and perpetuation of land survey monuments, leaving the substantive provisions of those laws substantially as they are in current law while updating the language and organization.

Makes conforming amendments.

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

2 SECTION 1. 12-25-101, Colorado Revised Statutes, 1991 Repl. Vol., is amended
3 to read:

4 12-25-101. General provisions. In order to safeguard life, health, and property and
5 to promote the public welfare, the practice of engineering is declared to be subject to regulation
6 in the public interest. It shall be deemed that the right to engage in the practice of engineering
7 is a privilege granted by the state through the ~~registration board~~ STATE BOARD OF REGISTRATION
8 FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, CREATED IN SECTION
9 12-25-106; that the profession involves personal skill and presupposes a period of intensive
10 preparation, internship, due examination, and admission; and that a professional engineer's
11 license is solely his SUCH PROFESSIONAL ENGINEER'S own and IS nontransferable.

12 SECTION 2. 12-25-102 (1), (2), (6), (10), (11), (12), (13), and (14), Colorado
13 Revised Statutes, 1991 Repl. Vol., are amended to read:

14 12-25-102. Definitions. As used in this part 1, unless the context otherwise requires:

15 (1) "Board" means the state board of registration for professional engineers and
16 professional land surveyors, CREATED IN SECTION 12-25-106.

17 (2) "Certificate" means the media issued by the board to evidence registration and
18 licensing of a professional engineer. ~~or to evidence enrollment of an engineer in training.~~

19 (6) ~~"Engineer-in-training"~~ "ENGINEER-INTERN" means a person who has complied
20 with the requirements of sections 12-25-111 and 12-25-112 and is duly enrolled as an
21 ~~"engineer-in-training"~~ "ENGINEER-INTERN".

22 (10) "Practice of engineering" means the performance for others of any professional
23 service or creative work requiring engineering education, training, and experience and the
24 application of special knowledge of the mathematical and engineering sciences to such
25 professional services or creative work, including consultation, investigation, evaluation,

1 ~~planning, design, surveying, and supervision of construction for the purpose of assuring~~
 2 ~~compliance with specifications and design (but supervision of construction shall not include,~~
 3 ~~unless responsibility therefor is specifically assumed by contract, superintendence of any~~
 4 ~~contractor's or subcontractor's processes, means, methods, equipment, or personnel for the~~
 5 ~~purpose of maintaining a safe place to work or safety in or about the site of the work) AND THE~~
 6 OBSERVATION OF CONSTRUCTION TO EVALUATE COMPLIANCE WITH PLANS AND SPECIFICATIONS
 7 in connection with the ~~utilizing~~ UTILIZATION of the forces, energies, and materials of nature in
 8 the development, production, and functioning of engineering processes, apparatus, machines,
 9 equipment, facilities, structures, buildings, works, or utilities, or any combination or
 10 aggregations thereof, employed in or devoted to public or private enterprise or uses.

11 (11) "Professional engineer" means an engineer duly registered AND LICENSED
 12 PURSUANT TO THIS PART 1.

13 (12) "Registrant" means ~~a person~~ AN INDIVIDUAL duly registered and licensed to
 14 practice engineering.

15 (13) "Registration" means formal action by the board to officially license ~~a person~~
 16 AN INDIVIDUAL to practice engineering and to make an official record thereof.

17 (14) "Responsible charge" means control and direction of engineering work within
 18 a professional engineer's scope of competence. Experience may only be classified as
 19 "responsible charge" if the engineer is registered AND LICENSED PURSUANT TO THIS PART 1,
 20 unless the work involves an activity exempted pursuant to section 12-25-103.

21 SECTION 3. 12-25-103, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 22 to read:

23 12-25-103. Exemptions. (1) This part 1 shall not be construed to affect any of the
 24 following:

25 (a) ~~Persons~~ INDIVIDUALS who normally operate and maintain machinery or
 26 equipment;

- 1 (b) ~~Persons~~ INDIVIDUALS who perform engineering services for themselves;
 - 2 (c) Partnerships, professional associations, joint stock companies, LIMITED LIABILITY
 - 3 COMPANIES, or corporations, or the employees of any such organizations, who perform
 - 4 engineering services for themselves or their affiliates;
 - 5 (d) ~~Persons~~ INDIVIDUALS who perform engineering services under the control and
 - 6 ~~direction~~ RESPONSIBLE CHARGE of a registrant;
 - 7 (e) Work of a strictly agricultural nature which is not required to be of public
 - 8 record;
 - 9 (f) Professional land surveying as defined in section 12-25-202 (6);
 - 10 (g) ~~Any person~~ INDIVIDUALS who is ARE employed by and ~~performs~~ PERFORM
 - 11 engineering services solely for a county, city and county, or municipality;
 - 12 (h) ~~Other legally recognized professions; or~~
 - 13 (i) ~~Any person~~ INDIVIDUALS who is ARE employed by and ~~performs~~ PERFORM
 - 14 engineering services solely for the federal government; OR
 - 15 (j) INDIVIDUALS WHO PRACTICE ARCHITECTURE AS DEFINED IN SECTION 12-4-102
 - 16 (5).
- 17 SECTION 4. 12-25-104, Colorado Revised Statutes, 1991 Repl. Vol., is amended
 18 to read:
- 19 12-25-104. Forms of organizations permitted to practice. (1) No ~~firm,~~
 20 partnership, corporation, LIMITED LIABILITY COMPANY, or joint stock association shall be
 21 registered under this part 1. No ~~firm,~~ partnership, corporation, LIMITED LIABILITY COMPANY,
 22 or joint stock association shall practice or offer to practice engineering in the state except under
 23 the following conditions:
- 24 (a) Professional engineers may practice under this part 1 as individuals or partners
 - 25 or through joint stock associations, LIMITED LIABILITY COMPANIES, or corporations.
 - 26 (b) In the case of practice through a partnership, at least one of the partners shall

1 be a professional engineer registered under this part 1, and all engineering plans, designs,
2 drawings, specifications, or reports issued by or for the partnership shall bear the seal of said
3 professional engineer partner or a professional engineer in responsible charge of, and directly
4 responsible for, such engineering work when issued.

5 (c) In the case of the practice of engineering through a joint stock association,
6 LIMITED LIABILITY COMPANY, or corporation, engineering services or work involving the
7 practice of engineering may be offered through such joint stock association, LIMITED LIABILITY
8 COMPANY, or corporation if the person in responsible charge of the engineering activities of the
9 joint stock association, LIMITED LIABILITY COMPANY, or corporation is a professional engineer
10 licensed and registered pursuant to this part 1. All engineering plans, designs, drawings,
11 specifications, or reports which are involved in such practice, issued by or for such joint stock
12 association, LIMITED LIABILITY COMPANY, or corporation, shall bear the seal and signature of
13 a professional engineer in responsible charge of, and directly responsible for, such engineering
14 work when issued.

15 SECTION 5. 12-25-105, Colorado Revised Statutes, 1991 Repl. Vol., is amended
16 to read:

17 12-25-105. Unlawful practice - penalties - enforcement. (1) It is unlawful for any
18 person INDIVIDUAL to hold himself OR HERSELF out to the public as a professional engineer
19 unless he SUCH INDIVIDUAL has complied with the provisions contained in this part 1.

20 (2) It is unlawful for any person INDIVIDUAL, partnership, professional association,
21 joint stock company, LIMITED LIABILITY COMPANY, or corporation to practice, or offer to
22 practice, engineering in this state unless the person INDIVIDUAL in responsible charge has
23 complied with the provisions of this part 1.

24 (3) Unless licensed or exempted pursuant to this part 1, it is unlawful for any person
25 INDIVIDUAL, partnership, professional association, joint stock company, LIMITED LIABILITY
26 COMPANY, or corporation to use any of the following titles: Civil engineer, structural engineer,

1 chemical engineer, petroleum engineer, mining engineer, mechanical engineer, or electrical
2 engineer. In addition, unless licensed pursuant to this part 1, it is unlawful for any person
3 INDIVIDUAL, partnership, professional association, joint stock company, LIMITED LIABILITY
4 COMPANY, or corporation to use the words "engineer", "engineered", or "engineering" in any
5 offer to the public to perform the services set forth in section 12-25-102 (10). Nothing in this
6 subsection (3) shall prohibit the general use of the words "engineer", "engineered", and
7 "engineering" so long as such words are not being used in an offer to the public to perform the
8 services set forth in section 12-25-102 (10).

9 (4) It is unlawful for any person INDIVIDUAL to use in any manner an expired,
10 suspended, or revoked license, certificate, or seal.

11 (5) It is unlawful for any person INDIVIDUAL to use in any manner a certificate or
12 certificate number which has not been issued to him SUCH INDIVIDUAL by the board.

13 (6) The practice of engineering in violation of any of the provisions of this part 1
14 shall be deemed a class 3 misdemeanor and shall be EITHER:

15 (a) Restrained by injunction in an action brought by the attorney general or by the
16 district attorney of the proper district ~~Such actions shall be brought~~ in the county in which the
17 violation occurs; OR

18 (b) CEASED BY ORDER OF THE BOARD PURSUANT TO SECTION 12-25-109 (8) (b).

19 (7) Any person INDIVIDUAL, partnership, professional association, joint stock
20 company, LIMITED LIABILITY COMPANY, or corporation who violates any of the provisions of
21 this part 1 commits a class 3 misdemeanor and ~~upon conviction thereof,~~ shall be punished as
22 provided in section 18-1-106, C.R.S.

23 (8) Repealed, L. 88, p. 519, § 34, effective July 1, 1988.

24 (9) SUBSEQUENT TO A FINDING BY THE BOARD THAT AN INDIVIDUAL, PARTNERSHIP,
25 PROFESSIONAL ASSOCIATION, JOINT STOCK COMPANY, LIMITED LIABILITY COMPANY, OR
26 CORPORATION HAS UNLAWFULLY ENGAGED IN THE PRACTICE OF ENGINEERING, THE BOARD MAY

1 JOINTLY AND SEVERALLY ASSESS A FINE AGAINST SUCH UNLAWFULLY ENGAGED PARTY IN AN
2 AMOUNT NOT LESS THAN FIFTY DOLLARS AND NOT MORE THAN SEVEN HUNDRED FIFTY
3 DOLLARS.

4 SECTION 6. 12-25-106 (2) (b) and (5), Colorado Revised Statutes, 1991 Repl.
5 Vol., are amended to read:

6 12-25-106. State board of registration - subject to termination - repeal of article.
7 (2) (b) This article is repealed, effective ~~July 1, 1994~~ JULY 1, 2004.

8 (5) Appointments to the board shall be made by the governor and shall be made to
9 provide for staggering of terms of members so that not more than three members' terms expire
10 each year. Thereafter appointments shall be for terms of four years. Each board member shall
11 hold office until the expiration of the term for which ~~he~~ SUCH MEMBER is appointed or until a
12 successor has been duly appointed and qualified. Appointees shall be limited to two full terms.
13 The governor may remove any member of the board for misconduct, incompetence, or neglect
14 of duty.

15 SECTION 7. 12-25-107 (1) (e), Colorado Revised Statutes, 1991 Repl. Vol., is
16 amended to read:

17 12-25-107. Powers and duties of the board. (1) In order to carry into effect the
18 provisions of this part 1, the board shall:

19 (e) (I) ~~Publish~~ PRODUCE a complete roster annually BY THE MOST EFFICIENT MEANS
20 AVAILABLE. The roster shall be filed with the executive director of the department of regulatory
21 agencies and each county clerk and recorder. The roster shall be ~~mailed~~ MADE AVAILABLE to
22 each professional engineer who has remitted the renewal fee for that year and whose name
23 appears in the roster and shall be made available to the public upon request and upon payment
24 of the appropriate fee.

25 (II) The roster shall contain:

26 (4) (A) The annual fiscal year report prepared by the board;

1 (4) (B) Statutes administered by the board;

2 (4) (C) An alphabetical list of the names and addresses, of record, of all
3 professional engineers;

4 (4) (D) The location of all technical publications purchased by the board which are
5 made available to the public;

6 (4) (E) Rules and regulations of the board;

7 (4) (F) Such other pertinent information as the board deems necessary;

8 (4) (G) The rules of professional conduct adopted pursuant to paragraph (b) of this
9 subsection (1).

10 SECTION 8. 12-25-108, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
11 is amended to read:

12 12-25-108. Disciplinary actions - grounds for discipline. (1) The board has the
13 power to deny, suspend, revoke, or refuse to renew the license and certificate of registration
14 of, LIMIT THE SCOPE OF PRACTICE OF, or place on probation, any professional engineer or
15 ~~engineer-in-training~~ ENGINEER-INTERN who is found guilty of:

16 (a) ~~The practice of any~~ ENGAGING IN fraud, misrepresentation, or deceit in obtaining
17 or attempting to obtain a certificate of registration or enrollment;

18 (b) ~~Any act or omission which fails~~ FAILING to meet the generally accepted
19 standards of engineering practice WHETHER THROUGH ACT OR OMISSION;

20 (c) ~~Conviction of or pleading guilty to~~ A felony; However, EXCEPT THAT the board
21 shall be governed by the provisions of section 24-5-101, C.R.S., in considering such conviction
22 or plea. A certified copy of the judgment of a court of competent jurisdiction of such conviction
23 or plea shall be presumptive evidence of such conviction or plea for the purposes of any hearing
24 under this part 1. A plea of nolo contendere, or its equivalent, accepted by the court shall be
25 considered as a conviction.

26 (d) (Deleted by amendment, L. 88, p. 504, § 4, effective July 1, 1988.)

1 (e) ~~Violation of~~ VIOLATING, or aiding or abetting in the violation of, the provisions
2 of this part 1, any rule or regulation adopted by the board in conformance with the provisions
3 of this part 1, or any order of the board issued in conformance with the provisions of this part
4 1;

5 (f) ~~Use of~~ USING false, deceptive, or misleading advertising;

6 (g) Performing services beyond one's competency, training, or education;

7 (h) ~~Failure~~ FAILING to report to the board any registered professional engineer
8 known to have violated any provision of this part 1 or any board order or rule or regulation;

9 (i) ~~Habitual intemperance with respect to or excessive use of any habit forming drug,~~
10 ~~as defined in section 12-22-102 (13), any controlled substance, as defined in section 12-22-303~~
11 ~~(7), or any alcoholic beverage~~ BEING ADDICTED TO OR DEPENDENT UPON ALCOHOL OR
12 HABIT-FORMING DRUGS OR CONTROLLED SUBSTANCES AS DEFINED IN SECTION 18-18-102 (5),
13 C.R.S.;

14 (j) ~~Any use of a~~ USING ANY schedule I controlled substance, as set forth in section
15 18-18-203, C.R.S.; or

16 (k) ~~Failure~~ FAILING to report to the board any malpractice claim against such
17 registered professional engineer or any ~~firm~~, partnership, corporation, LIMITED LIABILITY
18 COMPANY or joint stock association of which ~~he~~ SUCH PROFESSIONAL ENGINEER is a member,
19 that is settled or in which judgment is rendered, within sixty days of the effective date of such
20 settlement or judgment, if such claim concerned engineering services performed or supervised
21 by such engineer;

22 (l) FAILING TO PAY ANY FINE ASSESSED PURSUANT TO THIS ARTICLE; OR

23 (m) VIOLATING ANY LAW OR REGULATION GOVERNING THE PRACTICE OF
24 ENGINEERING IN ANOTHER STATE OR JURISDICTION. A PLEA OF NOLO CONTENDERE OR ITS
25 EQUIVALENT ACCEPTED BY THE BOARD OF ANOTHER STATE OR JURISDICTION MAY BE
26 CONSIDERED TO BE THE SAME AS A FINDING OF GUILTY FOR PURPOSES OF ANY HEARING UNDER

1 THIS PART 1.

2 (2) The board may issue a letter of admonition to a professional engineer or an
3 ~~engineer-in-training~~ ENGINEER-INTERN based on any of the grounds specified in subsection (1)
4 of this section without conducting a hearing as specified in section 12-25-109 (4). Such letter
5 shall be sent to the ~~licensee~~ REGISTRANT by certified mail and shall advise ~~him that he may~~
6 SUCH REGISTRANT OF THE RIGHT TO, within twenty days after receipt of the letter, make a
7 written request to the board to institute formal disciplinary proceedings as provided in section
8 12-25-109 in order to formally adjudicate the conduct or acts on which the letter was based.

9 (3) ~~Any disciplinary action concerning licensure or enrollment in another state or~~
10 ~~jurisdiction on grounds substantially similar to those that would constitute a violation under this~~
11 ~~part 1 shall be prima facie evidence of grounds for disciplinary action, including denial of~~
12 ~~licensure, under this part 1.~~

13 (4) (a) IN ADDITION TO ANY OTHER PENALTY WHICH MAY BE IMPOSED PURSUANT
14 TO THIS ARTICLE, ANY REGISTRANT VIOLATING ANY PROVISION OF THIS ARTICLE OR ANY RULE
15 OR REGULATION PROMULGATED PURSUANT TO THIS ARTICLE MAY BE FINED FOR EACH
16 VIOLATION PROVEN BY THE BOARD AS FOLLOWS:

17 (I) IN THE FIRST ADMINISTRATIVE PROCEEDING AGAINST A REGISTRANT, A FINE OF
18 NOT LESS THAN FIFTY DOLLARS AND NOT MORE THAN FIVE HUNDRED DOLLARS;

19 (II) IN ANY SUBSEQUENT ADMINISTRATIVE PROCEEDING AGAINST A REGISTRANT
20 DETERMINING THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, A FINE OF NOT LESS THAN
21 TWO HUNDRED FIFTY DOLLARS AND NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS.

22 (b) ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (4) SHALL BE CREDITED
23 TO THE GENERAL FUND.

24 SECTION 9. 12-25-109 (1), (2), and (8), Colorado Revised Statutes, 1991 Repl.
25 Vol., are amended to read:

26 12-25-109. **Disciplinary proceedings.** (1) The board upon its own motion may, and

1 upon the receipt of a signed complaint in writing from any person shall, investigate the activities
2 of any professional engineer, ~~engineer-in-training~~ ENGINEER-INTERN, or other person who
3 presents grounds for disciplinary action as specified in this part 1.

4 (2) Complaints of record on file with the board and the results of investigation shall
5 be closed to public inspection during the investigatory period and until dismissed or until notice
6 of hearing and charges are served on a professional engineer or an ~~engineer-in-training~~
7 ENGINEER-INTERN or until final agency action is otherwise taken by the board. The board's
8 records and papers shall be subject to the provisions of sections 24-72-203 and 24-72-204,
9 C.R.S., regarding public records and confidentiality.

10 (8) (a) The board is authorized to apply for injunctive relief, in the manner provided
11 by the Colorado rules of civil procedure, to enforce the provisions of this part 1 or to restrain
12 any violation thereof. In such proceedings, it shall not be necessary to allege or prove either
13 that an adequate remedy at law does not exist or that substantial or irreparable damage would
14 result from the continued violation thereof. The members of the board, its staff, and the attorney
15 general shall not be held personally liable ~~under this proceeding~~ IN ANY SUCH PROCEEDING.

16 (b) (I) IF THE BOARD HAS REASON TO BELIEVE THAT ANY PERSON HAS ENGAGED IN,
17 IS ENGAGING IN, OR IS LIKELY TO ENGAGE IN ANY ACT OR PRACTICE WHICH CONSTITUTES A
18 VIOLATION OF ANY PROVISION OF THIS ARTICLE, THE BOARD MAY INITIATE PROCEEDINGS TO
19 DETERMINE IF SUCH A VIOLATION HAS OCCURRED OR IS LIKELY TO OCCUR. HEARINGS SHALL
20 BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S.

21 (II) (A) AFTER NOTICE AND A HEARING AND IF THERE IS A FINDING BY A MAJORITY
22 OF THE BOARD THAT A VIOLATION OF ANY PROVISION OF THIS ARTICLE HAS OCCURRED OR IS
23 LIKELY TO OCCUR, THE BOARD MAY ISSUE AN ORDER TO CEASE AND DESIST FROM ANY
24 ACTIVITY FOUND TO BE IN VIOLATION OF THIS ARTICLE.

25 (B) A COPY OF THE CEASE AND DESIST ORDER SHALL BE FURNISHED TO ALL
26 PARTIES.

1 (c) IN ANY ACTION BROUGHT PURSUANT TO THIS SUBSECTION (8), EVIDENCE OF THE
2 COMMISSION OF A SINGLE ACT PROHIBITED BY THIS ARTICLE SHALL BE SUFFICIENT TO JUSTIFY
3 THE ISSUANCE OF AN INJUNCTION OR A CEASE AND DESIST ORDER.

4 SECTION 10. 12-25-110 (2) and (5), Colorado Revised Statutes, 1991 Repl. Vol.,
5 are amended to read:

6 12-25-110. Application for license and certificates. (2) No new application shall
7 be required of ~~persons~~ ANY INDIVIDUAL requiring reexamination by the board, and ANY such
8 ~~persons~~ INDIVIDUAL shall be notified when the next examination will be held.

9 (5) No ~~person~~ INDIVIDUAL whose license or enrollment has been revoked shall be
10 allowed to reapply for licensure earlier than two years after the effective date of the revocation.

11 SECTION 11. 12-25-111, Colorado Revised Statutes, 1991 Repl. Vol., is amended
12 to read:

13 12-25-111. Eligibility for engineer-intern. To be eligible for enrollment as an
14 ~~engineer-in-training~~ ENGINEER-INTERN, an applicant shall provide documentation of ~~his~~ SUCH
15 APPLICANT'S technical competence.

16 SECTION 12. 12-25-112, Colorado Revised Statutes, 1991 Repl. Vol., is amended
17 to read:

18 12-25-112. Qualifications for engineer-intern. (1) (a) An applicant may qualify
19 for enrollment as an ~~engineer-in-training~~ ENGINEER-INTERN by endorsement if ~~he~~ SUCH
20 APPLICANT is enrolled in good standing in another jurisdiction requiring qualifications
21 substantially equivalent to those currently required of applicants under this part 1 or if, at the
22 time of initial enrollment in such jurisdiction, ~~he~~ SUCH APPLICANT met the requirements for
23 enrollment then in existence under Colorado law.

24 (b) Upon completion of the application and approval by the board, the applicant shall
25 be enrolled as an ~~engineer-in-training~~ ENGINEER-INTERN if the applicant is otherwise qualified
26 pursuant to section 12-25-111.

1 (2) (a) An applicant may qualify for enrollment as an ~~engineer-in-training~~
2 ENGINEER-INTERN by graduation and examination if ~~he~~ SUCH APPLICANT passes the fundamentals
3 of engineering examination.

4 (b) In order to be admitted to ~~such~~ THE examination PURSUANT TO PARAGRAPH (a)
5 OF THIS SUBSECTION (2), the applicant must:

6 (I) Have graduated from a board-approved engineering curriculum of four or more
7 years; or

8 (II) Have senior status in a board-approved engineering curriculum of four or more
9 years.

10 ~~(b)~~ (c) Upon passing the examination and the submission of official transcripts
11 verifying graduation or impending graduation, the applicant shall be enrolled as an
12 ~~engineer-in-training~~ ENGINEER-INTERN if the applicant is otherwise qualified pursuant to section
13 12-25-111.

14 (3) (a) An applicant may qualify for enrollment as an ~~engineer-in-training~~
15 ENGINEER-INTERN by graduation, experience, and examination if ~~he~~ SUCH APPLICANT passes the
16 fundamentals of engineering examination and possesses a total of six years of progressive
17 engineering experience, of which educational study may be a part.

18 (b) In order to be admitted to ~~such~~ THE examination PURSUANT TO PARAGRAPH (a)
19 OF THIS SUBSECTION (3), the applicant must:

20 (I) Have graduated from a board-approved engineering technology curriculum of
21 four or more years; or

22 (II) (A) Have graduated from an engineering curriculum of four or more years not
23 approved by the board or from a related science curriculum of four or more years; and

24 (B) Have four years of progressive engineering experience, of which educational
25 study may be a part.

26 ~~(b)~~ (c) Upon passing the examination and the submission of evidence of experience

1 satisfactory to the board, the applicant shall be enrolled as an ~~engineer-in-training~~
2 ENGINEER-INTERN if the applicant is otherwise qualified pursuant to section 12-25-111.

3 (4) (a) An applicant may qualify for enrollment as an ~~engineer-in-training~~
4 ENGINEER-INTERN by experience and examination if ~~he~~ SUCH APPLICANT passes the fundamentals
5 of engineering examination.

6 (b) In order to be admitted to ~~such~~ THE examination PURSUANT TO PARAGRAPH (a)
7 OF THIS SUBSECTION (4), the applicant must:

8 (I) Have graduated from high school or its equivalent; and

9 (II) Have six years of progressive engineering experience, of which educational
10 study may be a part.

11 ~~(b)~~ (c) Upon passing the examination and the submission of evidence of experience
12 satisfactory to the board, the applicant shall be enrolled as an ~~engineer-in-training~~
13 ENGINEER-INTERN if the applicant is otherwise qualified pursuant to section 12-25-111.

14 **SECTION 13.** 12-25-113, Colorado Revised Statutes, 1991 Repl. Vol., is amended
15 to read:

16 **12-25-113. Eligibility for professional engineer.** To be eligible for licensing and
17 registration as a professional engineer, an applicant shall provide documentation of ~~his~~ SUCH
18 APPLICANT'S technical competence.

19 **SECTION 14.** 12-25-114, Colorado Revised Statutes, 1991 Repl. Vol., is amended
20 to read:

21 **12-25-114. Qualifications for professional engineer.** (1) (a) An applicant may
22 qualify for licensing and registration as a professional engineer by endorsement if ~~he~~ SUCH
23 APPLICANT is licensed in good standing in another jurisdiction requiring qualifications
24 substantially equivalent to those currently required of applicants under this part 1 or if, at the
25 time of initial licensure in such jurisdiction, ~~he~~ SUCH APPLICANT met the requirements for
26 licensure then in existence under Colorado law.

1 (b) Upon completion of the application and approval by the board, the applicant shall
2 be licensed and registered as a professional engineer if the applicant is otherwise qualified
3 pursuant to section 12-25-113.

4 (2) (a) An applicant may qualify for licensing and registration as a professional
5 engineer by graduation, experience, and examination if ~~he~~ SUCH APPLICANT passes the principles
6 and practice of engineering examination.

7 (b) In order to be admitted to ~~such~~ THE examination PURSUANT TO PARAGRAPH (a)
8 OF THIS SUBSECTION (2), the applicant must:

9 (I) (A) Have graduated from a board-approved engineering curriculum of four or
10 more years; and

11 (B) Have eight years of progressive engineering experience, of which educational
12 study may be a part; and

13 (C) Have been enrolled as an ~~engineer-in-training~~ ENGINEER-INTERN in this state;

14 or

15 (II) (A) Have graduated from a board-approved engineering technology curriculum
16 of four or more years; and

17 (B) Have ten years of progressive engineering experience, of which educational
18 study may be a part; and

19 (C) Have been enrolled as an ~~engineer-in-training~~ ENGINEER-INTERN in this state;

20 or

21 (III) (A) Have graduated from an engineering curriculum of four or more years not
22 approved by the board or from a related science curriculum of four or more years; and

23 (B) Have ten years of progressive engineering experience, of which educational
24 study may be a part; and

25 (C) Have been enrolled as an ~~engineer-in-training~~ ENGINEER-INTERN in this state;

26 or

1 (IV) (A) Have graduated from an engineering curriculum of four or more years or
2 from a related science curriculum of four or more years; and

3 (B) Have twenty years of progressive engineering experience, of which educational
4 study may be a part.

5 ~~(b)~~ (c) Upon passing the examination and the submission of evidence of experience
6 satisfactory to the board, the applicant shall be licensed and registered as a professional engineer
7 if the applicant is otherwise qualified pursuant to section 12-25-113.

8 (3) (a) An applicant may qualify for licensing and registration as a professional
9 engineer by experience and examination if ~~he~~ SUCH APPLICANT passes the principles and practice
10 of engineering examination.

11 (b) In order to be admitted to ~~such~~ THE examination PURSUANT TO PARAGRAPH (a)
12 OF THIS SUBSECTION (3), the applicant must:

13 (I) Have twelve years of progressive engineering experience, of which educational
14 study may be a part; and

15 (II) Have been enrolled as an ~~engineer-in-training~~ ENGINEER-INTERN in this state.

16 ~~(b)~~ (c) Upon passing the examination and the submission of evidence of experience
17 satisfactory to the board, the applicant shall be licensed and registered as a professional engineer
18 if the applicant is otherwise qualified pursuant to section 12-25-113.

19 (4) (a) A professional engineer who has been duly registered and licensed to practice
20 engineering in this state and who is over sixty-five years of age, upon application, may be ~~listed~~
21 ~~separately in the roster of engineers~~ CLASSIFIED as a retired professional engineer. ~~Persons~~
22 INDIVIDUALS who are so ~~listed~~ CLASSIFIED shall lose their registration and shall not practice
23 engineering but AND shall ~~be required to pay the required~~ A fee for a roster listing as a TO
24 RETAIN retired professional engineer STATUS.

25 (b) (I) A retired professional engineer shall be reinstated to the status of a
26 professional engineer upon payment of the RENEWAL registration fee. ~~for the current year and~~

1 No other fee shall be assessed against ~~him~~ SUCH RETIRED PROFESSIONAL ENGINEER as a penalty.
2 ~~nor shall he be required to take any oral, written, or practical examination for such~~
3 ~~reinstatement.~~

4 (II) FOR ANY PROFESSIONAL ENGINEER WHO HAS BEEN RETIRED FOR TWO OR MORE
5 YEARS, THE BOARD MAY REQUIRE REEXAMINATION OR RECERTIFICATION, UNLESS THE BOARD
6 IS SATISFIED OF SUCH RETIRED PROFESSIONAL ENGINEER'S CONTINUED COMPETENCE.

7 SECTION 15. 12-25-115 (2) and (4), Colorado Revised Statutes, 1991 Repl. Vol.,
8 are amended to read:

9 12-25-115. Licenses - certificates. (2) The board, upon acceptance of a qualified
10 ~~engineer-in-training~~ ENGINEER-INTERN and upon receipt of payment of the required fee, shall
11 ~~enroll and issue a numbered engineer-in-training certificate to~~ CERTIFY said applicant.

12 (4) The license of any professional engineer who fails to pay the license renewal fee
13 shall expire. An expired license may be renewed within ~~two years~~ ONE YEAR after expiration
14 upon payment of all fees in arrears ~~and~~ WHICH BECAME DUE DURING THE EXPIRED PERIOD.
15 After ~~two years~~ ONE YEAR, in addition to the payment of fees, the board may require
16 reexamination or recertification, unless the professional engineer has maintained an active
17 engineering practice in another jurisdiction or otherwise satisfies the board of ~~his~~ SUCH
18 ENGINEER'S continued competence.

19 SECTION 16. 12-25-116 (1) (b), Colorado Revised Statutes, 1991 Repl. Vol., is
20 amended to read:

21 12-25-116. Fees - disposition. (1) Pursuant to section 24-34-105, C.R.S., the board
22 shall charge and collect fees for the following:

23 (b) With respect to ~~engineers-in-training~~ ENGINEER-INTERNS:

24 (I) ~~Issuance of a certificate of enrollment~~ CERTIFICATION as an ~~engineer-in-training~~
25 ENGINEER-INTERN;

26 (II) ~~Replacement of a certificate of enrollment;~~

- 1 (III) Application for the fundamentals of engineering examination;
- 2 (IV) Reexamination for the fundamentals of engineering examination;
- 3 (V) Application for enrollment by endorsement.

4 SECTION 17. 12-25-117 (3) and (4), Colorado Revised Statutes, 1991 Repl. Vol.,
5 are amended to read:

6 12-25-117. Professional engineer seal. (3) The seal and signature shall be used by
7 an engineer only when the work being stamped was under the engineer's ~~complete direction and~~
8 ~~control~~ RESPONSIBLE CHARGE.

9 (4) ~~The use of an engineer's seal shall be subject to the following:~~

10 (a) ~~The seal and the signature of the engineer whose name appears on the seal shall~~
11 ~~be placed on reproductions of drawings to establish a record set of contract documents. The~~
12 ~~record set shall be prominently identified and shall be for the permanent record of the engineer,~~
13 ~~the project owner, and the regulatory authorities who have jurisdiction over the project.~~

14 (b) ~~The seal shall be placed on each reproduction of drawings which is prepared~~
15 ~~under the complete direction and control of the engineer and on the cover, title page, and table~~
16 ~~of contents of specifications. Subsequent issues of addenda, revisions, clarifications, or other~~
17 ~~modifications shall be properly identified for the record set. Where consultant drawings and~~
18 ~~specifications are incorporated into the record set, they shall be clearly identified by consultant~~
19 ~~stamps or other means in accordance with law to distinguish proper reference to origination.~~

20 (c) ~~The seal shall not be placed on reproducible drawings which are used for~~
21 ~~multiple copies or on reproducible drawings which are transferred away from the engineer's~~
22 ~~possession and supervision.~~

23 (d) ~~The record set retained in possession of the engineer shall be held for a~~
24 ~~minimum of three years following beneficial occupancy or beneficial use of the project by the~~
25 ~~owner or occupant.~~

26 SECTION 18. 12-25-118, Colorado Revised Statutes, 1991 Repl. Vol., is amended

1 to read:

2 **12-25-118. Immunity in professional review.** Any member of the board, its staff,
3 ~~or any witnesses~~ ANY INDIVIDUAL ACTING AS A CONSULTANT TO THE BOARD, ANY WITNESS
4 TESTIFYING IN A PROCEEDING AUTHORIZED BY THIS ARTICLE, OR ANY INDIVIDUAL WHO LODGES
5 A COMPLAINT PURSUANT TO THIS ARTICLE shall be immune from criminal liability and from suit
6 in any civil action brought by any person based upon an action of the board, if such BOARD
7 member, staff person, ~~or~~ CONSULTANT, witness, OR COMPLAINANT acts in good faith within the
8 scope of the function of the board, has made a reasonable effort to obtain the facts of the matter
9 as to which ~~he~~ SUCH BOARD MEMBER, STAFF PERSON, CONSULTANT, WITNESS, OR COMPLAINANT
10 acts, and acts in the reasonable belief that the action taken ~~by him~~ is warranted by the facts.
11 The immunity provided shall also extend to any person participating in good faith in any
12 investigative proceeding pursuant to this part 1.

13 **SECTION 19.** 12-25-201, Colorado Revised Statutes, 1991 Repl. Vol., is amended
14 to read:

15 **12-25-201. General provisions.** In order to safeguard life, health, and property and
16 to promote the public welfare, the practice of professional land surveying in Colorado is hereby
17 declared to be subject to regulation. It shall be unlawful for any ~~person~~ INDIVIDUAL to practice
18 professional land surveying in Colorado or to use in connection with ~~his~~ SUCH INDIVIDUAL'S
19 name, or to otherwise assume, or to advertise any title or description tending to convey the
20 impression that ~~he~~ SUCH INDIVIDUAL is a professional land surveyor, unless such ~~person~~
21 INDIVIDUAL has been duly registered or is exempted under the provisions of this part 2. The
22 practice of professional land surveying shall be deemed a privilege granted by the state of
23 Colorado based on the qualifications of the individual as evidenced by ~~his~~ SUCH INDIVIDUAL'S
24 licensing and registration.

25 **SECTION 20.** 12-25-202 (2), (3), (6), (7), (8), (9), and (11), Colorado Revised
26 Statutes, 1991 Repl. Vol., are amended, and the said 12-25-202 is further amended BY THE

1 ADDITION OF A NEW SUBSECTION, to read:

2 **12-25-202. Definitions.** As used in this part 2, unless the context otherwise requires:
3 (2) "Certificant" means a ~~surveyor-in-training~~ LAND SURVEYOR-INTERM certified by
4 the board.

5 (3) "Certificate" means the media issued by the board under seal to evidence
6 ~~certification or~~ licensing and registration.

7 (3.5) "LAND SURVEYOR-INTERM" MEANS AN INDIVIDUAL CERTIFIED BY THE BOARD
8 AFTER DEMONSTRATING SUCH INDIVIDUAL'S COMPETENCY, AS REQUIRED BY SECTION
9 12-25-212.

10 (6) "Professional land surveying" means any service or work, the adequate
11 performance of which involves: The application of special knowledge of the principles of
12 mathematics; the related physical and applied sciences; and the relevant requirements of law for
13 measuring and locating points, lines, angles, elevations, and ~~man-made~~ NONNATURAL features
14 in the air, on the surface of the earth, within underground workings, and on the beds of bodies
15 of water for determining relative position and areas as they pertain to the monumenting of
16 property boundaries, condominium measurements, and for the platting and layout of lands and
17 subdivisions thereof, including the topography, alignment, and grades of streets and for the
18 preparation and perpetuation of maps, record plats, field note records, and property OR LEGAL
19 descriptions that represent these surveys. ~~Any person~~ AN INDIVIDUAL shall be construed as
20 practicing or offering to practice "professional land surveying" within the meaning and intent
21 of this part 2 if ~~he~~ SUCH INDIVIDUAL engages therein or, by verbal claim, sign, letterhead, or
22 card or in any other way ~~represents himself~~ HOLDS HIMSELF OR HERSELF OUT to be a
23 professional land surveyor or ~~if he represents himself~~ as being able to perform ANY
24 PROFESSIONAL LAND SURVEYING SERVICE or IF SUCH INDIVIDUAL does perform any professional
25 land surveying service or work or any other service designated by the practitioner which is
26 recognized as "professional land surveying"

1 (7) "Professional land surveyor" means an individual who practices professional land
2 surveying and who is currently registered with the board after demonstrating his competency
3 to practice, as required by section 12-25-214.

4 (8) "Registrant" means ~~a person~~ AN INDIVIDUAL duly registered and licensed to
5 practice land surveying.

6 (9) "Registration" means the formal action by the board to license ~~a person~~ AN
7 INDIVIDUAL to practice land surveying and to make an official record thereof.

8 (11) ~~"Surveyor in training" means an individual certified by the board after
9 demonstrating his competency, as required by section 12-25-212.~~

10 SECTION 21. 12-25-203 (1) (a), Colorado Revised Statutes, 1991 Repl. Vol., is
11 amended to read:

12 12-25-203. Exemptions. (1) This part 2 shall not be construed to prevent or to
13 affect:

14 (a) The work of an employee or subordinate of a professional land surveyor holding
15 a certificate of registration under this part 2, if such work is performed under his THE direct
16 supervision OF SUCH PROFESSIONAL LAND SURVEYOR;

17 SECTION 22. 12-25-204, Colorado Revised Statutes, 1991 Repl. Vol., is amended
18 to read:

19 12-25-204. Forms of organizations permitted to practice. (1) No firm,
20 partnership, corporation, LIMITED LIABILITY COMPANY, or joint stock association shall be
21 registered under this part 2.

22 (2) No firm, partnership, corporation, LIMITED LIABILITY COMPANY, or joint stock
23 association shall practice or offer to practice land surveying in this state unless the person
24 INDIVIDUAL in responsible charge of the land surveying activities of the organization is a
25 professional land surveyor registered under this part 2. All documents, plats, and reports which
26 are involved in such practice, issued by or for such organizations shall bear the seal and

1 signature of the professional land surveyor registered under this part 2 who is in responsible
2 charge of and directly responsible for such land surveying work.

3 SECTION 23. 12-25-205, Colorado Revised Statutes, 1991 Repl. Vol., is amended
4 to read:

5 12-25-205. Unlawful practice - penalties - enforcement. (1) It is unlawful for any
6 person INDIVIDUAL to practice or offer to practice PROFESSIONAL LAND surveying in Colorado
7 without being licensed and registered in accordance with the provisions of this part 2, or for any
8 person INDIVIDUAL or entity to use or employ the words "land surveyor", "land surveying", or
9 "professional land surveyor" or words of similar meaning or any modification or derivative
10 except as authorized in this part 2.

11 (2) It is unlawful for any person INDIVIDUAL to present or attempt to use the
12 certificate of registration number or seal of another, to give any false or forged evidence of any
13 kind to the board or to any member thereof in obtaining or attempting to obtain certification or
14 registration, or to falsely impersonate any other registrant of like or different name.

15 (3) It is unlawful for any person INDIVIDUAL to attempt to use an expired, revoked,
16 suspended, or nonexistent license and certificate of registration, to practice or offer to practice
17 when not qualified, or to falsely claim that he SUCH INDIVIDUAL is licensed and registered.

18 (4) Any person INDIVIDUAL who violates any of the provisions of this part 2
19 commits a class 3 misdemeanor and upon conviction thereof, shall be punished as provided in
20 section 18-1-106, C R.S. In case of damage to others caused by such misdemeanor, the court
21 of jurisdiction shall consider restitution in each case.

22 (5) It is the duty of all duly constituted officers of the law of Colorado, or any
23 political subdivision thereof, to enforce the provisions of this part 2 and to prosecute any person
24 violating this part 2.

25 (6) The attorney general or his THE ATTORNEY GENERAL'S assistant shall act as legal
26 advisor to the board and render such timely legal assistance as may be necessary in carrying out

1 the provisions of this part 2. With the concurrence of the attorney general, the board may
2 employ counsel and assistance necessary to aid in the enforcement of this part 2, and the
3 compensation and expenses therefor shall be paid from the funds of the board.

4 (7) Any ~~person~~ INDIVIDUAL practicing professional land surveying, as defined in this
5 part 2, who is not licensed and registered or exempt shall not collect compensation of any kind
6 for such practice, and, if compensation has been paid, such compensation shall be refunded in
7 full.

8 (8) SUBSEQUENT TO A FINDING BY THE BOARD THAT AN INDIVIDUAL HAS
9 UNLAWFULLY ENGAGED IN THE PRACTICE OF PROFESSIONAL LAND SURVEYING, THE BOARD MAY
10 ASSESS A FINE AGAINST SUCH UNLAWFULLY ENGAGED INDIVIDUAL IN AN AMOUNT NOT LESS
11 THAN FIFTY DOLLARS AND NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS.

12 SECTION 24. 12-25-206 (4), Colorado Revised Statutes, 1991 Repl. Vol., is
13 amended to read:

14 12-25-206. Board - composition - appointments - terms. (4) The governor, in
15 making appointments of professional land surveyors to the board, shall endeavor to select the
16 highest qualified members of the profession willing to serve on the board. Staggered
17 appointments shall be made so that not more than one member's term expires in any one year,
18 and thereafter appointments shall be for terms of four years each. Appointees shall be limited
19 to two full terms each. Each board member shall hold office until the expiration of the term for
20 which he SUCH MEMBER is appointed or until a successor has been duly appointed.

21 SECTION 25. 12-25-207 (1) (d) and (1) (e), Colorado Revised Statutes, 1991 Repl.
22 Vol., are amended to read:

23 12-25-207. Powers and duties of the board. (1) In addition to all other powers and
24 duties conferred or imposed upon the board by this article or any other article, the board shall
25 adopt and promulgate, under the provisions of section 24-4-103, C.R.S., such rules and
26 regulations as it may deem necessary or proper to carry out the provisions of this part 2 and

1 shall:

2 (d) (I) ~~Public~~ PRODUCE a complete roster annually BY THE MOST EFFICIENT MEANS
3 AVAILABLE. The roster shall be filed with the executive director of the department of regulatory
4 agencies and each county clerk and recorder. The roster shall be ~~mailed~~ MADE AVAILABLE to
5 each professional land surveyor who has remitted the renewal fee for that year and whose name
6 appears in the roster and ~~may be made available~~ to the public on request and upon payment of
7 the appropriate fee.

8 (II) The roster shall contain:

9 (A) The surveying statutes administered by the board;

10 (B) An alphabetical list of the names and addresses, of record, of all currently
11 registered professional land surveyors;

12 (C) A list containing the registration numbers in numerical sequence and the
13 names of all registered professional land surveyors;

14 (D) The rules of conduct for professional land surveyors adopted pursuant to
15 paragraph (a) of this subsection (1); and

16 (E) The rules of the board.

17 (e) Provide for and administer written examinations to be given at such times and
18 locations as the board shall designate. Written examination papers shall be identified only by
19 numbers and shall be anonymously graded. After review and approval by the board, all
20 examination results shall be recorded, and each examinee's examination results shall be sent to
21 him SUCH EXAMINEE by first-class mail. The board shall ensure that the passing score on
22 surveying examinations shall be set to measure the level of minimum competency. The board
23 shall publish and make available to interested applicants a list of the subjects included in the
24 surveying examinations which are developed by the board, such subjects being consistent with
25 and related to the various aspects of surveying.

26 SECTION 26. 12-25-208, Colorado Revised Statutes, 1991 Repl. Vol., as amended,

1 is amended to read:

2 **12-25-208. Disciplinary actions - grounds for discipline.** (1) The board has the
3 power to deny, suspend, revoke, or refuse to renew the license and certificate of registration
4 of, or place on probation, limit the scope of practice of, or require additional training of any
5 professional land surveyor or ~~surveyor-in-training~~ LAND SURVEYOR-INTERM who is found guilty
6 of:

7 (a) ~~The practice of any~~ ENGAGING IN fraud, misrepresentation, or deceit in obtaining
8 or attempting to obtain a license and certificate of registration or enrollment;

9 (b) ~~Any act or omission that fails~~ FAILING to meet the generally accepted standards
10 of the practice of land surveying THROUGH ACT OR OMISSION;

11 (c) ~~Conviction of or pleading guilty to~~ A felony that is related to the ability to
12 practice land surveying. A certified copy of the judgment of a court of competent jurisdiction
13 of such conviction or plea shall be presumptive evidence of such conviction or plea for the
14 purposes of any hearing under this part 2. A plea of nolo contendere, or its equivalent,
15 accepted by the court shall be considered as a conviction.

16 (d) (Deleted by amendment, L. 88, p. 510, § 18, effective July 1, 1988.)

17 (e) ~~Violation of~~ VIOLATING, attempting to violate, or aiding or abetting in the
18 violation or attempted violation of: ~~the provisions:~~

19 (I) ANY PROVISION of this part 2 OR ARTICLE 50, 51, 52, OR 53 OF TITLE 38,
20 C.R.S.;

21 (II) Any rule or regulation adopted by the board in conformance with the provisions
22 of this part 2; or

23 (III) Any order of the board issued in conformance with the provisions of this part
24 2; or ~~article 50, 51, 52, or 53 of title 38, C.R.S.~~

25 (f) ~~Use of~~ USING false, deceptive, or misleading advertising;

26 (g) Performing services beyond one's competency, training, or education;

1 (h) ~~Failure~~ FAILING to report to the board any registered professional land surveyor
2 known to have violated any provision of this part 2 or any board order or rule or regulation;

3 (i) ~~Habitual intemperance with respect to or excessive use of any habit-forming drug,~~
4 ~~as defined in section 12-22-102 (13), any controlled substance, as defined in section 12-22-303~~
5 ~~(7), or any alcoholic beverage~~ BEING ADDICTED TO OR DEPENDENT UPON ALCOHOL OR ANY
6 HABIT-FORMING DRUGS OR CONTROLLED SUBSTANCES AS DEFINED IN SECTION 18-18-102 (5),
7 C.R.S.;

8 (j) ~~Any use of a~~ USING ANY schedule I controlled substance, as set forth in section
9 18-18-203, C.R.S.; or

10 (k) ~~Failure~~ FAILING to report to the board any malpractice claim against such
11 registered professional land surveyor or any ~~firm~~, partnership, LIMITED LIABILITY COMPANY,
12 corporation, or joint stock association of which ~~he~~ SUCH REGISTRANT is a member, that is settled
13 or in which judgment is rendered, within sixty days of the effective date of such settlement or
14 judgment, if such claim concerned surveying services performed or supervised by such land
15 surveyor;

16 (l) FAILING TO PAY ANY FINE ASSESSED PURSUANT TO THIS ARTICLE; OR

17 (m) VIOLATING ANY LAW OR REGULATION GOVERNING THE PRACTICE OF
18 PROFESSIONAL LAND SURVEYING IN ANOTHER STATE OR JURISDICTION. A PLEA OF NOLO
19 CONTENDERE OR ITS EQUIVALENT ACCEPTED BY THE BOARD OF ANOTHER STATE OR
20 JURISDICTION MAY BE CONSIDERED TO BE THE SAME AS A FINDING OF GUILTY FOR PURPOSES
21 OF ANY HEARING UNDER THIS PART 2.

22 (2) The board may issue a letter of admonition to a professional land surveyor or
23 ~~surveyor-in-training~~ LAND SURVEYOR-INTERM based on any of the grounds specified in
24 subsection (1) of this section without conducting a hearing as specified in section 12-25-209 (4).
25 Such letter shall be sent to the ~~licensee~~ REGISTRANT by certified mail and shall advise ~~him that~~
26 ~~he may~~ SUCH REGISTRANT OF THE RIGHT TO, within twenty days after receipt of the letter, make

1 a written request to the board to institute formal disciplinary proceedings as provided in section
2 12-25-209 in order to formally adjudicate the conduct or acts on which the letter was based.

3 (3) ~~Any disciplinary action concerning licensure or enrollment in another state or~~
4 ~~jurisdiction on grounds substantially similar to those that would constitute a violation under this~~
5 ~~part 2 shall be prima facie evidence of grounds for disciplinary action, including denial of~~
6 ~~licensure, under this part 2.~~

7 (4) (a) IN ADDITION TO ANY OTHER PENALTY WHICH MAY BE IMPOSED PURSUANT
8 TO THIS SECTION, ANY REGISTRANT VIOLATING ANY PROVISION OF THIS ARTICLE OR ANY RULE
9 OR REGULATION PROMULGATED PURSUANT TO THIS ARTICLE MAY BE FINED FOR EACH
10 VIOLATION PROVEN BY THE BOARD AS FOLLOWS:

11 (I) IN THE FIRST ADMINISTRATIVE PROCEEDING AGAINST A REGISTRANT, A FINE OF
12 NOT LESS THAN FIFTY DOLLARS AND NOT MORE THAN FIVE HUNDRED DOLLARS;

13 (II) IN ANY SUBSEQUENT ADMINISTRATIVE PROCEEDING AGAINST A REGISTRANT
14 DETERMINING THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, A FINE OF NOT LESS THAN
15 TWO HUNDRED FIFTY DOLLARS AND NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS.

16 (b) ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (4) SHALL BE CREDITED
17 TO THE GENERAL FUND.

18 **SECTION 27.** 12-25-209 (1) and (8), Colorado Revised Statutes, 1991 Repl. Vol.,
19 are amended to read: .

20 **12-25-209. Disciplinary proceedings.** (1) The board upon its own motion may, and
21 upon the receipt of a signed complaint in writing from any person shall, investigate the activities
22 of any professional land surveyor, ~~surveyor-in-training~~ LAND SURVEYOR-INTERN, or other
23 person who presents grounds for disciplinary action as specified in this part 2.

24 (8) (a) The board is authorized to apply for injunctive relief, in the manner provided
25 by the Colorado rules of civil procedure, to enforce the provisions of this part 2, or to restrain
26 any violation thereof. In such proceedings, it shall not be necessary to allege or prove either

1 that an adequate remedy at law does not exist or that substantial or irreparable damage would
2 result from the continued violation thereof. The members of the board, its staff, and the attorney
3 general shall not be held personally liable ~~under this~~ IN ANY SUCH proceeding.

4 (b) (I) IF THE BOARD HAS REASON TO BELIEVE THAT ANY INDIVIDUAL HAS ENGAGED
5 IN, IS ENGAGING IN, OR IS LIKELY TO ENGAGE IN ANY ACT OR PRACTICE WHICH CONSTITUTES
6 A VIOLATION OF ANY PROVISION OF THIS ARTICLE, THE BOARD MAY INITIATE PROCEEDINGS TO
7 DETERMINE IF SUCH A VIOLATION HAS OCCURRED OR IS LIKELY TO OCCUR. HEARINGS SHALL
8 BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S.

9 (II) (A) AFTER NOTICE AND A HEARING AND IF THERE IS A FINDING BY A MAJORITY
10 OF THE BOARD THAT A VIOLATION OF ANY PROVISION OF THIS ARTICLE HAS OCCURRED OR IS
11 LIKELY TO OCCUR, THE BOARD MAY ISSUE AN ORDER TO CEASE AND DESIST ANY SUCH
12 ACTIVITY FOUND TO BE IN VIOLATION OF THIS ARTICLE.

13 (B) A COPY OF THE CEASE AND DESIST ORDER SHALL BE FURNISHED TO ALL
14 PARTIES.

15 (c) IN ANY ACTION BROUGHT PURSUANT TO THIS SUBSECTION (8), EVIDENCE OF THE
16 COMMISSION OF A SINGLE ACT PROHIBITED BY THIS ARTICLE SHALL BE SUFFICIENT TO JUSTIFY
17 THE ISSUANCE OF AN INJUNCTION OR A CEASE AND DESIST ORDER.

18 **SECTION 28.** 12-25-210 (1) and (4), Colorado Revised Statutes, 1991 Repl. Vol.,
19 are amended to read:

20 **12-25-210. Application for licensing and registration or certification.** (1) Each
21 application for licensing and registration or certification shall be on a form furnished by the
22 board and shall contain statements made under oath showing the applicant's education and
23 showing a detailed summary of his SUCH APPLICANT'S surveying experience. Each application
24 shall contain a statement indicating whether or not the applicant has ever been convicted of a
25 felony in this or in any other state, or has ever had a surveyor's license or registration revoked,
26 suspended, or not renewed, or has been reprimanded or fined relative to surveying in this or

1 any other state. Applications which are not complete shall be deemed defective, and the board
2 shall take no action on defective applications except to give notice to the applicant of the
3 defects. A nonrefundable application fee in an amount set by the board shall accompany each
4 application.

5 (4) No ~~person~~ INDIVIDUAL whose license has been revoked shall be allowed to
6 reapply for licensure or enrollment earlier than two years after the effective date of the
7 revocation.

8 **SECTION 29.** 12-25-211, Colorado Revised Statutes, 1991 Repl. Vol., is amended
9 to read:

10 **12-25-211. Eligibility for land surveyor-intern.** To be eligible for certification as
11 a ~~surveyor-in-training~~ LAND SURVEYOR-INTERN, an applicant shall provide documentation of
12 ~~his~~ SUCH APPLICANT'S technical competence.

13 **SECTION 30.** 12-25-212, Colorado Revised Statutes, 1991 Repl. Vol., is amended
14 to read:

15 **12-25-212. Qualifications for land surveyor-interns.** (1) (a) An applicant may
16 qualify for certification as a ~~surveyor-in-training~~ LAND SURVEYOR-INTERN by ~~comity~~
17 ENDORSEMENT if ~~he~~ SUCH APPLICANT is enrolled in good standing in another jurisdiction
18 requiring qualifications substantially equivalent to those currently required of applicants under
19 this part 2 or if, at the time of initial enrollment in such jurisdiction, ~~he~~ SUCH APPLICANT met
20 the requirements for enrollment then in existence under Colorado law.

21 (b) Upon completion of the application and approval by the board, the applicant shall
22 be certified as a ~~surveyor-in-training~~ LAND SURVEYOR-INTERN if the applicant is otherwise
23 qualified pursuant to section 12-25-211.

24 (2) (a) An applicant may qualify for certification as a ~~surveyor-in-training~~ LAND
25 SURVEYOR-INTERN by ~~education, experience,~~ GRADUATION and examination if ~~he~~ SUCH
26 APPLICANT passes the fundamentals of surveying examination.

1 (b) In order to be admitted to ~~such~~ THE examination PURSUANT TO PARAGRAPH (a)
2 OF THIS SUBSECTION (2), the applicant must HAVE GRADUATED FROM A FOUR-YEAR
3 BOARD-APPROVED SURVEYING CURRICULUM.

4 ~~(I) Have graduated from high school or the equivalent; and~~

5 ~~(II) Have a cumulative record of two years or more of progressive land surveying~~
6 ~~experience, of which a maximum of one year of educational credit may be substituted.~~

7 ~~(b) (c) Upon passing the examination and the submission of evidence of experience~~
8 ~~satisfactory to the board,~~ the applicant shall be certified as a ~~surveyor-in-training~~ LAND
9 SURVEYOR-INTERN if the applicant is otherwise qualified pursuant to section 12-25-211.

10 (3) (a) AN APPLICANT MAY QUALIFY FOR ENROLLMENT AS A LAND
11 SURVEYOR-INTERN BY EDUCATION, EXPERIENCE, AND EXAMINATION IF SUCH APPLICANT PASSES
12 THE FUNDAMENTALS OF SURVEYING EXAMINATION.

13 (b) IN ORDER TO BE ADMITTED TO THE EXAMINATION PURSUANT TO PARAGRAPH (a)
14 OF THIS SUBSECTION (3), THE APPLICANT MUST:

15 (I) HAVE GRADUATED FROM HIGH SCHOOL OR THE EQUIVALENT; AND

16 (II) HAVE A CUMULATIVE RECORD OF TWO YEARS OR MORE OF PROGRESSIVE LAND
17 SURVEYING EXPERIENCE, OF WHICH A MAXIMUM OF ONE YEAR OF EDUCATIONAL CREDIT MAY
18 BE SUBSTITUTED.

19 (c) UPON PASSING THE EXAMINATION AND THE SUBMISSION OF EVIDENCE OF
20 EXPERIENCE SATISFACTORY TO THE BOARD, THE APPLICANT SHALL BE CERTIFIED AS A LAND
21 SURVEYOR-INTERN IF THE APPLICANT IS OTHERWISE QUALIFIED PURSUANT TO SECTION
22 12-25-211.

23 **SECTION 31.** 12-25-213, Colorado Revised Statutes, 1991 Repl. Vol., is amended
24 to read:

25 **12-25-213. Eligibility for professional land surveyor.** To be eligible for licensing
26 and registration as a professional land surveyor, an applicant shall provide documentation of

1 his technical competence.

2 SECTION 32. 12-25-214, Colorado Revised Statutes, 1991 Repl. Vol., is amended
3 to read:

4 12-25-214. Qualifications for professional land surveyor. (1) (a) An applicant
5 may qualify for licensing and registration as a professional land surveyor by ~~comity~~
6 ENDORSEMENT and examination if ~~he~~ SUCH APPLICANT passes the required examination or
7 examinations ~~on the legal aspects of surveying~~ PERTAINING TO COLORADO LAW.

8 (b) In order to be admitted to ~~any such~~ THE examination PURSUANT TO PARAGRAPH
9 (a) OF THIS SUBSECTION (1), the applicant must be licensed in good standing in another
10 jurisdiction requiring qualifications substantially equivalent to those currently required of
11 applicants under this part 2 or, at the time of initial licensure in such jurisdiction, have met the
12 requirements for licensure then in existence under Colorado law.

13 ~~(b)~~ (c) Upon passing the examination, the applicant shall be licensed and registered
14 as a professional land surveyor if the applicant is otherwise qualified pursuant to section
15 12-25-213.

16 (2) (a) An applicant may qualify for licensing and registration as a professional land
17 surveyor by education, experience, and examination if ~~he~~ SUCH APPLICANT passes the principle
18 and practice of surveying examination and the ~~legal aspects of surveying~~ examination
19 PERTAINING TO COLORADO LAW.

20 (b) ~~In order~~ To be admitted to ~~such examinations~~ AN EXAMINATION PURSUANT TO
21 PARAGRAPH (a) OF THIS SUBSECTION (2), the applicant must:

22 (I) (A) Have graduated from ~~high school or its equivalent~~ A BOARD-APPROVED
23 SURVEYING CURRICULUM OF FOUR OR MORE YEARS; and

24 (B) Have ~~six~~ TWO years of progressive land surveying experience, of which
25 educational study may be a part and of which two years were under the supervision of a
26 professional land surveyor or an exempted federal employee as determined pursuant to section

1 12-25-203 (1) (b); and

2 (C) Have been certified as a ~~surveyor-in-training~~ LAND SURVEYOR-INTERM in this
3 state; and OR

4 (D) Repealed, L. 88, p. 519, § 34, effective July 1, 1988.

5 (II) (A) Have graduated from a ~~board approved~~ NONBOARD-APPROVED surveying
6 curriculum of four or more years; and

7 (B) Have ~~two~~ FOUR years of progressive land surveying experience OF WHICH AT
8 LEAST TWO MUST BE under the supervision of a professional land surveyor or an exempted
9 federal employee as ~~determined pursuant to~~ DEFINED IN section 12-25-203 (1) (b); and

10 (C) Have been certified as a ~~surveyor-in-training~~ LAND SURVEYOR-INTERM in this
11 state; and OR

12 (D) Repealed, L. 88, p. 519, § 34, effective July 1, 1988.

13 (III) (A) HAVE GRADUATED FROM A BOARD-APPROVED TWO YEAR SURVEYING
14 CURRICULUM OR FROM A FOUR-YEAR ENGINEERING CURRICULUM WHICH INCLUDED THE
15 EQUIVALENT OF TWENTY-FOUR SEMESTER HOURS IN SURVEYING COURSEWORK AS APPROVED
16 BY THE BOARD; AND

17 (B) HAVE SIX YEARS OF PROGRESSIVE LAND SURVEYING EXPERIENCE OF WHICH
18 FOUR YEARS SHALL HAVE BEEN UNDER THE SUPERVISION OF A PROFESSIONAL LAND SURVEYOR
19 OR AN EXEMPT FEDERAL EMPLOYEE AS DEFINED UNDER 12-25-203 (1) (b); AND

20 (C) HAVE BEEN ENROLLED AS A LAND SURVEYOR-INTERM IN THIS STATE.

21 ~~(b)~~ (c) Upon passing the examinations and the submission of evidence of experience
22 satisfactory to the board, the applicant shall be licensed and registered as a professional land
23 surveyor if ~~the~~ SUCH applicant is otherwise qualified pursuant to section 12-25-213.

24 (3) The board may allow an applicant to substitute for one year of experience the
25 satisfactory completion of one academic year in a curriculum approved by the board. The
26 substitution of education for experience shall not exceed three years.

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BILL 3

1 (4) (a) AN APPLICANT MAY QUALIFY FOR LICENSURE AS A PROFESSIONAL LAND
2 SURVEYOR BY EXPERIENCE AND EXAMINATION IF SUCH APPLICANT PASSES THE PRINCIPLES AND
3 PRACTICE OF LAND SURVEYING EXAMINATION AND THE EXAMINATION PERTAINING TO
4 COLORADO LAW.

5 (b) IN ORDER TO BE ADMITTED TO AN EXAMINATION PURSUANT TO PARAGRAPH (a)
6 OF THIS SUBSECTION (4), THE APPLICANT MUST:

7 (I) HAVE GRADUATED FROM HIGH SCHOOL OR ITS EQUIVALENT;

8 (II) HAVE TEN YEARS OF PROGRESSIVE LAND SURVEYING EXPERIENCE OF WHICH AT
9 LEAST SIX YEARS MUST HAVE BEEN UNDER THE SUPERVISION OF A PROFESSIONAL LAND
10 SURVEYOR OR AN EXEMPTED FEDERAL EMPLOYEE AS DEFINED IN SECTION 12-25-203 (1) (b);
11 AND

12 (III) HAVE BEEN ENROLLED AS A LAND SURVEYOR-INTERM IN THIS STATE.

13 (c) UPON PASSAGE OF THE EXAMINATION PURSUANT TO PARAGRAPH (a) OF THIS
14 SUBSECTION (4), THE APPLICANT SHALL BE LICENSED AND REGISTERED AS A PROFESSIONAL
15 LAND SURVEYOR IF SUCH APPLICANT IS OTHERWISE QUALIFIED PURSUANT TO 12-25-213.

16 (5) (a) A PROFESSIONAL LAND SURVEYOR WHO HAS BEEN DULY REGISTERED AND
17 LICENSED TO PRACTICE PROFESSIONAL LAND SURVEYING IN THIS STATE AND WHO IS OVER
18 SIXTY-FIVE YEARS OF AGE, UPON APPLICATION, MAY BE CLASSIFIED AS A RETIRED
19 PROFESSIONAL LAND SURVEYOR. INDIVIDUALS WHO ARE SO CLASSIFIED SHALL LOSE THEIR
20 REGISTRATION AND SHALL NOT PRACTICE PROFESSIONAL LAND SURVEYING AND SHALL PAY A
21 FEE TO RETAIN RETIRED PROFESSIONAL LAND SURVEYOR STATUS.

22 (b) (I) A RETIRED PROFESSIONAL LAND SURVEYOR SHALL BE REINSTATED TO THE
23 STATUS OF A PROFESSIONAL LAND SURVEYOR UPON PAYMENT OF THE RENEWAL REGISTRATION
24 FEE. NO OTHER FEE SHALL BE ASSESSED AGAINST SUCH RETIRED PROFESSIONAL LAND
25 SURVEYOR AS A PENALTY.

26 (II) FOR ANY PROFESSIONAL LAND SURVEYOR WHO HAS BEEN RETIRED FOR TWO OR

1 MORE YEARS, THE BOARD MAY REQUIRE REEXAMINATION OR RECERTIFICATION, UNLESS THE
2 BOARD IS SATISFIED OF SUCH RETIRED PROFESSIONAL LAND SURVEYOR'S CONTINUED
3 COMPETENCE.

4 SECTION 33. 12-25-215 (2) and (4), Colorado Revised Statutes, 1991 Repl. Vol.,
5 are amended to read:

6 12-25-215. Licenses - certificates. (2) The board, upon acceptance of a qualified
7 ~~surveyor-in-training~~ LAND SURVEYOR-INTERM and upon receipt of payment of the required fee,
8 shall certify ~~and issue a numbered surveyor-in-training certificate to said certificant~~ QUALIFIED
9 LAND SURVEYOR-INTERM.

10 (4) The license of any professional land surveyor who fails to pay the license
11 renewal fee shall expire. An expired license may be renewed within ~~two years~~ ONE YEAR after
12 expiration upon payment of all fees in arrears ~~and~~ WHICH BECAME DUE DURING THE EXPIRED
13 PERIOD. After ~~two years~~ ONE YEAR, in addition to the payment of all fees, the board may
14 require reexamination or recertification, unless the professional land surveyor has maintained
15 an active land surveying practice in another jurisdiction or otherwise satisfies the board of ~~his~~
16 SUCH PROFESSIONAL LAND SURVEYOR'S continued competence.

17 SECTION 34. 12-25-216 (1) (a) (III) and (1) (b), Colorado Revised Statutes, 1991
18 Repl. Vol., are amended to read:

19 12-25-216. Fees - disposition. (1) Pursuant to section 24-34-105, C.R.S., the board
20 shall charge and collect fees for the following:

21 (a) With respect to professional land surveyors:
22 (III) Application for registration by ~~comity~~ ENDORSEMENT and examination;

23 (b) With respect to ~~surveyors-in-training~~ LAND SURVEYOR-INTERNS:

24 (I) ~~Issuance of a certificate~~ CERTIFICATION as a ~~surveyor-in-training~~ LAND
25 SURVEYOR-INTERM;

26 (II) ~~Replacement of a certificate~~;

(III) Application for the fundamentals of surveying examination;

(IV) Reexamination for the fundamentals of surveying examination;

(V) Application for certification as a ~~surveyor-in-training~~ LAND SURVEYOR-INTERN by ~~comity~~ ENDORSEMENT.

SECTION 35. 12-25-217 (2) and (3), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-25-217. Professional land surveying seals. (2) ~~All documents, plats, and reports resulting from the practice of land surveying shall be identified with and bear the seal or facsimile and signature of the land surveyor in responsible charge.~~

(3) The seal and signature shall be used by a PROFESSIONAL land surveyor only when the work being stamped was under ~~the~~ SUCH PROFESSIONAL land surveyor's ~~direction and control~~ RESPONSIBLE CHARGE.

SECTION 36. 12-25-218, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-25-218. Immunity in professional review. Any member of the board, its staff, ~~or any witnesses~~ ANY INDIVIDUAL ACTING AS A CONSULTANT TO THE BOARD, ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED BY THIS ARTICLE, OR ANY INDIVIDUAL WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE shall be immune from criminal liability and from suit in any civil action brought by any person based upon an action of the board, if such BOARD member, staff person, ~~or~~ CONSULTANT, witness, OR COMPLAINANT acts in good faith within the scope of the function of the board, has made a reasonable effort to obtain the facts of the matter as to which ~~he~~ SUCH BOARD MEMBER, STAFF PERSON, CONSULTANT, WITNESS, OR COMPLAINANT acts, and acts in the reasonable belief that the action taken by ~~him~~ is warranted by the facts. The immunity provided shall also extend to any person participating in good faith in any investigative proceeding pursuant to this part 2.

SECTION 37. 18-4-508 (2), Colorado Revised Statutes, 1986 Repl. Vol., is

amended to read:

18-4-508. Defacing, destroying, or removing landmarks, monuments, or accessories. (2) Any person who knowingly removes or knowingly causes to be removed any public land survey monument, as defined by section ~~38-53-102 (7)~~ 38-53-103 (18), C.R.S., or a restoration of any such monument or who knowingly removes or knowingly causes to be removed any bearing tree knowing such is a bearing tree or other accessory, as defined by section ~~38-53-102 (1)~~ 38-53-103 (1), C.R.S., even if said person has title to the land on which said monument or accessory is located, commits a class 2 misdemeanor unless, prior to such removal, said person has caused a Colorado professional land surveyor to establish at least two witness corners or reference marks for each such monument or accessory removed and has filed or caused to be filed a monument record pursuant to article 53 of title 38, C.R.S.

SECTION 38. 24-34-104 (23) (b), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (23) (b) ~~The following board in the department of regulatory agencies shall terminate on July 1, 1994: The state board of registration for professional engineers and professional land surveyors, created by part 1 of article 25 of title 12, C.R.S.~~

SECTION 39. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (34) THE FOLLOWING BOARD SHALL TERMINATE ON JULY 1, 2004: THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS IN THE DEPARTMENT OF REGULATORY AGENCIES, CREATED BY PART 1 OF ARTICLE 25 OF TITLE 12, C.R.S.

SECTION 40. 30-10-903 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., is

1 amended to read:

2 **30-10-903. Duties and powers of the county surveyor.** (1) The duties of the
3 county surveyor are:

4 (a) To represent the county in boundary disputes pursuant to sections 30-6-110 and
5 ~~38-50-107, C.R.S.~~ 30-10-906;

6 **SECTION 41.** 30-10-905 (4), Colorado Revised Statutes, 1986 Repl. Vol., is
7 amended to read:

8 **30-10-905. Remuneration - expenses.** (4) Except as provided in section ~~38-50-107,~~
9 ~~C.R.S.~~ 30-10-906, no county surveyor nor any of his deputies shall accept any remuneration
10 other than that provided by the board of county commissioners for the performance of any act
11 required as part of his official duties.

12 **SECTION 42.** Part 9 of article 10 of title 30, Colorado Revised Statutes, 1986
13 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to
14 read:

15 **30-10-906. Disputed boundaries - notice - establishment of legal corner**
16 **monument.** (1) WHENEVER THE PROPER LOCATION OF ANY SECTION CORNER OR QUARTER
17 SECTION CORNER IS IN DISPUTE, A CORNER MONUMENT SHALL BE ESTABLISHED BY THE COUNTY
18 SURVEYOR FOR THE COUNTY IN WHICH SUCH CORNER IS LOCATED PURSUANT TO THIS SECTION.

19
20 (2) (a) UPON RECEIPT OF AN APPLICATION FROM ANY PARTY IN INTEREST AND THE
21 FEE REQUIRED PURSUANT TO SUBSECTION (4) OF THIS SECTION AND SUBSEQUENT TO GIVING
22 NOTICE AS REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2), THE COUNTY
23 SURVEYOR SHALL GATHER EVIDENCE AND CONDUCT ANY NECESSARY SURVEYS TO ESTABLISH
24 THE LOCATION OF A MONUMENT.

25 (b) WITHIN TWO WEEKS OF RECEIPT OF AN APPLICATION AND FEE PURSUANT TO
26 PARAGRAPH (a) OF THIS SUBSECTION (2), THE COUNTY SURVEYOR SHALL GIVE NOTICE

1 INCLUDING THE DATE WHEN SUCH SURVEYOR WILL BE IN THE VICINITY OF THE DISPUTED
2 CORNER IN THE FOLLOWING MANNER:

3 (I) FOR PARTIES WHOSE PROPERTY RIGHTS MIGHT BE AFFECTED BY THE
4 ESTABLISHMENT OF THE LOCATION OF A MONUMENT, BY WRITTEN NOTICE;

5 (II) FOR PARTIES TO WHOM WRITTEN NOTICE CANNOT BE GIVEN BECAUSE OF AN
6 INCORRECT ADDRESS OR BECAUSE THERE ARE MORE THAN FIFTY KNOWN AFFECTED
7 LANDOWNERS, BY PUBLISHING FOR FOUR CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL
8 CIRCULATION IN THE APPLICABLE COUNTY OR, IF THERE IS NO NEWSPAPER PUBLISHED IN SUCH
9 COUNTY, IN SOME NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE NEAREST COUNTY;

10 (III) FOR ALL PROFESSIONAL LAND SURVEYORS WHO HAVE FILED A MONUMENT
11 RECORD ON THE DISPUTED CORNER OR ON ANY ALIQUOT CORNER WITHIN ONE MILE THEREOF
12 AND ALL PROFESSIONAL LAND SURVEYORS KNOWN TO HAVE PERFORMED LAND SURVEYS IN THE
13 VICINITY OF THE DISPUTED CORNER, BY WRITTEN NOTICE TO THE EXTENT PRACTICABLE.

14 (3) (a) ON THE DATE GIVEN IN THE NOTICES PURSUANT TO SUBSECTION (2) OF THIS
15 SECTION, THE COUNTY SURVEYOR SHALL PROCEED TO ESTABLISH THE CORNER MONUMENT IN
16 ACCORDANCE WITH SECTION 38-51-103, C.R.S., AND WITH THE FIELD NOTES OF ORIGINAL
17 SURVEYS MADE BY THE UNITED STATES BY FIRMLY PLANTING A MONUMENT AT THE POINTS
18 FOUND. THE COUNTY SURVEYOR SHALL ACCURATELY TAKE AND NOTE COURSES AND
19 DISTANCES FROM SUCH ESTABLISHED MONUMENT TO ONE OR MORE PROMINENT OBJECTS OF A
20 PERMANENT NATURE IF THERE ARE ANY IN THE VICINITY AND MAKE A PLAT OR MAP OF THE
21 SURVEY.

22 (b) THE COUNTY SURVEYOR SHALL RECORD THE SURVEY AND A STATEMENT OF THE
23 PROCEEDINGS, INCLUDING THE APPLICATION, NOTICE, AND NAMES OF THE PARTIES IN INTEREST,
24 IN THE RECORDS OF THE OFFICE OF THE COUNTY SURVEYOR.

25 (c) ANY CORNER MONUMENT ESTABLISHED PURSUANT TO THIS SECTION SHALL BE
26 THE TRUE AND LEGAL MONUMENT DEFINING THE BOUNDARY CORNER AS STATED IN THE

1 RECORD OF THE SURVEY.

2 (4) (a) THE REASONABLE FEES AND EXPENSES INCURRED BY THE COUNTY SURVEYOR
3 IN ESTABLISHING A CORNER SHALL BE PAID BY THE PARTY APPLYING THEREFOR.

4 (b) AT THE TIME THE APPLICATION IS FILED, THE COUNTY SURVEYOR SHALL
5 ESTIMATE THE PROBABLE FEES AND EXPENSES TO BE INCURRED IN ESTABLISHING THE CORNER
6 AND SHALL COLLECT THAT AMOUNT FROM THE APPLICANT.

7 (c) AFTER THE CORNER HAS BEEN ESTABLISHED, IF THE ESTIMATED AMOUNT
8 EXCEEDS THE ACTUAL FEES AND EXPENSES, THE EXCESS SHALL BE REFUNDED. IF THE FEES
9 AND EXPENSES EXCEED THE ESTIMATED AMOUNT, THE APPLICANT SHALL PAY THE DIFFERENCE
10 TO THE COUNTY SURVEYOR.

11 **30-10-907. County surveyor to administer oaths.** COUNTY SURVEYORS SHALL
12 HAVE THE AUTHORITY TO ADMINISTER AN OATH OR AFFIRMATION TO DEPUTIES AND ASSISTANTS
13 ACTING UNDER THEM FAITHFULLY AND IMPARTIALLY TO DISCHARGE THEIR DUTIES AS DEPUTIES
14 AND ASSISTANTS.

15 **SECTION 43.** 30-28-302 (7), Colorado Revised Statutes, 1986 Repl. Vol., as
16 amended, is amended to read:

17 **30-28-302. Definitions.** (7) "Subdivision exemption plat" or "exemption plat"
18 means a subdivision plat which depicts a division of land or the creation of an interest in
19 property for which the board of county commissioners has granted an exemption from
20 subdivision regulations pursuant to section 30-28-101 (10) (d), and which is suitable for
21 recording pursuant to section ~~38-51-102~~ 38-51-105, C.R.S.

22 **SECTION 44.** 38-33.3-103 (22.5), Colorado Revised Statutes, 1982 Repl. Vol., as
23 amended, is amended to read:

24 **38-33.3-103. Definitions.** (22.5) "Plat" means that part of a declaration that is a
25 land survey plat as set forth in section ~~38-51-102~~ 38-51-105, depicts all or any portion of a
26 common interest community in two dimensions, is executed by a person that is authorized by

1 this title to execute a declaration relating to the common interest community, and is recorded
2 in the real estate records in every county in which any portion of the common interest
3 community is located. A plat and a map may be combined in one instrument.

4 **SECTION 45.** The introductory portion to 38-33.3-209 (2), Colorado Revised
5 Statutes, 1982 Repl. Vol., as amended, is amended to read:

6 **38-33.3-209. Plats and maps.** (2) In addition to meeting the requirements of a land
7 survey plat as set forth in section ~~38-51-102~~ 38-51-105, each plat must show:

8 **SECTION 46.** Article 50 of title 38, Colorado Revised Statutes, 1982 Repl. Vol.,
9 as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

10 **ARTICLE 50**

11 **Survey Plats and Monument Records -**

12 **General Provisions**

13 **38-50-101. Survey plat - records file and index system - informational purpose.**

14 (1) SURVEY PLATS REQUIRED PURSUANT TO SECTION 38-51-107 AND THIS SECTION SHALL:

- 15 (a) COMPLY WITH SECTION 38-51-106;
- 16 (b) DEPENDING ON THE LOCATION OF THE LAND, CONTAIN THE FOLLOWING
17 INFORMATION IN THE TITLE BLOCK:

18 (I) FOR PARCELS OF LAND LOCATED WITHIN THE UNITED STATES RECTANGULAR
19 SURVEY SYSTEM, THE SECTION, TOWNSHIP, RANGE, AND PRINCIPAL MERIDIAN; OR

20 (II) FOR GRANTS AND UNSURVEYED PARCELS OF LAND, INFORMATION RELATING TO
21 THE SYSTEM OF INDEXING THE COUNTY ASSESSOR ALREADY HAS IN PLACE;

22 (c) WITHIN SIX MONTHS AFTER THE DATE THE MONUMENT IS SET OR ACCEPTED IN
23 THE FIELD OR IS SET BY A PROFESSIONAL LAND SURVEYOR, BE DEPOSITED WITH THE PUBLIC
24 OFFICE DESIGNATED BY THE COUNTY COMMISSIONERS.

25 (2) (a) (I) THE COUNTY COMMISSIONERS OF EACH COUNTY SHALL DESIGNATE THE
26 COUNTY SURVEYOR TO CREATE AND MAINTAIN A SURVEY PLAT RECORDS FILE AND INDEX

1 SYSTEM FOR PLATS.

2 (II) IF A COUNTY SURVEYOR HAS NOT BEEN ELECTED OR APPOINTED OR IF THE
3 OFFICE IS VACANT, ANOTHER COUNTY OFFICIAL SHALL BE DESIGNATED TO CREATE AND
4 MAINTAIN SUCH FILE AND INDEX SYSTEM.

5 (III) IF THE COUNTY SURVEYOR IS UNABLE TO INDEX IN A TIMELY MANNER, THE
6 COUNTY SURVEYOR MAY DESIGNATE ANOTHER COUNTY OFFICIAL TO DO SUCH INDEXING.

7 (b) (I) EACH PLAT DEPOSITED WITH THE COUNTY SHALL BE GIVEN A RECEPTION
8 NUMBER OR A BOOK AND PAGE NUMBER, OR BOTH, WHICH SHALL BE SET FORTH ON THE PLAT.

9 (II) (A) SURVEYED LANDS LOCATED WITHIN THE UNITED STATES RECTANGULAR
10 SURVEY SYSTEM SHALL BE INDEXED BY SECTION, TOWNSHIP, RANGE, AND PRINCIPAL MERIDIAN.

11 (B) GRANT LANDS AND UNSURVEYED LANDS SHALL BE INDEXED BY THE SYSTEM
12 OF INDEXING THE COUNTY ASSESSOR ALREADY HAS IN PLACE.

13 (III) SURVEY PLATS SUBMITTED FOR DEPOSITING SHALL BE INDEXED IN A TIMELY
14 MANNER, BUT NOT MORE THAN TEN WORKING DAYS AFTER THE DATE THE SURVEY PLAT IS
15 DEPOSITED.

16 (3) (a) EACH PLAT SUBMITTED FOR DEPOSITING SHALL:

17 (I) BEAR ORIGINAL SIGNATURES AND SEALS; AND

18 (II) BE MADE:

19 (A) FROM A DIMENSIONALLY STABLE POLYESTER SHEET SUCH AS CRONAR OR
20 MYLAR OR OTHER PRODUCT OF EQUAL QUALITY;

21 (B) AT LEAST THREE MILS THICK; AND

22 (C) WITH NONFADING PERMANENT PRINT.

23 (b) THE DIMENSIONS OF EACH PLAT, AS SPECIFIED BY COUNTY REQUIREMENTS,
24 SHALL BE AT LEAST EIGHTEEN INCHES WIDE BY TWENTY-FOUR INCHES LONG AND NO MORE
25 THAN TWENTY-FOUR INCHES WIDE BY THIRTY-SIX INCHES LONG WITH A MINIMUM TWO-INCH
26 MARGIN ON THE LEFT SIDE AND A MINIMUM OF ONE-HALF INCH MARGINS AT THE TOP, BOTTOM,

1 AND RIGHT SIDE OF THE PLAT.

2 (c) SUBJECT TO APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS, A COUNTY
3 MAY MAKE APERTURE CARDS OR FILM-PROCESSED COPIES CAPABLE OF LEGIBLE REPRODUCTION
4 FROM POLYESTER SHEETS AS SPECIFIED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (II) OF
5 PARAGRAPH (a) OF THIS SUBSECTION (3) FOR THE PURPOSE OF RECORDING.

6 (4) (a) THE FEE FOR DEPOSITING PLATS SHALL NOT EXCEED THE AMOUNT OF THE
7 FEE COLLECTED FOR THE RECORDING OF SUBDIVISION PLATS ESTABLISHED IN SECTION 30-1-103
8 (2) (f), C.R.S.

9 (b) THE FEE FOR THE COUNTY SURVEYOR OR, IF A COUNTY SURVEYOR HAS NOT
10 BEEN ELECTED OR APPOINTED OR IF THE OFFICE IS VACANT, ANOTHER COUNTY OFFICIAL TO
11 INDEX AND MAINTAIN THE PLATS AS DESIGNATED BY THE COUNTY COMMISSIONERS SHALL NOT
12 EXCEED THE AMOUNT OF THE FEE COLLECTED FOR THE RECORDING OF SUBDIVISION PLATS
13 ESTABLISHED IN SECTION 30-1-103 (2) (f), C.R.S.

14 (c) THE FEES PROVIDED FOR BY THIS SUBSECTION (4) SHALL BE COLLECTED BY THE
15 PUBLIC OFFICE AT WHICH PLATS ARE DEPOSITED.

16 (5) (a) PLATS SHALL BE DEPOSITED IN ACCORDANCE WITH THIS SECTION FOR THE
17 SOLE PURPOSE OF RECORDING INFORMATION ON SURVEYING MONUMENTATION IN ORDER TO
18 PROVIDE SURVEY DATA FOR SUBSEQUENT LAND SURVEYS AND SHALL NOT BE CONSTRUED TO
19 AFFECT, IN ANY MANNER WHATSOEVER, THE DESCRIPTION OF A SUBDIVISION, LINE, OR CORNER
20 CONTAINED IN THE OFFICIAL PLATS AND FIELD NOTES FILED AND OF RECORD OR TO SUBDIVIDE
21 PROPERTY.

22 (b) NO PLAT DEPOSITED IN ACCORDANCE WITH THIS SECTION SHALL CONSTITUTE
23 NOTICE PURSUANT TO SECTION 38-35-106.

24 (c) SUBDIVISION PLATS WHICH CREATE PARCELS OF LAND OF THIRTY-FIVE ACRES
25 OR MORE SHALL BE FILED IN THE COUNTY CLERK AND RECORDER'S OFFICE FOR THE COUNTY
26 IN WHICH THE PROPERTY IS LOCATED PURSUANT TO SECTION 38-35-109.

1 **38-51-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
2 OTHERWISE REQUIRES:

3 (1) "ACCESSORY" MEANS ANY PHYSICAL EVIDENCE IN THE VICINITY OF A SURVEY
4 MONUMENT, THE RELATIVE LOCATION OF WHICH IS OF PUBLIC RECORD AND WHICH IS USED TO
5 HELP PERPETUATE THE LOCATION OF THE MONUMENT. ACCESSORIES SHALL BE CONSTRUED TO
6 INCLUDE THE ACCESSORIES RECORDED IN THE ORIGINAL SURVEY NOTES AND ADDITIONAL
7 REFERENCE POINTS AND DIMENSIONS FURNISHED BY SUBSEQUENT LAND SURVEYORS OR
8 ATTESTED TO IN WRITING BY PERSONS HAVING PERSONAL KNOWLEDGE OF THE ORIGINAL
9 LOCATION OF THE MONUMENT.

10 (2) "ALIQUOT CORNER" MEANS ANY SECTION CORNER OR QUARTER SECTION CORNER
11 AND ANY OTHER CORNER IN THE PUBLIC LAND SURVEY SYSTEM CREATED BY SUBDIVIDING LAND
12 ACCORDING TO THE RULES OF PROCEDURE SET FORTH IN SECTION 38-51-103.

13 (3) "BENCH MARK" MEANS ANY RELATIVELY IMMOVABLE POINT ON THE EARTH
14 WHOSE ELEVATION ABOVE OR BELOW AN ADOPTED DATUM IS KNOWN.

15 (4) "BLOCK" MEANS A PARCEL OF LAND WITHIN A PLATTED SUBDIVISION BOUNDED
16 ON ALL SIDES BY STREETS OR AVENUES, OTHER PHYSICAL BOUNDARIES SUCH AS A BODY OF
17 WATER, OR THE EXTERIOR BOUNDARY OF A PLATTED SUBDIVISION.

18 (5) "BOARD" MEANS THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL
19 ENGINEERS AND PROFESSIONAL LAND SURVEYORS, CREATED IN SECTION 12-25-106, C.R.S.

20 (6) "CONTROL CORNER" MEANS ANY LAND SURVEY MONUMENT THE POSITION OF
21 WHICH CONTROLS THE LOCATION OF THE BOUNDARIES OF A TRACT OR PARCEL OF LAND. THE
22 CONTROL CORNER MAY BE INCLUDED WITHIN THE PERIMETER OF SUCH TRACT OR PARCEL.

23 (7) "EXEMPTION PLAT" OR "SUBDIVISION EXEMPTION PLAT" MEANS A SUBDIVISION
24 PLAT WHICH INCLUDES ALL OF THE INFORMATION REQUIRED BY SECTION 38-51-106 AND WHICH
25 DEPICTS A DIVISION OF LAND OR THE CREATION OF AN INTEREST IN PROPERTY FOR WHICH THE
26 BOARD OF COUNTY COMMISSIONERS HAS GRANTED AN EXEMPTION FROM SUBDIVISION

1 REGULATIONS PURSUANT TO SECTION 30-28-101 (10) (d), C.R.S.

2 (8) "IMPROVEMENT LOCATION CERTIFICATE" MEANS A REPRESENTATION OF THE
3 BOUNDARIES OF A PARCEL OF LAND AND THE IMPROVEMENTS THEREON, PREPARED PURSUANT
4 TO SECTION 38-51-107.

5 (9) "IMPROVEMENT SURVEY PLAT" MEANS A LAND SURVEY PLAT RESULTING FROM
6 A MONUMENTED LAND SURVEY WHICH SHOWS THE LOCATION OF ALL STRUCTURES ON THE
7 DESCRIBED PARCEL AND ALL EASEMENTS, VISIBLE ENCROACHMENTS, AND ALL FENCES, HEDGES,
8 AND WALLS ON OR WITHIN TWO FEET OF BOTH SIDES OF ALL BOUNDARIES OF SUCH PARCEL.
9 SUCH PLAT MAY ALSO SHOW VISIBLE UTILITIES SITUATED ON THE DESCRIBED PARCEL AND ANY
10 UNDERGROUND UTILITIES FOR WHICH THERE IS VISIBLE SURFACE EVIDENCE OR INFORMATION
11 FROM THE APPROPRIATE UTILITY COMPANY OR CLIENT. SUCH PLAT MAY ALSO SHOW THE
12 LOCATION OF EASEMENTS, UNDERGROUND UTILITIES, OR TUNNELS FOR WHICH RECORD
13 EVIDENCE IS AVAILABLE FROM THE COUNTY CLERK AND RECORDER OR OTHER SOURCE AS
14 SPECIFIED ON THE IMPROVEMENT SURVEY PLAT.

15 (10) "IRREGULAR PARCEL" MEANS A PARCEL OF LAND WHICH IS NOT UNIQUELY
16 DEFINED ON A SUBDIVISION PLAT BUT WHICH IS DESCRIBED BY ANY OF THE FOLLOWING
17 METHODS:

- 18 (a) AN ALIQUOT PART OF A SECTION;
- 19 (b) A METES AND BOUNDS DESCRIPTION;
- 20 (c) A BOOK AND PAGE OR RECEPTION NUMBER REFERENCE;
- 21 (d) ANY SO-CALLED "ASSESSOR'S TRACT"; OR
- 22 (e) A DESCRIPTION WHICH CALLS ONLY FOR THE OWNER'S OR ADJOINER'S NAME.

23 (11) "LAND SURVEY" MEANS A SERIES OF OBSERVATIONS AND MEASUREMENTS
24 MADE BY A PROFESSIONAL LAND SURVEYOR PURSUANT TO SECTIONS 38-51-103, 38-51-104, AND
25 38-51-105 FOR THE PURPOSE OF LOCATING OR RESTORING ANY REAL PROPERTY BOUNDARY.

26 (12) "LAND SURVEY PLAT" MEANS A PLAT WHICH SHOWS THE INFORMATION

1 DEVELOPED BY A MONUMENTED LAND SURVEY AND INCLUDES ALL INFORMATION REQUIRED BY
2 SECTION 38-51-106.

3 (13) "LEGAL DESCRIPTION" MEANS A WRITTEN, NARRATIVE DESCRIPTION, OF A
4 PARCEL OF REAL PROPERTY OR AN EASEMENT FOR THE PURPOSE OF PERPETUATING LOCATION
5 OF TITLE.

6 (14) "MONUMENTED LAND SURVEY" MEANS A LAND SURVEY IN WHICH MONUMENTS
7 ARE EITHER FOUND OR SET PURSUANT TO SECTIONS 38-51-103, 38-51-104, AND 38-51-105 TO
8 MARK THE BOUNDARIES OF A SPECIFIED PARCEL OF LAND.

9 (15) "MONUMENT RECORD" MEANS A WRITTEN AND ILLUSTRATED DOCUMENT
10 DESCRIBING THE PHYSICAL APPEARANCE OF A BENCH MARK OR SURVEY MONUMENT AND ITS
11 ACCESSORIES.

12 (16) "PLATTED SUBDIVISION" MEANS A GROUP OF LOTS, TRACTS, OR PARCELS OF
13 LAND CREATED BY RECORDING A MAP WHICH MEETS THE REQUIREMENTS OF SECTION 38-51-106
14 AND WHICH SHOWS THE BOUNDARIES OF SUCH LOTS, TRACTS, OR PARCELS AND THE ORIGINAL
15 PARCEL FROM WHICH THEY WERE CREATED.

16 (17) "PROFESSIONAL LAND SURVEYOR" MEANS A PERSON REGISTERED OR LICENSED
17 PURSUANT TO PART 2 OF ARTICLE 25 OF TITLE 12, C.R.S.

18 (18) "PUBLIC LAND SURVEY MONUMENT" MEANS ANY LAND BOUNDARY MONUMENT
19 ESTABLISHED ON THE GROUND BY A CADASTRAL SURVEY OF THE UNITED STATES GOVERNMENT
20 AND ANY MINERAL SURVEY MONUMENT ESTABLISHED BY A UNITED STATES MINERAL SURVEYOR
21 AND MADE A PART OF THE UNITED STATES PUBLIC LAND RECORDS.

22 (19) "RESPONSIBLE CHARGE" MEANS CONTROL AND DIRECTION OF SURVEYING
23 WORK.

24 (20) "SUBDIVISION PLAT" MEANS A MAP OF A PLATTED SUBDIVISION RECORDED FOR
25 THE PURPOSE OF CREATING LAND PARCELS WHICH CAN BE IDENTIFIED UNIQUELY BY REFERENCE
26 TO SUCH MAP.

1 **38-51-103. Procedure for subdividing section.** (1) WHENEVER A PROFESSIONAL
2 LAND SURVEYOR CONDUCTS A SURVEY FOR THE PURPOSE OF LOCATING A PARCEL OF LAND
3 WHICH IS DESCRIBED IN TERMS OF THE NOMENCLATURE OF THE PUBLIC LAND SURVEY SYSTEM,
4 SUCH PROFESSIONAL LAND SURVEYOR SHALL PROCEED ACCORDING TO THE APPLICABLE RULES
5 CONTAINED IN THE CURRENT "MANUAL OF INSTRUCTIONS FOR THE SURVEY OF THE PUBLIC
6 LANDS OF THE UNITED STATES" PUBLISHED BY THE UNITED STATES GOVERNMENT PRINTING
7 OFFICE; EXCEPT THAT ALL MONUMENTATION SHALL CONFORM TO SECTION 38-51-104.

8 (2) (a) A SECTION MAY BE SUBDIVIDED BY:
9 (I) SURVEYING ALL NECESSARY ALIQUOT LINES IN THE FIELD; OR
10 (II) COMPUTING THE LOCATION OF THE REQUIRED ALIQUOT CORNERS AFTER MAKING
11 A FIELD SURVEY WHICH INCLUDES ALL REQUIRED CONTROL CORNERS OF THE SECTION.

12 (b) ANY SECTION SUBDIVIDED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
13 (2) SHALL INCLUDE ALL CONTROL CORNERS THAT WERE ORIGINALLY MONUMENTED BY THE
14 UNITED STATES GOVERNMENT, WHICH MUST EITHER BE FOUND OR RESTORED IN THE FIELD
15 ACCORDING TO THE STANDARDS SET FORTH IN SECTION 38-51-104.

16 (c) MONUMENT RECORDS SHALL BE FILED PURSUANT TO SECTION 38-53-104,
17 DESCRIBING EACH SUCH CORNER.

18 (d) FOR ANY SECTION SUBDIVIDED PURSUANT TO THIS SUBSECTION (2) THE
19 LOCATION OF ORIGINAL ALIQUOT CORNERS OF, AND PROCEDURES USED IN, THE GOVERNING
20 OFFICIAL UNITED STATES GOVERNMENT SURVEY, WHERE APPLICABLE, SHALL TAKE
21 PRECEDENCE.

22 **38-51-104. Monumentation of land surveys.** (1) (a) THE CORNERS OF LOTS,
23 TRACTS, OTHER PARCELS OF LAND, ALIQUOT CORNERS NOT DESCRIBED IN SUBSECTION (4) OF
24 THIS SECTION, AND ANY LINE POINTS OR REFERENCE POINTS WHICH ARE SET TO PERPETUATE
25 THE LOCATION OF ANY LAND BOUNDARY OR EASEMENT SHALL, WHEN ESTABLISHED ON THE
26 GROUND BY A LAND SURVEY, BE MARKED BY REASONABLY PERMANENT MARKERS SOLIDLY

1 EMBEDDED IN THE GROUND.

2 (b) A DURABLE CAP BEARING THE REGISTRATION NUMBER OF THE PROFESSIONAL
3 LAND SURVEYOR RESPONSIBLE FOR THE ESTABLISHMENT OF THE MONUMENT SHALL BE AFFIXED
4 SECURELY TO THE TOP OF EACH SUCH MONUMENT EMBEDDED PURSUANT TO THIS SUBSECTION
5 (1).

6 (2) IF THE POINTS DESIGNATED IN SUBSECTION (1) OF THIS SECTION FALL ON SOLID
7 BEDROCK, CONCRETE, STONE CURBS, GUTTERS, OR WALKS, A DURABLE METAL DISK OR CAP
8 SHALL BE SECURELY ANCHORED IN THE ROCK OR CONCRETE AND STAMPED WITH THE SURVEY
9 POINT AND THE REGISTRATION NUMBER OF THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE
10 FOR THE ESTABLISHMENT OF THE MONUMENT OR MARKER.

11 (3) (a) IF THE MONUMENTS OR MARKERS REQUIRED BY SUBSECTION (1) OF THIS
12 SECTION CANNOT PRACTICABLY BE SET BECAUSE OF STEEP TERRAIN, WATER, MARSH, OR
13 EXISTING STRUCTURES, OR IF THEY WOULD BE LOST AS A RESULT OF PROPOSED STREET, ROAD,
14 OR OTHER CONSTRUCTION, ONE OR MORE REFERENCE MONUMENTS SHALL BE SET.

15 (b) (I) THE LETTERS "RM" OR "WC" AND THE SURVEYOR'S REGISTRATION NUMBER
16 SHALL BE AFFIXED TO THE MONUMENT.

17 (II) FOR PURPOSES OF THIS PARAGRAPH (b), "RM" MEANS REFERENCE MONUMENT
18 AND "WC" MEANS WITNESS CORNER.

19 (c) REFERENCE MONUMENTS SHALL BE SET AS CLOSE AS PRACTICABLE TO THE TRUE
20 CORNER AND SHALL MEET THE SAME PHYSICAL STANDARDS REQUIRED TO SET THE TRUE
21 CORNER.

22 (d) IF ONLY ONE REFERENCE MONUMENT IS USED, SUCH REFERENCE MONUMENT
23 SHALL BE SET ON THE ACTUAL BOUNDARY LINE OR A PROLONGATION THEREOF.

24 (4) FOR ANY MONUMENT REQUIRED BY THIS SECTION THAT MARKS THE LOCATION
25 OF A SECTION CORNER, QUARTER SECTION CORNER, OR SIXTEENTH SECTION CORNER, SUCH
26 MONUMENT SHALL MEET THE PHYSICAL STANDARDS SPECIFIED BY RULE AND REGULATION

1 PROMULGATED BY THE BOARD PURSUANT TO SECTION 24-4-103, C R.S.

2 (5) (a) THE TOP OF THE MONUMENT FOR ANY CORNER REQUIRED BY THIS SECTION
3 WHICH IS WITHIN THE TRAFFIC AREA OF A DEDICATED OR DEEDED STREET, ROAD, OR HIGHWAY
4 SHALL BE PLACED ONE-HALF FOOT BELOW THE ROADWAY SURFACE.

5 (b) IF THE ROADWAY SURFACE IS PAVEMENT TWO INCHES THICK OR GREATER, THE
6 MONUMENT SHALL INCLUDE A MONUMENT BOX THE TOP OF WHICH SHALL BE SET FLUSH WITH
7 THE SURFACE OF THE PAVEMENT.

8 (6) NO MARKER REQUIRED BY THIS SECTION SHALL BEAR THE REGISTRATION
9 NUMBER OF MORE THAN ONE PROFESSIONAL LAND SURVEYOR BUT MAY BEAR THE NAME OF AN
10 INDIVIDUAL SURVEYOR OR SURVEYING FIRM IN ADDITION TO THE REQUIRED REGISTRATION
11 NUMBER.

12 **38-51-105. Monumentation of subdivisions.** (1) (a) PRIOR TO RECORDING THE
13 EXTERNAL BOUNDARIES OF ANY PLATTED SUBDIVISIONS A PLAT SHALL BE MONUMENTED ON
14 THE GROUND BY REASONABLY PERMANENT MONUMENTS SOLIDLY EMBEDDED IN THE GROUND.

15 (b) A DURABLE CAP BEARING THE REGISTRATION NUMBER OF THE PROFESSIONAL
16 LAND SURVEYOR RESPONSIBLE FOR THE ESTABLISHMENT OF THE MONUMENT SHALL BE AFFIXED
17 SECURELY TO THE TOP OF EACH SUCH MONUMENT EMBEDDED PURSUANT TO THIS SUBSECTION
18 (1).

19 (1).
20 (c) MONUMENTS SHALL BE SET NO MORE THAN FOURTEEN HUNDRED FEET APART
21 ALONG ANY STRAIGHT BOUNDARY LINE, AT ALL ANGLE POINTS, AT THE BEGINNING, END, AND
22 POINTS OF CHANGE OF DIRECTION OR CHANGE OF RADIUS OF ANY CURVED BOUNDARIES
23 DEFINED BY CIRCULAR ARCS, AND AT THE BEGINNING AND END OF ANY SPIRAL CURVE.

24 (2) THE PROFESSIONAL LAND SURVEYOR WHO PREPARES THE ORIGINAL SUBDIVISION
25 PLAT, EXEMPTION PLAT, OR SUBDIVISION EXEMPTION PLAT SHALL PROVIDE EXTERNAL
26 BOUNDARY MONUMENTS AS REQUIRED IN SUBSECTION (1) OF THIS SECTION.

1 (3) (a) BEFORE A SALES CONTRACT FOR ANY LOT, TRACT, OR PARCEL WITHIN A
2 SUBDIVISION IS EXECUTED, ALL BOUNDARIES OF THE BLOCK WITHIN WHICH SUCH LOT, TRACT,
3 OR PARCEL IS LOCATED SHALL BE MARKED WITH MONUMENTS IN ACCORDANCE WITH
4 SUBSECTION (1) OF THIS SECTION.

5 (b) THE SELLER OF THE LOT, SECTION, OR PARCEL SHALL PROVIDE FOR THE
6 SERVICES OF A PROFESSIONAL LAND SURVEYOR TO ESTABLISH BLOCK MONUMENTATION AND
7 LOT MARKERS AS REQUIRED PURSUANT TO SUBSECTION (4) OF THIS SECTION.

8 (4) (a) BLOCK MONUMENTATION MAY BE SET ON THE CENTER LINES OF STREETS OR
9 ON OFFSET LINES FROM SUCH STREETS AS DESIGNATED ON THE RECORDED PLAT.

10 (b) THE CORNERS OF ANY LOT, TRACT, OR PARCEL SOLD SEPARATELY SHALL BE
11 MARKED WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THE SALES CONTRACT.

12 (c) FOR ANY STRUCTURE TO BE BUILT ON A LOT, TRACT, OR PARCEL BEFORE THE
13 CORNERS HAVE BEEN MARKED PURSUANT TO THIS SECTION, THE SELLER OF SUCH LOT, TRACT,
14 OR PARCEL SHALL RETAIN A PROFESSIONAL LAND SURVEYOR TO ESTABLISH CONTROL LINES ON
15 THE GROUND AS NECESSARY TO ASSURE THE PROPER LOCATION OF THE STRUCTURE.

16 (5) FOR ANY COMPLETE BLOCK SOLD AS A UNIT, IT SHALL BECOME THE
17 RESPONSIBILITY OF THE SUBSEQUENT SELLER OF ANY SEPARATE LOT, TRACT, OR PARCEL WITHIN
18 SUCH BLOCK TO RETAIN A PROFESSIONAL LAND SURVEYOR TO ESTABLISH LOT MARKERS AS
19 REQUIRED PURSUANT TO SUBSECTION (4) OF THIS SECTION.

20 (6) FOR ANY POINTS DESIGNATED IN SUBSECTION (1), (2), OR (3) OF THIS SECTION
21 WHICH FALL ON SOLID BEDROCK, CONCRETE, STONE CURBS, GUTTERS, OR WALKS, A DURABLE
22 METAL DISK OR CAP SHALL BE SECURELY ANCHORED IN THE ROCK OR CONCRETE AND STAMPED
23 WITH THE SURVEY POINT AND THE REGISTRATION NUMBER OF THE PROFESSIONAL LAND
24 SURVEYOR RESPONSIBLE FOR THE ESTABLISHMENT OF THE MONUMENT OR MARKER.

25 (7) (a) IF ANY MONUMENTS OR MARKERS REQUIRED BY SUBSECTION (1), (2), OR (3)
26 OF THIS SECTION CANNOT PRACTICABLY BE SET BECAUSE OF STEEP TERRAIN, WATER, MARSH,

1 OR EXISTING STRUCTURES, OR IF THEY WOULD BE LOST AS A RESULT OF PROPOSED STREET,
2 ROAD, OR OTHER CONSTRUCTION, ONE OR MORE REFERENCE MONUMENTS SHALL BE SET.

3 (b) (I) THE LETTERS "RM" OR "WC" SHALL BE AFFIXED TO THE MONUMENT IN
4 ADDITION TO THE SURVEYOR'S REGISTRATION NUMBER.

5 (II) FOR PURPOSES OF THIS PARAGRAPH (b), "RM" MEANS REFERENCE MONUMENT
6 AND "WC" MEANS WITNESS CORNER.

7 (c) REFERENCE MONUMENTS SHALL BE SET AS CLOSE AS PRACTICABLE TO THE TRUE
8 CORNER AND SHALL MEET THE SAME PHYSICAL STANDARDS REQUIRED TO SET THE TRUE
9 CORNER.

10 (d) IF ONLY ONE REFERENCE MONUMENT IS USED SUCH REFERENCE MONUMENT
11 SHALL BE SET ON THE ACTUAL BOUNDARY LINE OR A PROLONGATION THEREOF.

12 (8) FOR ANY MONUMENT REQUIRED BY THIS SECTION WHICH MARKS THE LOCATION
13 OF A SECTION CORNER, QUARTER SECTION CORNER, OR SIXTEENTH SECTION CORNER, SUCH
14 MONUMENT SHALL MEET THE PHYSICAL STANDARDS SPECIFIED BY RULE AND REGULATION
15 PROMULGATED BY THE BOARD PURSUANT TO SECTION 24-4-103, C.R.S.

16 (9) (a) THE TOP OF THE MONUMENT FOR ANY CORNER REQUIRED BY THIS SECTION
17 WHICH IS WITHIN THE TRAFFIC AREA OF A DEDICATED OR DEEDED STREET, ROAD, OR
18 HIGHWAY, SHALL BE PLACED ONE-HALF FOOT BELOW THE ROADWAY SURFACE.

19 (b) IF THE ROADWAY SURFACE IS PAVEMENT TWO INCHES THICK OR GREATER, THE
20 MONUMENT SHALL INCLUDE A MONUMENT BOX THE TOP OF WHICH SHALL BE SET FLUSH WITH
21 THE SURFACE OF THE PAVEMENT.

22 (10) NO MARKER REQUIRED BY THIS SECTION SHALL BEAR THE REGISTRATION
23 NUMBER OF MORE THAN ONE PROFESSIONAL LAND SURVEYOR BUT MAY BEAR THE NAME OF AN
24 INDIVIDUAL SURVEYOR OR SURVEYING FIRM IN ADDITION TO THE REQUIRED REGISTRATION
25 NUMBER.

26 38-51-106. Land survey plats. (1) ALL LAND SURVEY PLATS SHALL INCLUDE BUT

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BILL 8

1 SHALL NOT BE LIMITED TO THE FOLLOWING:

- 2 (a) A SCALE DRAWING OF THE BOUNDARIES OF THE LAND PARCEL;
- 3 (b) (I) ALL RECORDED AND APPARENT RIGHTS-OF-WAY AND EASEMENTS, AND, IF
- 4 RESEARCH FOR RECORDED RIGHTS-OF-WAY AND EASEMENTS IS DONE BY SOMEONE OTHER THAN
- 5 THE PROFESSIONAL LAND SURVEYOR WHO PREPARES THE PLAT, THE SOURCE FROM WHICH SUCH
- 6 RECORDED RIGHTS-OF-WAY AND EASEMENTS WERE OBTAINED; OR
- 7 (II) IF THE CLIENT WISHES NOT TO SHOW RIGHTS-OF-WAY AND EASEMENTS ON THE
- 8 LAND SURVEY PLAT, A STATEMENT THAT SUCH CLIENT DID NOT WANT RIGHTS-OF-WAY AND
- 9 EASEMENTS SHOWN;
- 10 (c) ALL DIMENSIONS NECESSARY TO ESTABLISH THE BOUNDARIES IN THE FIELD;
- 11 (d) A STATEMENT BY THE PROFESSIONAL LAND SURVEYOR THAT THE SURVEY WAS
- 12 PERFORMED BY SUCH SURVEYOR OR UNDER SUCH SURVEYOR'S RESPONSIBLE CHARGE;
- 13 (e) A STATEMENT BY THE PROFESSIONAL LAND SURVEYOR EXPLAINING HOW
- 14 BEARINGS, IF USED, WERE DETERMINED;
- 15 (f) A DESCRIPTION OF ALL MONUMENTS, BOTH FOUND AND SET, WHICH MARK THE
- 16 BOUNDARIES OF THE PROPERTY AND OF ALL CONTROL MONUMENTS USED IN CONDUCTING THE
- 17 SURVEY;
- 18 (g) A STATEMENT OF THE SCALE OR REPRESENTATIVE FRACTION OF THE DRAWING,
- 19 AND A BAR-TYPE OR GRAPHICAL SCALE;
- 20 (h) A NORTH ARROW;
- 21 (i) A WRITTEN LEGAL DESCRIPTION AS DEFINED IN SECTION 38-51-102 (13) WHICH
- 22 SHALL INCLUDE BUT SHALL NOT BE LIMITED TO A REFERENCE TO THE COUNTY AND STATE
- 23 TOGETHER WITH THE SECTION, TOWNSHIP, RANGE, AND PRINCIPAL MERIDIAN OR ESTABLISHED
- 24 SUBDIVISION, BLOCK AND LOT NUMBER, OR ANY OTHER METHOD OF DESCRIBING THE LAND AS
- 25 ESTABLISHED BY THE GENERAL LAND OFFICE OR BUREAU OF LAND MANAGEMENT OR AS SET
- 26 FORTH IN SECTION 38-50-101 (1) (b) (II);

- 1 (j) THE SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR; AND
- 2 (k) ANY CONFLICTING BOUNDARY EVIDENCE.

3 **38-51-107. Required plats.** (1) EVERY PROFESSIONAL LAND SURVEYOR WHO

4 ACCEPTS A MONUMENT WHILE PERFORMING A MONUMENTED LAND SURVEY SHALL PREPARE A

5 PLAT IF SUCH MONUMENT IS NOT OF RECORD EITHER IN THE CLERK AND RECORDER'S OFFICE

6 OF THE COUNTY IN WHICH THE MONUMENT LIES OR IN THE PUBLIC OFFICE DESIGNATED BY THE

7 COUNTY COMMISSIONERS PURSUANT TO SECTION 38-50-101 (2) OR IF SUCH MONUMENT IS SET

8 PURSUANT TO SECTION 38-51-104.

9 (2) NO PLAT SHALL BE REQUIRED TO BE PREPARED IF THE MONUMENTS ACCEPTED

10 ARE WITHIN A PLATTED SUBDIVISION WHICH WAS FILED AFTER JULY 1, 1975.

11 **38-51-108. Improvement location certificate.** (1) A PROFESSIONAL LAND

12 SURVEYOR MAY PREPARE AN IMPROVEMENT LOCATION CERTIFICATE FOR THE USE OF A SPECIFIC

13 CLIENT BASED UPON SUCH PROFESSIONAL LAND SURVEYOR'S GENERAL KNOWLEDGE OF LAND

14 BOUNDARIES AND MONUMENTS IN A GIVEN AREA IF SUCH CLIENT IS NOT THE OWNER OR BUYER;

15 EXCEPT THAT A COPY OF SUCH CERTIFICATE SHALL BE PROVIDED TO SUCH OWNER OR BUYER.

16 (2) (a) (I) A CERTIFICATE PREPARED PURSUANT TO SUBSECTION (1) OF THIS SECTION

17 SHALL NOT BE DESIGNATED AS OR CONSTRUED AS BEING A LAND SURVEY PLAT OR

18 IMPROVEMENT SURVEY PLAT.

19 (II) SUCH CERTIFICATE SHALL BE PROMINENTLY LABELED "IMPROVEMENT LOCATION

20 CERTIFICATE" AND CONTAIN A STATEMENT IN THE FOLLOWING FORM:

21 IMPROVEMENT LOCATION CERTIFICATE

22 I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS

23 PREPARED FOR (INDIVIDUAL OR FIRM), THAT IT IS NOT A LAND

24 SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO

25 BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR

26 OTHER FUTURE IMPROVEMENT LINES.

1 I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED
2 PARCEL ON THIS DATE, (INSERT DATE), EXCEPT UTILITY
3 CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL,
4 EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE
5 DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES,
6 EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR
7 SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID
8 PARCEL, EXCEPT AS NOTED.

9 STAMP BY(SIGNED)..
10 OR
11 SEAL DATE

12 (b) A PROFESSIONAL LAND SURVEYOR SHALL ASSUME FULL LIABILITY FOR EACH
13 IMPROVEMENT LOCATION CERTIFICATE DONE BY SUCH PROFESSIONAL LAND SURVEYOR OR
14 UNDER SUCH PROFESSIONAL LAND SURVEYOR'S RESPONSIBLE CHARGE PURSUANT TO PARAGRAPH
15 (a) OF THIS SUBSECTION (2).

16 **38-51-109. Unlawful sale.** (1) IT IS UNLAWFUL FOR ANY PERSON TO OFFER TO
17 SELL, TO SELL, OR OTHERWISE TO RECEIVE REMUNERATION FOR ANY MAP OR PLAT WHICH
18 PURPORTS TO BE A SURVEY MAP OR PLAT UNLESS SUCH MAP OR PLAT CONFORMS WITH THE
19 STANDARDS, REQUIREMENTS, AND TERMINOLOGY OF THE PROVISIONS OF THIS ARTICLE.

20 (2) IT IS UNLAWFUL FOR ANY PERSON TO OFFER TO SELL, TO SELL, OR OTHERWISE
21 TO RECEIVE REMUNERATION FOR ANY DOCUMENT, SKETCH, OR DIAGRAM WHICH PURPORTS TO
22 BE AN IMPROVEMENT LOCATION CERTIFICATE UNLESS SUCH DOCUMENT, SKETCH, OR DIAGRAM
23 CONFORMS WITH THE STANDARDS, REQUIREMENTS, AND TERMINOLOGY OF THIS ARTICLE.

24 **38-51-110. Violations.** (1) IT IS THE RESPONSIBILITY OF THE DISTRICT ATTORNEYS
25 OF THIS STATE TO PROSECUTE ANY PERSON SUSPECTED OF WILLFULLY AND KNOWINGLY
26 VIOLATING THIS ARTICLE.

1 (2) ANY PERSON, INCLUDING THE RESPONSIBLE OFFICIAL OF ANY AGENCY OF STATE,
2 COUNTY, OR LOCAL GOVERNMENT, WHO WILLFULLY AND KNOWINGLY VIOLATES THIS ARTICLE
3 IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A
4 FINE OF NOT LESS THAN ONE HUNDRED FIFTY DOLLARS OR MORE THAN ONE THOUSAND FIVE
5 HUNDRED DOLLARS.

6 (3) (a) THE BOARD MAY REVOKE THE REGISTRATION OF ANY PROFESSIONAL LAND
7 SURVEYOR CONVICTED UNDER THE PROVISIONS OF THIS ARTICLE.

8 (b) ANY PERSON WHOSE REGISTRATION IS REVOKED PURSUANT TO PARAGRAPH (a)
9 OF THIS SUBSECTION (3) SHALL BE ENTITLED TO A HEARING ON SUCH REVOCATION PURSUANT
10 TO ARTICLE 4 OF TITLE 24, C.R.S.

11 **SECTION 48.** Article 53 of title 38, Colorado Revised Statutes, 1982 Repl. Vol.,
12 as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

13 **ARTICLE 53**

14 **Perpetuation of Land Survey Monuments**

15 **38-53-101. Legislative declaration.** IT IS HEREBY DECLARED TO BE A PUBLIC
16 POLICY OF THIS STATE TO ENCOURAGE THE ESTABLISHMENT AND PRESERVATION OF ACCURATE
17 LAND BOUNDARIES, INCLUDING DURABLE MONUMENTS AND COMPLETE PUBLIC RECORDS, AND
18 TO MINIMIZE THE OCCURRENCE OF LAND BOUNDARY DISPUTES AND DISCREPANCIES.

19 **38-53-102. Applicability - state - county - local - persons.** THE PROVISIONS OF
20 THIS ARTICLE SHALL APPLY TO ALL AGENCIES OF STATE, COUNTY, AND LOCAL GOVERNMENT
21 AS WELL AS TO INDIVIDUALS, CORPORATIONS, AND PARTNERSHIPS ENGAGED IN THE PRIVATE
22 PRACTICE OF LAND SURVEYING.

23 **38-53-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
24 OTHERWISE REQUIRES:

25 (1) "ACCESSORY" MEANS ANY PHYSICAL EVIDENCE IN THE VICINITY OF A SURVEY
26 MONUMENT, THE RELATIVE LOCATION OF WHICH IS OF PUBLIC RECORD AND WHICH IS USED TO

1 HELP PERPETUATE THE LOCATION OF THE MONUMENT. ACCESSORIES SHALL BE CONSTRUED TO
2 INCLUDE THE ACCESSORIES RECORDED IN THE ORIGINAL SURVEY NOTES AND ADDITIONAL
3 REFERENCE POINTS AND DIMENSIONS FURNISHED BY SUBSEQUENT LAND SURVEYORS OR
4 ATTESTED TO IN WRITING BY PERSONS HAVING PERSONAL KNOWLEDGE OF THE ORIGINAL
5 LOCATION OF THE MONUMENT.

6 (2) "ALIQUOT CORNER" MEANS ANY SECTION CORNER OR QUARTER SECTION CORNER
7 AND ANY OTHER CORNER IN THE PUBLIC LAND SURVEY SYSTEM CREATED BY SUBDIVIDING LAND
8 ACCORDING TO THE RULES OF PROCEDURE SET FORTH IN SECTION 38-51-103.

9 (3) "BENCH MARK" MEANS ANY RELATIVELY IMMOVABLE POINT ON THE EARTH
10 WHOSE ELEVATION ABOVE OR BELOW AN ADOPTED DATUM IS KNOWN.

11 (4) "BLOCK" MEANS A PARCEL OF LAND WITHIN A PLATTED SUBDIVISION BOUNDED
12 ON ALL SIDES BY STREETS OR AVENUES, OTHER PHYSICAL BOUNDARIES SUCH AS A BODY OF
13 WATER, OR THE EXTERIOR BOUNDARY OF A PLATTED SUBDIVISION.

14 (5) "BOARD" MEANS THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL
15 ENGINEERS AND PROFESSIONAL LAND SURVEYORS, CREATED IN SECTION 12-25-106, C.R.S.

16 (6) "CONTROL CORNER" MEANS ANY LAND SURVEY MONUMENT THE POSITION OF
17 WHICH CONTROLS THE LOCATION OF THE BOUNDARIES OF A TRACT OR PARCEL OF LAND. THE
18 CONTROL CORNER MAY BE INCLUDED WITHIN THE PERIMETER OF SUCH TRACT OR PARCEL.

19 (7) "EXEMPTION PLAT" OR "SUBDIVISION EXEMPTION PLAT" MEANS A SUBDIVISION
20 PLAT WHICH INCLUDES ALL OF THE INFORMATION REQUIRED BY SECTION 38-51-106 AND WHICH
21 DEPICTS A DIVISION OF LAND OR THE CREATION OF AN INTEREST IN PROPERTY FOR WHICH THE
22 BOARD OF COUNTY COMMISSIONERS HAS GRANTED AN EXEMPTION FROM SUBDIVISION
23 REGULATIONS PURSUANT TO SECTION 30-28-101 (10) (d), C.R.S.

24 (8) "IMPROVEMENT LOCATION CERTIFICATE" MEANS A REPRESENTATION OF THE
25 BOUNDARIES OF A PARCEL OF LAND AND THE IMPROVEMENTS THEREON, PREPARED PURSUANT
26 TO SECTION 38-51-108.

1 (9) "IMPROVEMENT SURVEY PLAT" MEANS A LAND SURVEY PLAT RESULTING FROM
2 A MONUMENTED LAND SURVEY WHICH SHOWS THE LOCATION OF ALL STRUCTURES ON THE
3 DESCRIBED PARCEL AND ALL EASEMENTS, VISIBLE ENCROACHMENTS, AND ALL FENCES, HEDGES,
4 AND WALLS ON OR WITHIN TWO FEET OF BOTH SIDES OF ALL BOUNDARIES OF SUCH PARCEL.
5 SUCH PLAT MAY ALSO SHOW VISIBLE UTILITIES SITUATED ON THE DESCRIBED PARCEL AND ANY
6 UNDERGROUND UTILITIES FOR WHICH THERE IS VISIBLE SURFACE EVIDENCE OR INFORMATION
7 FROM THE APPROPRIATE UTILITY COMPANY OR CLIENT. SUCH PLAT MAY ALSO SHOW THE
8 LOCATION OF EASEMENTS, UNDERGROUND UTILITIES, OR TUNNELS FOR WHICH RECORD
9 EVIDENCE IS AVAILABLE FROM THE COUNTY CLERK AND RECORDER OR OTHER SOURCE AS
10 SPECIFIED ON THE IMPROVEMENT SURVEY PLAT.

11 (10) "IRREGULAR PARCEL" MEANS A PARCEL OF LAND WHICH IS NOT UNIQUELY
12 DEFINED ON A SUBDIVISION PLAT BUT WHICH IS DESCRIBED BY ANY OF THE FOLLOWING
13 METHODS:

14 (a) AN ALIQUOT PART OF A SECTION;

15 (b) A METES AND BOUNDS DESCRIPTION;

16 (c) A BOOK AND PAGE OR RECEPTION NUMBER REFERENCE;

17 (d) ANY SO-CALLED "ASSESSOR'S TRACT"; OR

18 (e) A DESCRIPTION WHICH CALLS ONLY FOR THE OWNER'S OR ADJOINER'S NAME.

19 (11) "LAND SURVEY" MEANS A SERIES OF OBSERVATIONS AND MEASUREMENTS
20 MADE BY A PROFESSIONAL LAND SURVEYOR PURSUANT TO SECTIONS 38-51-103, 38-51-104, AND
21 38-51-105 FOR THE PURPOSE OF LOCATING OR RESTORING ANY REAL PROPERTY BOUNDARY.

22 (12) "LAND SURVEY PLAT" MEANS A PLAT WHICH SHOWS THE INFORMATION
23 DEVELOPED BY A MONUMENTED LAND SURVEY AND INCLUDES ALL INFORMATION REQUIRED BY
24 SECTION 38-51-106.

25 (13) "LEGAL DESCRIPTION" MEANS A WRITTEN, NARRATIVE DESCRIPTION OF A
26 PARCEL OF REAL PROPERTY OR AN EASEMENT FOR THE PURPOSE OF PERPETUATING LOCATION

1 OF TITLE.

2 (14) "MONUMENTED LAND SURVEY" MEANS A LAND SURVEY IN WHICH MONUMENTS
3 ARE EITHER FOUND OR SET PURSUANT TO SECTIONS 38-51-103, 38-51-104, AND 38-51-105 TO
4 MARK THE BOUNDARIES OF A SPECIFIED PARCEL OF LAND.

5 (15) "MONUMENT RECORD" MEANS A WRITTEN AND ILLUSTRATED DOCUMENT
6 DESCRIBING THE PHYSICAL APPEARANCE OF A BENCH MARK OR SURVEY MONUMENT AND ITS
7 ACCESSORIES.

8 (16) "PLATTED SUBDIVISION" MEANS A GROUP OF LOTS, TRACTS, OR PARCELS OF
9 LAND CREATED BY RECORDING A MAP WHICH MEETS THE REQUIREMENTS OF SECTION 38-51-106
10 AND WHICH SHOWS THE BOUNDARIES OF SUCH LOTS, TRACTS, OR PARCELS AND THE ORIGINAL
11 PARCEL FROM WHICH THEY WERE CREATED.

12 (17) "PROFESSIONAL LAND SURVEYOR" MEANS A PERSON REGISTERED OR LICENSED
13 PURSUANT TO PART 2 OF ARTICLE 25 OF TITLE 12, C.R.S.

14 (18) "PUBLIC LAND SURVEY MONUMENT" MEANS ANY LAND BOUNDARY MONUMENT
15 ESTABLISHED ON THE GROUND BY A CADASTRAL SURVEY OF THE UNITED STATES GOVERNMENT
16 AND ANY MINERAL SURVEY MONUMENT ESTABLISHED BY A UNITED STATES MINERAL SURVEYOR
17 AND MADE A PART OF THE UNITED STATES PUBLIC LAND RECORDS.

18 (19) "RESPONSIBLE CHARGE" MEANS CONTROL AND DIRECTION OF SURVEYING
19 WORK.

20 (20) "SUBDIVISION PLAT" MEANS A MAP OF A PLATTED SUBDIVISION RECORDED FOR
21 THE PURPOSE OF CREATING LAND PARCELS WHICH CAN BE IDENTIFIED UNIQUELY BY REFERENCE
22 TO SUCH MAP.

23 **38-53-104. Filing of monument record required.** (1) (a) IF A PROFESSIONAL LAND
24 SURVEYOR CONDUCTS A SURVEY WHICH USES ANY PUBLIC LAND SURVEY MONUMENT OR ANY
25 UNITED STATES GEOLOGICAL SURVEY OR UNITED STATES COAST AND GEODETIC SURVEY (ALSO
26 KNOWN AS THE NATIONAL OCEAN SERVICE/NATIONAL GEODETIC SURVEY) MONUMENT AS A

1 CONTROL CORNER, SUCH PROFESSIONAL LAND SURVEYOR SHALL FILE A MONUMENT RECORD
2 DESCRIBING SUCH MONUMENT WITH THE BOARD IF THE MONUMENT AND ITS ACCESSORIES ARE
3 NOT SUBSTANTIALLY DESCRIBED IN AN EXISTING MONUMENT RECORD PREVIOUSLY FILED
4 PURSUANT TO THIS SECTION OR ITS PREDECESSOR.

5 (b) IF A PROFESSIONAL LAND SURVEYOR ESTABLISHES, RESTORES, OR REHABILITATES
6 ANY PUBLIC LAND SURVEY MONUMENT OR SECTION CORNER, QUARTER SECTION CORNER, OR
7 SIXTEENTH SECTION CORNER AS DEFINED BY THE NOMENCLATURE OF THE UNITED STATES
8 PUBLIC LAND SURVEY SYSTEM SUCH PROFESSIONAL LAND SURVEYOR SHALL FILE A MONUMENT
9 RECORD.

10 (c) ANY MONUMENT RECORD FILED PURSUANT TO THIS SECTION SHALL DESCRIBE
11 AT LEAST TWO ACCESSORIES OR REFERENCE POINTS.

12 (2) MONUMENT RECORDS SHALL BE FILED WITHIN SIX MONTHS OF THE DATE ON
13 WHICH THE MONUMENT WAS USED AS CONTROL OR WAS ESTABLISHED, RESTORED, OR
14 REHABILITATED.

15 **38-53-105. Professional land surveyor must rehabilitate monuments.** FOR ANY
16 MONUMENT RECORD OF A PUBLIC LAND SURVEY CORNER WHICH IS REQUIRED TO BE FILED
17 PURSUANT TO THIS ARTICLE, THE PROFESSIONAL LAND SURVEYOR SHALL RESTORE OR
18 REHABILITATE THE CORNER MONUMENT SO IT IS READILY IDENTIFIABLE AND REASONABLY
19 DURABLE, IF FIELD CONDITIONS REQUIRE IT.

20 **38-53-106. Forms to be prescribed by board.** THE BOARD SHALL ADOPT AND
21 REVISE AS NECESSARY THE FORMS USED FOR MONUMENT RECORDS INCLUDING THE
22 INFORMATION TO BE REQUIRED ON SUCH FORMS. SUCH FORMS AND ANY NECESSARY
23 INSTRUCTIONS SHALL BE FURNISHED TO ALL PROFESSIONAL LAND SURVEYORS WITHOUT
24 CHARGE.

25 **38-53-107. Monument records.** NO MONUMENT RECORD SHALL BE ACCEPTED FOR
26 FILING UNLESS IT IS PROPERLY COMPLETED AND SIGNED AND SEALED BY THE PROFESSIONAL

1 LAND SURVEYOR WHO WAS IN RESPONSIBLE CHARGE OF THE WORK.

2 **38-53-108. Filing permitted on any survey monument.** A PROFESSIONAL LAND
3 SURVEYOR MAY FILE A MONUMENT RECORD DESCRIBING ANY LAND SURVEY MONUMENT,
4 ACCESSORY, OR BENCH MARK WITH THE BOARD.

5 **38-53-109. Fees.** FOR FILINGS ON PUBLIC LAND SURVEY MONUMENTS AND THEIR
6 ACCESSORIES AND ALIQUOT CORNERS OR BENCH MARKS THERE SHALL BE NO FEE CHARGED.
7 FOR ALL OTHER FILINGS THERE SHALL BE A FEE ESTABLISHED PURSUANT TO SECTION
8 24-34-105, C.R.S., WHICH SHALL BE PAYABLE TO THE BOARD AT THE TIME OF FILING.

9 **38-53-110. Violations.** (1) IT IS THE RESPONSIBILITY OF THE DISTRICT ATTORNEYS
10 OF THIS STATE TO PROSECUTE ANY PERSON SUSPECTED OF WILLFULLY AND KNOWINGLY
11 VIOLATING THIS ARTICLE.

12 (2) ANY PERSON, INCLUDING THE RESPONSIBLE OFFICIAL OF ANY AGENCY OF STATE,
13 COUNTY, OR LOCAL GOVERNMENT, WHO WILLFULLY AND KNOWINGLY VIOLATES THIS ARTICLE
14 IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A
15 FINE OF NOT LESS THAN ONE HUNDRED FIFTY DOLLARS OR MORE THAN ONE THOUSAND FIVE
16 HUNDRED DOLLARS.

17 (3) (a) THE BOARD MAY REVOKE THE REGISTRATION OF ANY PROFESSIONAL LAND
18 SURVEYOR CONVICTED UNDER THE PROVISIONS OF THIS ARTICLE.

19 (b) ANY PERSON WHOSE REGISTRATION IS REVOKED PURSUANT TO PARAGRAPH (a)
20 OF THIS SUBSECTION (3) SHALL BE ENTITLED TO A HEARING ON SUCH REVOCATION, PURSUANT
21 TO ARTICLE 4 OF TITLE 24, C.R.S.

22 **SECTION 49. Effective date.** This act shall take effect July 1, 1994.

23 **SECTION 50. Safety clause.** The general assembly hereby finds, determines, and
24 declares that this act is necessary for the immediate preservation of the public peace, health, and
25 safety.

BILL 9

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF PET ANIMAL CARE FACILITIES.

Bill Summary

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

Adopts the "Pet Animal Care and Facilities Act" (act). Transfers regulatory and licensing power over pet animal facilities from the department of health to the department of agriculture.

Requires that persons operating pet animal facilities must hold a license to do so. Exempts certain research facilities, zoos, kennels, veterinary facilities, and other specified facilities. Sets forth the procedure for obtaining a license. Requires that each location of such a facility be separately licensed. Requires that licenses be renewed annually.

Provides record-keeping requirements for pet animal facilities. States the duties of persons operating pet animal facilities, including the provision of sanitary conditions for the animals, adequate ventilation and nutrition, and health care. Provides that certain acts shall constitute a deceptive trade practice and a violation of the "Colorado Consumer Protection Act".

States the powers and duties of the commissioner of agriculture with respect to the act. Provides that the commissioner may make such investigations as are necessary to insure compliance with the act. Grants the commissioner access during regular business hours, upon consent or obtaining an administrative search warrant, to all areas in which animals are kept.

Authorizes the commissioner to issue a cease and desist order upon having reasonable cause to believe that a violation of the act has occurred, if immediate enforcement is deemed necessary, and to bring suit for a temporary restraining order or permanent injunction to prevent further or continued violations. Authorizes the commissioner to issue letters of admonition, deny, suspend, refuse to renew, restrict, or revoke any license authorized under the act if the applicant or licensee has failed to comply with required provisions, been convicted of cruelty to animals, falsified information, or engaged in other stipulated acts or omissions.

States that persons who violate the act shall be subject to a civil penalty, after notice and opportunity for a hearing, and taking into consideration the effect such penalty will have on the ability of the person charged to stay in business. Requires that fees and fines collected under the act be credited to the pet animal care and facility fund.

Establishes a pet animal advisory committee to assist the commissioner in establishing regulations and to provide an ongoing review of the act.

Authorizes agents of the bureau of animal protection to enforce the provisions of the act.

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

2 **SECTION 1.** Title 35, Colorado Revised Statutes, 1984 Repl. Vol., as amended,

1 is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 80

Pet Animal Care and Facilities Act

4 **35-80-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE
5 "PET ANIMAL CARE AND FACILITIES ACT".

6 **35-80-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
7 OTHERWISE REQUIRES:

8 (1) "BIRD HOBBY BREEDER FACILITY" MEANS ANY FACILITY ENGAGED IN THE
9 OPERATION OF BREEDING AND RAISING BIRDS FOR THE PURPOSE OF PERSONAL ENJOYMENT
10 WHICH DOES NOT TRANSFER MORE THAN ONE HUNDRED BIRDS PER YEAR.

11 (2) "CANINE HOBBY BREEDER FACILITY" MEANS ANY FACILITY WHICH TRANSFERS
12 NO MORE THAN TWENTY-FOUR DOGS PER YEAR OR BREEDS NO MORE THAN TWO LITTERS PER
13 YEAR, WHICHEVER IS GREATER.

14 (3) "COMMISSION" MEANS THE STATE AGRICULTURAL COMMISSION.

15 (4) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE, OR THE
16 DESIGNEE OF THE COMMISSIONER.

17 (5) "COMMITTEE" MEANS THE PET ANIMAL ADVISORY COMMITTEE CREATED IN
18 SECTION 35-80-116.

19 (6) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

20 (7) "EUTHANASIA" MEANS TO PRODUCE A HUMANE DEATH BY TECHNIQUES
21 ACCEPTED BY THE AMERICAN VETERINARY MEDICAL ASSOCIATION.

22 (8) "FELINE HOBBY BREEDER FACILITY" MEANS ANY FACILITY WHICH PRODUCES OR
23 TRANSFERS NO MORE THAN TWENTY-FOUR CATS PER YEAR.

24 (9) "LIVESTOCK" MEANS CATTLE, HORSES, MULES, BURROS, SHEEP, AND ANY OTHER
25 ANIMAL DESIGNATED BY THE COMMISSIONER, WHICH ANIMAL IS RAISED FOR FOOD OR FIBER
26 PRODUCTION.

1 (10) "PET ANIMAL" MEANS DOGS, CATS, RABBITS, GUINEA PIGS, HAMSTERS, MICE,
2 FERRETS, BIRDS, FISH, REPTILES, AMPHIBIANS, AND INVERTEBRATES, OR ANY OTHER SPECIES
3 OF WILD OR DOMESTIC OR HYBRID ANIMAL SOLD, TRANSFERRED, OR RETAINED FOR THE
4 PURPOSE OF BEING KEPT AS A HOUSEHOLD PET, INCLUDING ANY SPECIES BEING KEPT FOR
5 EXHIBITION OR WORK.

6 (11) "PET ANIMAL FACILITY" MEANS ANY PLACE OR PREMISE USED IN WHOLE OR
7 IN PART FOR THE KEEPING OF PET ANIMALS FOR THE PURPOSE OF ADOPTION, BREEDING,
8 BOARDING, GROOMING, HANDLING, SELLING, SHELTERING, TRADING, OR OTHERWISE
9 TRANSFERRING SUCH ANIMALS.

10 (12) "SMALL ANIMAL HOBBY BREEDER FACILITY" MEANS ANY FACILITY WHICH
11 PRODUCES OR TRANSFERS NO MORE THAN SIX HUNDRED RODENTS OR LAGOMORPHS PER YEAR.

12 **35-80-103. Scope of article.** (1) THE PROVISIONS OF THIS ARTICLE SHALL APPLY
13 TO ANY PERSON WHO OPERATES A PET ANIMAL FACILITY; EXCEPT THAT ANY PERSON WHO
14 OPERATES A PET ANIMAL FACILITY THAT IS CURRENTLY LICENSED BY THE UNITED STATES
15 DEPARTMENT OF AGRICULTURE AND HAS PASSED THAT DEPARTMENT'S MOST RECENT
16 INSPECTION SHALL BE SUBJECT ONLY TO THE LICENSURE REQUIREMENTS OF THIS ARTICLE.

17 (2) THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO:

18 (a) ANY VETERINARY HOSPITAL WHICH BOARDS PET ANIMALS FOR THE PURPOSE OF
19 VETERINARY MEDICAL CARE ONLY;

20 (b) ANY RESEARCH FACILITY, CIRCUS, OR PUBLICLY OR PRIVATELY OWNED
21 ZOOLOGICAL PARK OR PETTING ZOO LICENSED OR REGISTERED UNDER THE PROVISIONS OF THE
22 FEDERAL "ANIMAL WELFARE ACT OF 1970", 7 U.S.C. SEC. 2131, ET SEQ., AS AMENDED;

23 (c) ANY CANINE HOBBY BREEDER FACILITY, FELINE HOBBY BREEDER FACILITY,
24 SMALL ANIMAL HOBBY BREEDER FACILITY, OR ANY OTHER HOBBY BREEDER FACILITY AS
25 DEFINED BY THE COMMISSIONER WHICH IS SPECIFIC TO OTHER PET ANIMAL SPECIES;

26 (d) ANY PET ANIMAL TRAINING FACILITY WHERE THE OWNER IS PRESENT DURING

1 THE DURATION OF THE ANIMAL'S STAY;

2 (e) ANY KENNEL OPERATED FOR THE BREEDING OR SALE OF RACING GREYHOUNDS
3 THAT ARE NOT INTENDED TO BE COMPANION PETS;

4 (f) ANY WILDLIFE REGULATED BY THE DIVISION OF WILDLIFE OR DEPARTMENT OF
5 NATURAL RESOURCES, OR LIVESTOCK;

6 (g) (I) ANY PET ANIMAL FACILITY IN EXISTENCE AND LICENSED BY THE
7 DEPARTMENT OF HEALTH THROUGH 1991 THAT IS IN COMPLIANCE WITH SUCH DEPARTMENT'S
8 REGULATIONS FOR SUCH LICENSEES. SUCH LICENSED PET CARE FACILITY SHALL BE EXEMPT
9 FROM ANY CONFLICTING REQUIREMENTS OF THIS ARTICLE OR RULES AND REGULATIONS OF THE
10 COMMISSIONER CONCERNING PHYSICAL PREMISES.

11 (II) ANY LAWS OR RULES PROMULGATED FOR PET ANIMAL FACILITIES SHALL NOT
12 REQUIRE THE CONSTRUCTION OF ANY NEW BUILDINGS OR MAJOR RECONSTRUCTION OF THE
13 EXISTING PHYSICAL PREMISES OF FACILITIES SPECIFIED IN SUBPARAGRAPH (I) OF THIS
14 PARAGRAPH (g).

15 **35-80-104. Pet animal facility license required.** ANY PERSON OPERATING A PET
16 ANIMAL FACILITY SHALL POSSESS A VALID PET ANIMAL FACILITY LICENSE ISSUED BY THE
17 COMMISSIONER IN ACCORDANCE WITH THIS ARTICLE AND ANY RULES AND REGULATIONS
18 ADOPTED BY THE COMMISSIONER IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

19 **35-80-105. Pet animal facility - licensure requirements - application - fees.**

20 (1) EACH APPLICANT FOR A PET ANIMAL FACILITY LICENSE SHALL SUBMIT AN APPLICATION
21 PROVIDING ALL REQUIRED INFORMATION IN THE FORM AND MANNER REQUIRED BY THE
22 COMMISSIONER.

23 (2) EACH LOCATION OF A PET ANIMAL FACILITY SHALL BE SEPARATELY LICENSED.

24 (3) IF A PET ANIMAL FACILITY OPERATES UNDER MORE THAN ONE BUSINESS NAME
25 FROM A SINGLE LOCATION:

26 (a) NO ADDITIONAL PET ANIMAL FACILITY LICENSE SHALL BE REQUIRED FOR THE

1 DIFFERENT BUSINESS NAMES;

2 (b) THE PET ANIMAL FACILITY OPERATOR MUST MAINTAIN SEPARATE RECORDS
3 PURSUANT TO SECTION 35-80-107 FOR EACH SUCH BUSINESS NAME; AND

4 (c) THE NAME OF EACH BUSINESS PROVIDING SERVICES THAT ARE RELATED TO
5 THOSE OF A PET ANIMAL FACILITY SHALL BE LISTED WITH THE COMMISSIONER IN THE FORM
6 AND MANNER DESIGNATED. THE COMMISSIONER MAY REQUIRE THAT A SEPARATE FEE BE PAID
7 FOR EACH SUCH BUSINESS NAME.

8 (4) EACH APPLICANT FOR A PET ANIMAL FACILITY LICENSE SHALL PAY AN ANNUAL
9 LICENSE FEE IN THE AMOUNT SPECIFIED BY THE COMMISSIONER.

10 (5) EACH PET ANIMAL FACILITY LICENSE SHALL EXPIRE ON MARCH 1 OF EACH
11 YEAR.

12 (6) EACH LICENSEE SHALL REPORT TO THE COMMISSIONER, IN THE FORM AND
13 MANNER THE COMMISSIONER SHALL DESIGNATE, ANY CHANGE TO THE INFORMATION PROVIDED
14 IN THE APPLICATION OR REPORTS PREVIOUSLY SUBMITTED WITHIN FIFTEEN DAYS OF ANY SUCH
15 CHANGE.

16 (7) LICENSES ISSUED PURSUANT TO THIS ARTICLE SHALL NOT BE TRANSFERABLE.

17 **35-80-106. Pet animal facility license - renewal.** (1) EACH PET ANIMAL FACILITY
18 SHALL APPLY TO RENEW ITS LICENSE ON OR BEFORE THE FIRST WORKING DAY OF MARCH FOR
19 THE YEAR OF RENEWAL. SAID APPLICATION SHALL BE IN THE FORM AND MANNER PRESCRIBED
20 BY THE COMMISSIONER AND SHALL BE ACCOMPANIED BY THE REQUIRED RENEWAL FEE.

21 (2) IF THE APPLICATION FOR RENEWAL IS NOT POSTMARKED ON OR BEFORE THE
22 FIRST WORKING DAY OF MARCH FOR THE YEAR OF RENEWAL, A PENALTY FEE OF TEN PERCENT
23 OF THE RENEWAL FEE SHALL BE ASSESSED. NO LICENSE SHALL BE RENEWED UNTIL THE
24 RENEWAL FEE AND ANY PENALTY FEE ARE PAID.

25 (3) IF THE APPLICATION AND FEE FOR RENEWAL ARE NOT POSTMARKED ON OR
26 BEFORE APRIL 1, THE LICENSE SHALL NOT BE RENEWED AND THE PET ANIMAL FACILITY SHALL

1 APPLY FOR A NEW LICENSE.

2 **35-80-107. Record-keeping requirements.** EACH PET ANIMAL FACILITY SHALL KEEP
3 AND MAINTAIN RECORDS IN THE FORM AND MANNER DESIGNATED BY THE COMMISSIONER.
4 SUCH RECORDS SHALL BE RETAINED FOR A PERIOD OF TWO YEARS AND SHALL BE KEPT AT THE
5 ADDRESS SPECIFIED IN THE LICENSE APPLICATION FOR THE PET ANIMAL FACILITY.

6 **35-80-108. Duties of persons operating a pet animal facility.** (1) EACH PERSON
7 OPERATING A PET ANIMAL FACILITY SHALL:

8 (a) PROVIDE SANITARY FACILITIES FOR THE KEEPING OF PET ANIMALS;

9 (b) PROVIDE ADEQUATE VENTILATION FOR THE FACILITIES USED FOR THE KEEPING
10 OF PET ANIMALS;

11 (c) PROVIDE ADEQUATE NUTRITION FOR, AND HUMANE CARE AND TREATMENT OF,
12 ALL PET ANIMALS IN ITS CARE AND CONTROL;

13 (d) PROVIDE ADEQUATE HEATING, COOLING, AND HUMIDITY LEVELS IN THE
14 FACILITIES USED FOR KEEPING PET ANIMALS;

15 (e) TAKE REASONABLE CARE TO RELEASE FOR SALE, TRADE, OR ADOPTION ONLY
16 THOSE PET ANIMALS WHICH ARE FREE OF DISEASE OR UNDISCLOSED INJURY OR ABNORMALITY;

17 (f) PROVIDE ENOUGH SPACE IN ANY AREA WHERE PET ANIMALS ARE KEPT TO ALLOW
18 FOR THE NORMAL POSTURAL MOVEMENTS OF SUCH ANIMALS;

19 (g) MAINTAIN ALL PET ANIMALS IN CAGES, PENS, AQUARIUMS, ON PERCHES, OR IN
20 SUITABLE SURROUNDINGS COMPATIBLE WITH THE NEEDS OF THE SPECIES;

21 (h) PROVIDE ADEQUATE HEALTH CARE OR EUTHANASIA FOR ANY SICK OR INJURED
22 PET ANIMAL;

23 (i) MAINTAIN ACCURATE RECORDS OF TRANSACTIONS INVOLVING PET ANIMALS, AS
24 PRESCRIBED BY THE COMMISSIONER; AND

25 (j) MAINTAIN HEALTH CARE RECORDS, AS REQUIRED BY THE COMMISSIONER.
26 **35-80-109. Unlawful acts.** (1) UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS

1 UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON OR ENTITY:

2 (a) TO PERFORM ANY OF THE ACTS OF A PET ANIMAL FACILITY FOR WHICH
3 LICENSURE IS REQUIRED, OR HOLD OUT AS BEING QUALIFIED TO PERFORM ANY OF SUCH ACTS,

4 WITHOUT POSSESSING A VALID LICENSE UNDER THIS ARTICLE;

5 (b) TO SOLICIT, ADVERTISE, OR OFFER TO PERFORM ANY OF THE ACTS FOR WHICH
6 LICENSURE AS A PET ANIMAL FACILITY IS REQUIRED WITHOUT POSSESSING A VALID LICENSE TO
7 PERFORM SUCH ACTS;

8 (c) TO REFUSE TO COMPLY WITH A CEASE AND DESIST ORDER ISSUED PURSUANT TO
9 SECTION 35-80-112;

10 (d) TO REFUSE OR FAIL TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE;

11 (e) TO MAKE A MATERIAL MISSTATEMENT IN A LICENSE APPLICATION, A LICENSE
12 RENEWAL APPLICATION, OR TO THE DEPARTMENT DURING AN OFFICIAL INVESTIGATION;

13 (f) TO IMPERSONATE ANY STATE, COUNTY, CITY AND COUNTY, OR MUNICIPAL
14 OFFICIAL OR INSPECTOR;

15 (g) TO REFUSE OR FAIL TO COMPLY WITH ANY RULES OR REGULATIONS ADOPTED
16 BY THE COMMISSIONER PURSUANT TO THIS ARTICLE OR ANY LAWFUL ORDER ISSUED BY THE
17 COMMISSIONER;

18 (h) TO AID OR ABET ANOTHER IN ANY VIOLATION OF THIS ARTICLE OR ANY RULE
19 PROMULGATED BY THE COMMISSIONER UNDER THE PROVISIONS OF THIS ARTICLE.

20 (2) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON
21 OPERATING A PET ANIMAL FACILITY:

22 (a) TO IMPORT OR HAVE IN SUCH PERSON'S POSSESSION FOR THE PURPOSE OF
23 SELLING, TRADING, GIVING, OR OTHERWISE TRANSFERRING CERTAIN SPECIES OF BIRDS
24 DESIGNATED BY THE COMMISSIONER OVER THE AGE OF TEN DAYS UNLESS SUCH BIRD IS
25 LEGALLY BANDED WITH A TYPE OF LEG BAND AUTHORIZED BY THE COMMISSIONER. THIS
26 SHALL NOT APPLY TO ANY OPERATING ZOOLOGICAL PARK OR TO A RESEARCH INSTITUTION

1 USING BIRDS FOR SCIENTIFIC RESEARCH RECOGNIZED AS SUCH BY THE COMMISSIONER; EXCEPT
2 THAT CERTAIN SPECIES OF BIRDS SOLD OR TRANSFERRED BY THESE INSTITUTIONS TO THE PUBLIC
3 MUST BE LEGALLY BANDED

4 (b) TO REFUSE TO PERMIT ENTRY OR INSPECTION IN ACCORDANCE WITH SECTION
5 35-80-111;

6 (c) TO SELL, BARTER, EXCHANGE, OR OTHERWISE TRANSFER, POSSESS, IMPORT, OR
7 CAUSE TO BE IMPORTED INTO THIS STATE:

8 (I) ANY TYPE OF TURTLE WITH A LENGTH IN CARAPACE OF LESS THAN FOUR
9 INCHES; OR

10 (II) (A) ANY SPECIES OF NONHUMAN PRIMATE.

11 (B) SUCH PROHIBITIONS, WITH RESPECT TO NONHUMAN PRIMATES, SHALL NOT
12 APPLY TO A ZOOLOGICAL PARK OR A RESEARCH INSTITUTE LICENSED OR REGISTERED UNDER
13 THE PROVISIONS OF THE FEDERAL "ANIMAL WELFARE ACT OF 1970", 7 U.S.C. SEC. 2131,
14 ET SEQ., AS AMENDED, NOR SHALL THEY APPLY TO THE KEEPING OF A NONHUMAN PRIMATE
15 AS A HOUSEHOLD PET BY ANY PERSON WHO OWNED SUCH PRIMATE ON OR BEFORE JULY 1,
16 1973, OR TO THE KEEPING BY A HANDICAPPED OR DISABLED PERSON OF A NONHUMAN PRIMATE
17 SPECIALLY TRAINED TO ASSIST SUCH PERSON.

18 (d) TO SELL, OFFER FOR SALE, BARTER, EXCHANGE, OR OTHERWISE TRANSFER
19 IMMATURE DOMESTIC FOWL IN LOTS OF LESS THAN TWENTY-FIVE AS PETS;

20 (e) TO SELL, OFFER FOR SALE, BARTER, EXCHANGE, OR OTHERWISE TRANSFER
21 RACCOONS OR OTHER ANIMAL SPECIES OF WILDLIFE THAT ARE PROHIBITED TO BE KEPT AS PETS
22 BY THE DIVISION OF WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES;

23 (f) TO SELL, TRANSFER, OR ADOPT DOGS OR CATS UNDER THE AGE OF EIGHT WEEKS;

24 (g) TO SELL, TRANSFER, OR ADOPT GUINEA PIGS, HAMSTERS, OR RABBITS UNDER
25 THE AGE OF FOUR WEEKS, AND SUCH OTHER PET ANIMAL SPECIES AS MAY BE SPECIFIED BY THE
26 COMMISSIONER;

1 (h) TO IMPORT OR CAUSE TO BE IMPORTED ANY PET ANIMAL FOR THE PURPOSE OF
2 RESALE, TRADE, OR BARTER BY A PET ANIMAL DEALER UNLESS SUCH DEALER IS THE HOLDER
3 OF A VALID PET ANIMAL FACILITY LICENSE ISSUED PURSUANT TO THIS ARTICLE;

4 (i) TO ALLOW A LICENSE ISSUED PURSUANT TO THIS ARTICLE TO BE USED BY AN
5 UNLICENSED PERSON; AND

6 (j) TO MAKE ANY MISREPRESENTATION OR FALSE PROMISE THROUGH
7 ADVERTISEMENTS, EMPLOYEES, AGENTS, OR OTHERWISE IN CONNECTION WITH THE BUSINESS
8 OPERATIONS LICENSED PURSUANT TO THIS ARTICLE OR FOR WHICH AN APPLICATION FOR A
9 LICENSE IS PENDING.

10 (3) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY EMPLOYEE OR
11 OFFICIAL OF THE DEPARTMENT OR ANY PERSON DESIGNATED BY THE COMMISSIONER PURSUANT
12 TO SECTION 35-80-110 (6) TO DISCLOSE OR USE FOR HIS OR HER OWN ADVANTAGE ANY
13 INFORMATION DERIVED FROM ANY REPORTS OR RECORDS SUBMITTED TO THE DEPARTMENT
14 PURSUANT TO SECTION 35-80-111 OR TO REVEAL SUCH INFORMATION TO ANYONE EXCEPT
15 AUTHORIZED PERSONS, WHO MAY INCLUDE OFFICIALS OR EMPLOYEES OF THE STATE, THE
16 FEDERAL GOVERNMENT, AND THE COURTS OF THIS OR OTHER STATES.

17 (4) THE FAILURE BY ANY PERSON TO COMPLY WITH THE PROVISIONS OF SUBSECTION
18 (1) (a), (1) (b), (1) (c), OR (2) (j) OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE AND IS
19 SUBJECT TO THE PROVISIONS OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1
20 OF TITLE 6, C.R.S.

21 **35-80-110. Powers and duties of the commissioner.** (1) THE COMMISSIONER IS
22 AUTHORIZED TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE AND ANY RULES
23 AND REGULATIONS ADOPTED PURSUANT THERETO.

24 (2) THE COMMISSIONER IS AUTHORIZED TO ADOPT ALL REASONABLE RULES AND
25 REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE, INCLUDING, BUT
26 NOT LIMITED TO:

1 (a) MINIMUM STANDARDS OF PHYSICAL FACILITY, SANITATION, HUMANE CARE, AND
2 METHOD OF OPERATION THAT ARE, IN THE OPINION OF THE COMMISSIONER, NECESSARY TO
3 CARRY OUT THE PROVISIONS OF THIS ARTICLE;

4 (b) MAINTENANCE OF RECORDS CONCERNING TRANSACTIONS INVOLVING PET
5 ANIMALS;

6 (c) THE ESTABLISHMENT OF QUALIFICATIONS FOR ANY APPLICANT AND STANDARDS
7 OF PRACTICE FOR ANY OF THE LICENSES AUTHORIZED UNDER THIS ARTICLE, INCLUDING THE
8 ESTABLISHMENT OF CLASSIFICATIONS AND SUBCLASSIFICATIONS FOR ANY LICENSE AUTHORIZED
9 UNDER THIS ARTICLE;

10 (d) THE ISSUANCE AND REINSTATEMENT OF ANY LICENSE AUTHORIZED UNDER THIS
11 ARTICLE AND THE GROUNDS FOR ANY DISCIPLINARY ACTIONS AUTHORIZED UNDER THIS
12 ARTICLE, INCLUDING LETTERS OF ADMONITION OR THE DENIAL, RESTRICTION, SUSPENSION, OR
13 REVOCATION OF ANY LICENSE AUTHORIZED UNDER THIS ARTICLE; AND

14 (e) THE AMOUNT OF ANY LICENSE FEE FOR A PET ANIMAL FACILITY LICENSE. SUCH
15 LICENSE FEE MAY BE DIFFERENT FOR DIFFERENT CLASSIFICATIONS AND SUBCLASSIFICATIONS
16 OF ANY LICENSE AUTHORIZED UNDER THIS ARTICLE.

17 (3) THE COMMISSIONER IS AUTHORIZED TO CONDUCT HEARINGS REQUIRED UNDER
18 SECTIONS 35-80-113 AND 35-80-114 PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AND TO USE
19 ADMINISTRATIVE LAW JUDGES TO CONDUCT SUCH HEARINGS WHEN THEIR USE WOULD RESULT
20 IN A NET SAVING OF COSTS TO THE DEPARTMENT.

21 (4) THE COMMISSIONER IS AUTHORIZED TO DETERMINE THE AMOUNT OF ANY
22 LICENSING FEE AUTHORIZED UNDER THIS ARTICLE BASED ON THE ACTUAL COST OF
23 ADMINISTERING AND ENFORCING THE ARTICLE AND ANY RULES AND REGULATIONS ADOPTED
24 PURSUANT THERETO.

25 (5) THE COMMISSIONER IS AUTHORIZED TO ENTER INTO COOPERATIVE AGREEMENTS
26 WITH ANY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER STATE, OR WITH

1 ANY AGENCY OF THE UNITED STATES GOVERNMENT, FOR THE PURPOSE OF CARRYING OUT THE
2 PROVISIONS OF THIS ARTICLE, RECEIVING GRANTS-IN-AID, AND SECURING UNIFORMITY OF
3 RULES.

4 (6) THE POWERS AND DUTIES VESTED IN THE COMMISSIONER BY THIS ARTICLE MAY
5 BE DELEGATED TO QUALIFIED EMPLOYEES OF THE DEPARTMENT AND ANIMAL PROTECTION
6 AGENTS COMMISSIONED PURSUANT TO SECTION 35-42-107.

7 (7) THE COMMISSIONER SHALL APPOINT AN ADVISORY COMMITTEE PURSUANT TO
8 SECTION 35-80-116.

9 **35-80-111. Inspections - investigations - access - subpoena.** (1) THE
10 COMMISSIONER, UPON HIS OR HER OWN MOTION OR UPON THE COMPLAINT OF ANY PERSON,
11 MAY MAKE ANY INVESTIGATIONS NECESSARY TO ENSURE COMPLIANCE WITH THIS ARTICLE.

12 (2) COMPLAINTS OF RECORD MADE TO THE COMMISSIONER AND THE RESULTS OF
13 HIS OR HER INVESTIGATIONS MAY, IN THE DISCRETION OF THE COMMISSIONER, BE CLOSED TO
14 PUBLIC INSPECTION, EXCEPT TO THE PERSON IN INTEREST, AS DEFINED IN SECTION 24-72-202
15 (4), C.R.S., OR AS PROVIDED BY COURT ORDER, DURING THE INVESTIGATORY PERIOD AND
16 UNTIL DISMISSED OR UNTIL NOTICE OF HEARING AND CHARGES ARE SERVED ON A LICENSEE.

17 (3) AT ANY REASONABLE TIME DURING REGULAR BUSINESS HOURS, THE
18 COMMISSIONER SHALL HAVE FREE AND UNIMPEDED ACCESS UPON CONSENT OR UPON OBTAINING
19 AN ADMINISTRATIVE SEARCH WARRANT:

20 (a) TO ALL BUILDINGS, YARDS, PENS, PASTURES, AND OTHER AREAS IN WHICH ANY
21 ANIMALS ARE KEPT, HANDLED, OR TRANSPORTED FOR THE PURPOSE OF CARRYING OUT ANY
22 PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE; AND

23 (b) TO ALL RECORDS REQUIRED TO BE KEPT AND MAY MAKE COPIES OF SUCH
24 RECORDS FOR THE PURPOSE OF CARRYING OUT ANY PROVISION OF THIS ARTICLE OR ANY RULE
25 PROMULGATED PURSUANT TO THIS ARTICLE.

26 (4) THE COMMISSIONER SHALL HAVE FULL AUTHORITY TO ADMINISTER OATHS AND

1 TAKE STATEMENTS, ISSUE SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES BEFORE HIM
2 OR HER, AND REQUIRE THE PRODUCTION OF ALL BOOKS, MEMORANDA, PAPERS AND OTHER
3 DOCUMENTS, ARTICLES. OR INSTRUMENTS, AND TO COMPEL THE DISCLOSURE BY SUCH
4 WITNESSES OF ALL FACTS KNOWN TO THEM RELATIVE TO THE MATTERS UNDER INVESTIGATION.
5 UPON THE FAILURE OR REFUSAL OF ANY WITNESS TO OBEY ANY SUBPOENA, THE COMMISSIONER
6 MAY PETITION THE DISTRICT COURT, AND, UPON A PROPER SHOWING, THE COURT MAY ENTER
7 AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY OR PRODUCE DOCUMENTARY
8 EVIDENCE. FAILURE TO OBEY SUCH AN ORDER OF THE COURT SHALL BE PUNISHABLE AS A
9 CONTEMPT OF COURT.

10 **35-80-112. Enforcement.** (1) THE COMMISSIONER OR THE COMMISSIONER'S
11 DESIGNEE SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE.

12 (2) (a) WHENEVER THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE A
13 VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT TO
14 THIS ARTICLE HAS OCCURRED AND IMMEDIATE ENFORCEMENT IS DEEMED NECESSARY, HE OR
15 SHE MAY ISSUE A CEASE AND DESIST ORDER, WHICH MAY REQUIRE ANY PERSON TO CEASE
16 VIOLATING ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT TO THIS
17 ARTICLE. SUCH CEASE AND DESIST ORDER SHALL SET FORTH THE PROVISIONS ALLEGED TO
18 HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE
19 REQUIREMENT THAT ALL ACTIONS CEASE FORTHWITH. AT ANY TIME AFTER SERVICE OF THE
20 ORDER TO CEASE AND DESIST, THE PERSON MAY REQUEST, AT SUCH PERSON'S DISCRETION, A
21 PROMPT HEARING TO DETERMINE WHETHER OR NOT SUCH VIOLATION HAS OCCURRED. SUCH
22 HEARING SHALL BE CONDUCTED PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF TITLE 24,
23 C.R.S., AND SHALL BE DETERMINED PROMPTLY.

24 (b) IN THE EVENT THAT ANY PERSON FAILS TO COMPLY WITH A CEASE AND DESIST
25 ORDER WITHIN TWENTY-FOUR HOURS, THE COMMISSIONER MAY BRING A SUIT FOR A
26 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO PREVENT ANY FURTHER OR

1 CONTINUED VIOLATION OF THIS ARTICLE.

2 (c) NO STAY OF A CEASE AND DESIST ORDER SHALL BE ISSUED BEFORE A HEARING
3 THEREON INVOLVING BOTH PARTIES.

4 (3) WHENEVER THE COMMISSIONER POSSESSES SUFFICIENT EVIDENCE
5 SATISFACTORILY INDICATING THAT ANY PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN
6 ANY ACT OR PRACTICE CONSTITUTING A VIOLATION OF ANY PROVISION OF THIS ARTICLE OR
7 ANY RULE ADOPTED UNDER THIS ARTICLE, THE COMMISSIONER MAY APPLY TO ANY COURT OF
8 COMPETENT JURISDICTION TO TEMPORARILY OR PERMANENTLY RESTRAIN OR ENJOIN THE ACT
9 OR PRACTICE IN QUESTION AND TO ENFORCE COMPLIANCE WITH THIS ARTICLE OR ANY RULE
10 OR ORDER ISSUED UNDER THIS ARTICLE. IN ANY SUCH ACTION, THE COMMISSIONER SHALL NOT
11 BE REQUIRED TO PLEAD OR PROVE IRREPARABLE INJURY OR THE INADEQUACY OF THE REMEDY
12 AT LAW. UNDER NO CIRCUMSTANCES SHALL THE COURT REQUIRE THE COMMISSIONER TO POST
13 A BOND.

14 **35-80-113. Disciplinary actions - denial of license.** (1) THE COMMISSIONER,
15 PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., MAY ISSUE LETTERS OF
16 ADMONITION OR DENY, SUSPEND, REFUSE TO RENEW, RESTRICT, OR REVOKE ANY LICENSE
17 AUTHORIZED UNDER THIS ARTICLE IF THE APPLICANT OR LICENSEE:

18 (a) HAS REFUSED OR FAILED TO COMPLY WITH ANY PROVISION OF THIS ARTICLE,
19 ANY RULE ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE COMMISSIONER;

20 (b) HAS BEEN CONVICTED OF CRUELTY TO ANIMALS AS DEFINED IN ARTICLE 9 OF
21 TITLE 18, C.R.S., OR ANY SIMILAR STATUTE OF ANY OTHER STATE;

22 (c) HAS HAD AN EQUIVALENT LICENSE DENIED, REVOKED, OR SUSPENDED BY ANY
23 AUTHORITY;

24 (d) HAS REFUSED TO PROVIDE THE COMMISSIONER WITH REASONABLE, COMPLETE,
25 AND ACCURATE INFORMATION REGARDING THE CARE OF ANIMALS WHEN REQUESTED BY THE
26 COMMISSIONER; OR

1 (e) HAS FALSIFIED ANY INFORMATION REQUESTED BY THE COMMISSIONER

2 (2) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE COMMISSIONER MAY
3 ACCEPT AS PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY DISCIPLINARY
4 ACTION TAKEN AGAINST A LICENSEE FROM ANOTHER JURISDICTION IF THE VIOLATION WHICH
5 PROMPTED THE DISCIPLINARY ACTION IN THAT JURISDICTION WOULD BE GROUNDS FOR
6 DISCIPLINARY ACTION UNDER THIS SECTION.

7 (3) NO LICENSEE WHOSE LICENSE HAS BEEN REVOKED MAY APPLY OR REAPPLY FOR
8 A LICENSE UNDER THIS ARTICLE UNTIL TWO YEARS FROM THE DATE OF SUCH REVOCATION.

9 **35-80-114. Civil penalties.** (1) ANY PERSON WHO VIOLATES ANY PROVISION OF
10 THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO THIS ARTICLE IS SUBJECT TO A CIVIL
11 PENALTY, AS DETERMINED BY THE COMMISSIONER. THE MAXIMUM PENALTY SHALL NOT
12 EXCEED ONE THOUSAND DOLLARS PER VIOLATION.

13 (2) NO CIVIL PENALTY MAY BE IMPOSED UNLESS THE PERSON CHARGED IS GIVEN
14 NOTICE AND OPPORTUNITY FOR A HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

15 (3) IF THE COMMISSIONER IS UNABLE TO COLLECT SUCH CIVIL PENALTY OR IF ANY
16 PERSON FAILS TO PAY ALL OR A SET PORTION OF THE CIVIL PENALTY AS DETERMINED BY THE
17 COMMISSIONER, THE COMMISSIONER MAY BRING SUIT TO RECOVER SUCH AMOUNT PLUS COSTS
18 AND ATTORNEY FEES BY ACTION IN ANY COURT OF COMPETENT JURISDICTION.

19 (4) BEFORE IMPOSING ANY CIVIL PENALTY THE COMMISSIONER MAY CONSIDER THE
20 EFFECT OF SUCH PENALTY ON THE ABILITY OF THE PERSON CHARGED TO STAY IN BUSINESS.

21 **35-80-115. Criminal penalties.** ANY PERSON WHO VIOLATES THE PROVISIONS OF
22 SECTION 35-80-109 (1) (a), (1) (b), (1) (c), OR (1) (h) COMMITS A CLASS 2 MISDEMEANOR AND
23 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

24 **35-80-116. Advisory committee - sunset review.** (1) THERE IS HEREBY
25 ESTABLISHED A PET ANIMAL ADVISORY COMMITTEE TO ADVISE THE COMMISSIONER IN
26 ESTABLISHING REGULATIONS UNDER THIS ARTICLE AND TO PROVIDE ONGOING REVIEW OF THIS

1 ARTICLE. THE MEMBERS OF THE ADVISORY COMMITTEE SHALL RECEIVE NO COMPENSATION OR
2 REIMBURSEMENT FROM THE STATE OF COLORADO OR THE DEPARTMENT FOR EXPENSES
3 INCURRED IN THE PERFORMANCE OF THEIR DUTIES. THE ADVISORY COMMITTEE SHALL CONSIST
4 OF FIFTEEN PERSONS APPOINTED BY THE COMMISSIONER AS FOLLOWS:

- 5 (a) ONE PERSON WHO REPRESENTS ANIMAL RESCUE;
- 6 (b) ONE PERSON WHO REPRESENTS BIRD BREEDERS;
- 7 (c) ONE PERSON WHO REPRESENTS DOG BREEDERS;
- 8 (d) ONE PERSON WHO REPRESENTS CAT BREEDERS;
- 9 (e) ONE PERSON WHO REPRESENTS SMALL ANIMAL BREEDERS;
- 10 (f) ONE PERSON WHO REPRESENTS BOARDING KENNELS;
- 11 (g) ONE PERSON WHO REPRESENTS PET GROOMERS;
- 12 (h) ONE PERSON WHO REPRESENTS PET ANIMAL RETAILERS;
- 13 (i) ONE PERSON WHO REPRESENTS PET ANIMAL WHOLESALERS;
- 14 (j) ONE PERSON WHO REPRESENTS ANIMAL CONTROL OFFICERS;
- 15 (k) ONE PERSON WHO REPRESENTS ANIMAL SHELTERS;
- 16 (l) ONE VETERINARIAN LICENSED PURSUANT TO ARTICLE 64 OF TITLE 12, C.R.S.;

17 AND
18 (m) THREE MEMBERS OF THE GENERAL PUBLIC, NONE OF WHOM SHALL REPRESENT
19 OR HAVE A FINANCIAL INTEREST IN ANY OF THE GROUPS LISTED IN THIS SUBSECTION (1).

20 (2) ALL MEMBERS OF THE ADVISORY COMMITTEE SHALL BE RESIDENTS OF THIS
21 STATE.

22 (3) IN THE EVENT OF A VACANCY ON THE BOARD PRIOR TO THE COMPLETION OF
23 THE MEMBER'S FULL TERM, THE COMMISSIONER SHALL APPOINT A PERSON TO COMPLETE THE
24 REMAINDER OF THE TERM. SUCH PERSON SHALL REPRESENT THE SAME GROUP AS THE MEMBER
25 HE OR SHE IS REPLACING, PURSUANT TO SUBSECTION (1) OF THIS SECTION.

26 (4) THE INITIAL APPOINTMENTS OF THE ANIMAL RESCUE REPRESENTATIVE, THE

1 SMALL ANIMAL BREEDER, THE PET ANIMAL WHOLESALER, AND ONE MEMBER FROM THE
2 GENERAL PUBLIC SHALL EXPIRE ON JANUARY 1, 1995. THE INITIAL APPOINTMENTS OF THE
3 BIRD BREEDER, THE REPRESENTATIVE OF BOARDING KENNELS, THE REPRESENTATIVE OF ANIMAL
4 CONTROL OFFICERS, THE DOG BREEDER, AND ONE MEMBER FROM THE GENERAL PUBLIC SHALL
5 EXPIRE ON JANUARY 1, 1996. THE INITIAL APPOINTMENT OF ALL OTHER MEMBERS SHALL BE
6 FOR A TERM OF THREE YEARS. THEREAFTER, MEMBERS OF THE ADVISORY COMMITTEE SHALL
7 SERVE FOR TERMS OF THREE YEARS.

8 (5) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2000.

9 (b) PRIOR TO SAID REPEAL, THE ADVISORY COMMITTEE APPOINTED PURSUANT TO
10 THIS SECTION SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

11 **35-80-117. Pet animal facility fund - fees.** ALL FEES AND CIVIL FINES COLLECTED
12 PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL
13 CREDIT THE SAME TO THE PET ANIMAL CARE AND FACILITY FUND, WHICH FUND IS HEREBY
14 CREATED. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE
15 GENERAL ASSEMBLY FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS ARTICLE.
16 ANY MONEYS NOT APPROPRIATED OR NOT EXPENDED AT THE END OF THE FISCAL YEAR,
17 INCLUDING ANY INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE FUND,
18 SHALL REVERT TO THE STATE GENERAL FUND.

19 **35-80-118. Repeal of article - sunset review.** (1) THIS ARTICLE IS REPEALED,
20 EFFECTIVE JULY 1, 2000.

21 (2) PRIOR TO SUCH REPEAL, THE LICENSING FUNCTIONS OF THE COMMISSIONER
22 SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

23 **SECTION 2.** 2-3-1203 (3), Colorado Revised Statutes, 1980 Repl. Vol., as
24 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25 **2-3-1203. Sunset review of advisory committees.** (3) (m) JULY 1, 2000: THE PET
26 ANIMAL ADVISORY COMMITTEE, APPOINTED PURSUANT TO SECTION 35-80-116, C.R.S.

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1 SECTION 3. 6-1-105 (1), Colorado Revised Statutes, 1992 Repl. Vol., as amended,
2 is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

3 6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade
4 practice when, in the course of such person's business, vocation, or occupation, such person:
5 (nn) FAILS TO COMPLY WITH THE PROVISIONS OF SECTION 35-80-109 (1) (a), (1) (b),
6 (1) (c), OR (2) (j), C.R.S.

7 SECTION 4. 18-1-901 (3) (I) (IV), Colorado Revised Statutes, 1986 Repl. Vol.,
8 as amended, is amended to read:

9 18-1-901. Definitions. (3) (I) (IV) "Peace officer, level III," means a chief security
10 officer for the general assembly pursuant to section 2-2-402, C.R.S., a coroner, the
11 commissioner of agriculture or his designee acting under the "Farm Products Act" or the
12 "Commodity Warehouse Act" pursuant to sections 12-16-114 and 12-16-210, C.R.S., or under
13 the "Animal Protection Act" pursuant to section 35-42-107 (4), C.R.S., OR UNDER THE "PET
14 ANIMAL CARE AND FACILITIES ACT" PURSUANT TO SECTION 35-80-110 (6), C.R.S., a probation
15 officer, a juvenile probation officer pursuant to section 19-2-1002, C.R.S., a brand inspector
16 pursuant to section 35-53-128, C.R.S., an employee of a district attorney's office assigned to
17 administer an offender diversion program, a student loan investigator, an officer or member of
18 the Colorado national guard while acting under call of the governor in cases of emergency or
19 civil disorder, a member of the public utilities commission, an investigator for the division of
20 racing events pursuant to section 12-60-203, C.R.S., port of entry personnel acting as peace
21 officers pursuant to section 42-8-104, C.R.S., toll road owners acting as peace officers under
22 section 43-3-304, C.R.S., or any other person designated as a peace officer unless otherwise
23 specified in this section as a level I, level Ia, level II, or level IIIa peace officer. "Peace officer,
24 level III," has the authority to enforce all the laws of the state of Colorado while acting within
25 the scope of his authority and in the performance of his duties.

26 SECTION 5. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,

1 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

2 24-34-104. General assembly review of regulatory agencies and functions for
3 termination, continuation, or reestablishment. (29.5) THE FOLLOWING FUNCTION OF THE
4 COMMISSIONER OF AGRICULTURE SHALL TERMINATE ON JULY 1, 2000: THE LICENSING OF PET
5 ANIMAL CARE FACILITIES PURSUANT TO ARTICLE 80 OF TITLE 35, C.R.S.

6 SECTION 6. 24-34-104 (23.1) (d) and (23.1) (e), Colorado Revised Statutes, 1988
7 Repl. Vol., as amended, are repealed as follows:

8 24-34-104. General assembly review of regulatory agencies and functions for
9 termination, continuation, or reestablishment. (23.1) The following boards and the functions
10 of the specified agencies shall terminate on July 1, 1994:

11 (d) ~~The licensing of pet animal or pettatoine bird dealerships through the department~~
12 ~~of health in accordance with part 7 of article 4 of title 25, C.R.S.;~~

13 (e) ~~The licensing of kennels through the department of health in accordance with part~~
14 ~~11 of article 4 of title 25, C.R.S.;~~

15 SECTION 7. 35-42-107 (4), Colorado Revised Statutes, 1984 Repl. Vol., as
16 amended, is amended to read:

17 35-42-107. Bureau personnel - appointment. (4) Agents of the bureau who have
18 completed training as specified by the commissioner are vested with the power to issue
19 summons and complaints to enforce the provisions of part 2 of article 9 of title 18, C.R.S., AND
20 ARTICLE 80 OF THIS TITLE, as granted peace officers under section 16-2-104, C.R.S., and shall
21 be designated as peace officers, level III, as defined in section 18-1-901 (3) (I) (IV), C.R.S.

22 SECTION 8. 35-42-114, Colorado Revised Statutes, 1984 Repl. Vol., as amended,
23 is amended to read:

24 35-42-114. Local regulation. The provisions of this article shall not be construed
25 to limit or preempt additional regulation by any city, town, or city and county. Nothing in this
26 article shall interfere with the authority of the department of ~~health~~ AGRICULTURE in the

1 enforcement of ~~parts 7 and 11 of article 4 of title 25, C.R.S.~~ ARTICLE 80 OF THIS TITLE.

2 **SECTION 9.** 35-42.5-101 (1) (a) (I), Colorado Revised Statutes, 1984 Repl. Vol.,
3 as amended, is amended to read:

4 **35-42.5-101. Duties and restrictions relating to shelters and pounds.**

5 (1) (a) (I) As used in this section, unless the context otherwise requires, an animal "shelter or
6 pound" means a nonprofit private or publicly owned facility where stray, abandoned, lost, or
7 unwanted pet animals are held and which facility contains four or more pet animals at any given
8 time. "Pound or shelter" does not mean a breeding facility maintained for the express and sole
9 purpose of supplying pet animals to entities for research. ~~For purposes of this section, a pound~~
10 ~~or shelter is not a "wholesaler", as defined in section 25-4-701 (11), C.R.S.~~ Before selling,
11 giving, lending, or in any other manner providing a dog or cat to any private or public facility
12 for use in medical or any other kind of experimentation, a pound or shelter shall care for such
13 dog or cat for a minimum of two weeks, during which time such dog or cat shall be made
14 available for adoption while the pound or shelter makes a reasonable effort to establish the
15 identity of the owner of such dog or cat and, if such owner is identified, gives such owner
16 notice regarding the taking and impounding of such animal and an opportunity to reclaim such
17 animal. Such reasonable effort shall include contacting the owner if the dog or cat is wearing
18 an identification tag.

19 **SECTION 10. Repeal.** Parts 7 and 11 of article 4 of title 25, Colorado Revised
20 Statutes, 1989 Repl. Vol., as amended, are repealed.

21 **SECTION 11. Effective date.** This act shall take effect July 1, 1994.

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

BILL 10

A BILL FOR AN ACT

101 CONCERNING ENACTMENT OF THE "NATUROPATHIC HEALTH CARE PRACTICE ACT".

Bill Summary

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

Adopts the "Naturopathic Health Care Practice Act" (act). Describes the scope of practice of naturopathic physicians. Requires that persons who represent to be practicing naturopathic medicine must be licensed by the board of naturopathic medicine. Grants naturopathic physicians the exclusive right to use certain terms indicating their status as such. Establishes qualifications for licensure and license renewal.

Exempts from the scope of the act certain individuals who are otherwise licensed and perform services within the scope of their license. Grants reciprocity to individuals licensed by other states. Requires that naturopathic physicians have the same responsibility as other health care professionals with respect to the public health laws, the reporting of diseases, and the recording of vital statistics, consistent with their authorized scope of practice.

Establishes the naturopathic board of examiners in the division of registrations. Provides that board members shall be appointed by the governor with the consent of the senate. Empowers the board to determine fees for licensure, applications for licensure, and licensure renewals, and to administer and enforce the provisions of the act. Grants the board rule-making authority. Establishes a sunset date for the board's functions. Establishes a subcommittee charged with maintaining a list of medicines which naturopathic physicians are allowed to administer.

Prohibits naturopathic physicians from practicing naturopathic childbirth without first obtaining a certificate of specialty practice, pursuant to board rules and the requirements specified in the act.

Sets forth grounds for disciplinary action. Provides that persons who violate the act shall be guilty of a class 3 misdemeanor for each offense and may be enjoined by a district court.

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

1 **SECTION 1.** Title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended,
2 is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 36.3

Naturopathic physicians

1 **12-36.3-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
2 THE "NATUROPATHIC HEALTH CARE PRACTICE ACT".

3 **12-36.3-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS
4 THAT IT IS IN THE BEST INTERESTS OF THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THIS
5 STATE TO ENACT LAWS REGULATING AND CONTROLLING THE PRACTICE OF THE HEALING ARTS
6 SO THAT THE CITIZENS OF COLORADO SHALL BE PROPERLY PROTECTED AGAINST THE
7 UNAUTHORIZED, UNQUALIFIED, AND IMPROPER PRACTICE OF THE HEALING ARTS IN THIS STATE,
8 AND THAT THIS ARTICLE SHALL BE CONSTRUED IN CONFORMITY WITH THIS LEGISLATIVE
9 DECLARATION.

10 (2) SINCE IT IS THE POLICY OF COLORADO TO MAXIMIZE THE AFFORDABILITY AND
11 ACCESSIBILITY OF HEALTH CARE TO ALL COLORADO CITIZENS, THE GENERAL ASSEMBLY HEREBY
12 FINDS AND DECLARES THAT NATUROPATHIC MEDICINE IS A DISTINCT HEALTH CARE PROFESSION,
13 THAT NATUROPATHIC PHYSICIANS PROVIDE A VIABLE AND NEEDED OPTION IN THE TOTAL
14 HEALTH CARE MARKET IN COLORADO, THAT NATUROPATHIC PHYSICIANS EMPHASIZE WELLNESS
15 AND PREVENTION IN THEIR TREATMENT OF PATIENTS, THAT PREVENTION OF DISEASE AND
16 MAINTENANCE OF WELLNESS RESULT IN LOWER OVERALL COSTS TO THE HEALTH CARE SYSTEM,
17 AND THAT IT IS IN THE BEST INTEREST OF ALL COLORADO CITIZENS TO ENCOURAGE SUCH
18 PREVENTION AND WELLNESS.

19 (3) THE GENERAL ASSEMBLY FURTHER FINDS THAT AN INCREASINGLY SIGNIFICANT
20 NUMBER OF COLORADO CITIZENS ARE CHOOSING NATUROPATHIC MEDICINE FOR THEIR HEALTH
21 CARE NEEDS, THAT IT SHOULD BE THE POLICY OF THIS STATE TO REMOVE ANY BARRIERS TO
22 THE MAXIMIZATION OF CHOICE OF HEALTH CARE PROVIDERS AVAILABLE TO CITIZENS, THAT
23 NATUROPATHIC PHYSICIANS POSSESS THE EDUCATION, TRAINING, AND QUALIFICATIONS
24 NECESSARY TO PROVIDE THE SERVICES DEFINED IN THIS ARTICLE IN SUCH A WAY AS TO INSURE
25 THE HEALTH AND SAFETY OF COLORADO CITIZENS.

26 (4) THE GENERAL ASSEMBLY, THEREFORE, FURTHER DECLARES THAT IN ORDER TO

1 INSURE THE HEALTH, SAFETY, AND WELFARE OF COLORADO CITIZENS IT IS NECESSARY TO
2 PROVIDE A MEANS OF IDENTIFYING QUALIFIED NATUROPATHIC PHYSICIANS, THAT LICENSING
3 NATUROPATHIC PHYSICIANS WILL HELP INSURE THAT NATUROPATHIC MEDICINE PRACTICED BY
4 QUALIFIED NATUROPATHIC PHYSICIANS WILL BE MORE READILY AVAILABLE TO THOSE CITIZENS
5 WISHING TO CHOOSE SUCH CARE, AND THAT IN ORDER TO MAINTAIN AND INSURE THE HIGH
6 QUALITY OF CARE RENDERED BY NATUROPATHIC PHYSICIANS IN THIS STATE IT IS NECESSARY
7 TO ESTABLISH EDUCATIONAL AND PROFESSIONAL STANDARDS TO BE ACHIEVED AND
8 DEMONSTRATED THROUGH THE LICENSING OF NATUROPATHIC PHYSICIANS.

9 **12-36.3-103. Scope of practice.** NATUROPATHIC PHYSICIANS SHALL BE RECOGNIZED
10 AS PROVIDERS OF PRIMARY HEALTH CARE USING NATUROPATHIC MEDICINE. THEY SHALL BE
11 PERMITTED TO DIAGNOSE BY PERFORMING OR ORDERING COMMON DIAGNOSTIC PROCEDURES
12 AND TO EMPLOY FOR THE PURPOSES OF PREVENTION AND THERAPEUTIC TREATMENT ALL
13 NATURAL MEDICINES AND THERAPIES, NATUROPATHIC PHYSICAL MEDICINES AS WELL AS
14 NON-PRESCRIPTION MEDICATIONS, MINOR OFFICE PROCEDURES, LIFESTYLE MODIFICATION
15 TECHNIQUES, THERAPEUTIC DEVICES AS DEFINED IN THIS ARTICLE, PUBLIC HEALTH MEASURES,
16 INCLUDING IMMUNIZATIONS, AND LIMITED PRESCRIPTION RIGHTS, AS SPECIFIED IN SECTION
17 12-36.3-110 (5) (d).

18 **12-36.3-104. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
19 OTHERWISE REQUIRES:

20 (1) "APPROVED NATUROPATHIC MEDICAL COLLEGE" MEANS A COLLEGE OR
21 PROGRAM GRANTING THE DEGREE OF DOCTOR OF NATUROPATHIC MEDICINE OR DOCTOR OF
22 NATUROPATHY THAT IS APPROVED BY THE BOARD AND WHICH:

23 (a) IS ACCREDITED BY THE COUNCIL OF NATUROPATHIC MEDICAL EDUCATION OR
24 OTHER ACCREDITING AGENCY RECOGNIZED BY THE FEDERAL GOVERNMENT;

25 (b) HAS CANDIDATE STATUS FOR ACCREDITATION WITH SUCH AGENCY; OR

26 (c) HAS BEEN INVESTIGATED BY THE BOARD AND FOUND TO MEET EDUCATIONAL

1 STANDARDS EQUIVALENT TO THOSE ESTABLISHED BY SUCH AGENCY. NATUROPATHIC
2 PROGRAMS WHICH GRANTED DEGREES PRIOR TO 1981 MAY BE APPROVED BY THE BOARD AS
3 HAVING APPROPRIATE EDUCATIONAL STANDARDS.

4 (2) "BOARD" MEANS THE NATUROPATHIC BOARD OF EXAMINERS CREATED IN
5 SECTION 12-36.3-110.

6 (3) "COMMON DIAGNOSTIC PROCEDURES" MEANS NON-INVASIVE DIAGNOSTIC
7 PROCEDURES AND COMMONLY USED DIAGNOSTIC MODALITIES CONSISTENT WITH NATUROPATHIC
8 PRACTICE, INCLUDING THE TAKING OF HEALTH HISTORY, PHYSICAL EXAMINATION, RADIOLOGY,
9 ELECTROCARDIOGRAM, ULTRASOUND, PHYSIOLOGICAL FUNCTION TESTS, CLINICAL LABORATORY
10 ANALYSIS WHICH OBTAINS SAMPLES OF HUMAN TISSUE PRODUCTS INCLUDING SUPERFICIAL
11 SCRAPINGS, PHLEBOTOMY, AND EXAMINATION OF BODY ORIFICES, EXCLUDING ENDOSCOPY.

12 (4) "HOMEOPATHIC PREPARATIONS" MEANS MEDICINES PREPARED ACCORDING TO
13 THE HOMEOPATHIC PHARMACOPOEIA OF THE UNITED STATES.

14 (5) "LIFESTYLE MODIFICATION" MEANS METHODS USED TO INFLUENCE HEALTH SUCH
15 AS EXERCISE, HYGIENE, COUNSELING, STRESS REDUCTION, AND DIETARY THERAPY AND ADVICE.

16 (6) "MINOR OFFICE PROCEDURES" MEANS THE USE OF OPERATIVE, ELECTRICAL, OR
17 OTHER METHODS FOR THE SURGICAL REPAIR AND CARE INCIDENTAL TO SUPERFICIAL
18 LACERATIONS AND ABRASIONS, SUPERFICIAL TISSUES, AND THE USE OF ANTISEPTICS AND LOCAL
19 ANESTHETICS IN CONNECTION WITH SUCH METHODS, EXCEPT THAT IT SHALL NOT INCLUDE
20 GENERAL OR SPINAL ANESTHETICS, MAJOR SURGERY, SURGERY OF THE BODY CAVITIES, OR
21 SPECIALIZED SURGERIES SUCH AS PLASTIC SURGERY, SURGERY INVOLVING THE EYE, OR
22 SURGERY WHEN TENDONS ARE INVOLVED.

23 (7) "NATURAL ANTIBIOTICS" MEANS ANTIMICROBIAL, ANTIFUNGAL, AND
24 ANTIPROTOZOAL AGENTS THAT ARE NATURALLY OCCURRING SUBSTANCES OR MANUFACTURED
25 SUBSTANCES THAT ARE SUBSTANTIALLY IDENTICAL TO SUCH NATURALLY OCCURRING
26 SUBSTANCES.

1 (8) "NATURAL MEDICINES AND THERAPIES" MEANS MATERIALS FOUND IN NATURE
 2 WHICH HAVE THERAPEUTIC USE, INCLUDING FOOD AND FOOD EXTRACTS, VITAMINS, MINERALS,
 3 ENZYMES, DIGESTIVE AIDS, PLANT AND ANIMAL SUBSTANCES INCLUDING WHOLE GLAND
 4 THYROID, HOMEOPATHIC PREPARATIONS, NATURAL ANTIBIOTICS, VACCINES, TOPICAL
 5 MEDICINES, AND NON-DRUG CONTRACEPTIVE DEVICES, EXCLUDING INTRAUTERINE DEVICES.
 6 THE USE OF INTRAMUSCULAR INJECTIONS IS LIMITED TO VITAMIN B-12 PREPARATIONS AND
 7 COMBINATIONS WHEN CLINICAL OR LABORATORY EVALUATION HAS INDICATED A VITAMIN B-12
 8 DEFICIENCY.

9 (9) "NATUROPATHIC CHILDBIRTH" MEANS NATURAL CHILDBIRTH WHICH INCLUDES
 10 THE USE OF NATURAL OBSTETRICAL MEDICINES, OPHTHALMIC ANTIBIOTICS, OBSTETRICAL
 11 EMERGENCY MEDICINES, AND MINOR OFFICE PROCEDURES INCLUDING EPISIOTOMIES, BUT WHICH
 12 DOES NOT INCLUDE THE USE OF FORCEPS DELIVERY, GENERAL OR SPINAL ANESTHESIA,
 13 CAESAREAN SECTION, OR INDUCED ABORTIONS.

14 (10) "NATUROPATHIC MEDICINE" IS THE PRACTICE BY NATUROPATHIC PHYSICIANS
 15 OF THE ART AND SCIENCE OF THE DIAGNOSIS, PREVENTION, AND TREATMENT OF HUMAN
 16 HEALTH CONDITIONS, INJURIES, AND DISEASES USING EDUCATION, NATURAL MEDICINES, AND
 17 THERAPIES TO STIMULATE OR SUPPORT, OR BOTH, THE NATURAL PROCESSES OF THE HUMAN
 18 BODY.

19 (11) "NATUROPATHIC PHYSICIAN" MEANS A PERSON AUTHORIZED AND LICENSED TO
 20 PRACTICE NATUROPATHIC MEDICINE UNDER THIS ARTICLE.

21 (12) "NATUROPATHIC PHYSICAL MEDICINE" INCLUDES, BUT IS NOT LIMITED TO, THE
 22 THERAPEUTIC USE OF THE PHYSICAL AGENTS OF AIR, WATER, HEAT, COLD, SOUND, LIGHT, AND
 23 THE PHYSICAL MODALITIES OF ELECTROTHERAPY, DIATHERMY, ULTRAVIOLET LIGHT,
 24 ULTRASOUND, HYDROTHERAPY, AND THERAPEUTIC EXERCISE.

25 (13) "TOPICAL MEDICINES" MEANS TOPICAL ANALGESICS, ANESTHETICS,
 26 ANTISEPTICS, SCABICIDES, ANTIFUNGALS, AND ANTIBACTERIALS.

1 **12-36.3-105. License required - title protection.** (1) NO PERSON SHALL PRACTICE
 2 OR REPRESENT HIMSELF OR HERSELF AS PRACTICING NATUROPATHIC MEDICINE OR AS BEING A
 3 NATUROPATHIC PHYSICIAN IN THIS STATE WITHOUT FIRST APPLYING FOR AND RECEIVING A
 4 LICENSE FROM THE BOARD TO PRACTICE NATUROPATHIC MEDICINE.

5 (2) (a) NO PERSON OTHER THAN A NATUROPATHIC PHYSICIAN LICENSED PURSUANT
 6 TO THE PROVISIONS OF THIS ARTICLE SHALL USE ANY OF THE FOLLOWING TERMS:
 7 "NATUROPATHIC PHYSICIAN", "NATUROPATHIC DOCTOR", "NATUROPATH", "DOCTOR OF
 8 NATUROPATHIC MEDICINE", "DOCTOR OF NATUROPATHY", "NATUROPATHIC MEDICAL DOCTOR",
 9 "NATUROPATHIC MEDICINE", "NATUROPATHIC HEALTH CARE", "NATUROPATHY", "N.D.", OR
 10 "N.M.D.". NO NATUROPATHIC PHYSICIAN SHALL USE THE TERMS "PHYSIOTHERAPY",
 11 "PHYSICAL THERAPY", OR "CHIROPRACTIC".

12 (b) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (2), ANY NURSE
 13 LICENSED PURSUANT TO ARTICLE 38 OF TITLE 12 WHO HAS EARNED A DEGREE OF "NURSING
 14 DOCTOR" FROM A PROGRAM THAT HAS BEEN RECOGNIZED BY THE BOARD OF NURSING UNDER
 15 SECTION 12-38-108 (1) (a) MAY USE THE INITIALS "N.D.", PROVIDED SUCH NURSE DOES NOT
 16 IMPLY THAT HE OR SHE IS LICENSED PURSUANT TO THIS ARTICLE.

17 (3) PERSONS WHO REPRESENT THEMSELVES AS NATUROPATHIC PHYSICIANS ARE
 18 THOSE WHO ADOPT OR USE ANY TITLE OR ANY DESCRIPTION OF SERVICES THAT USES ONE OR
 19 MORE OF THE TERMS LISTED IN SUBSECTION (2) OF THIS SECTION.

20 **12-36.3-106. Qualifications for licensure.** (1) TO BE ELIGIBLE FOR A LICENSE TO
 21 PRACTICE NATUROPATHIC MEDICINE, THE APPLICANT SHALL:

22 (a) SUBMIT AN APPLICATION IN THE FORM PRESCRIBED BY THE BOARD;

23 (b) PAY A LICENSE FEE SET BY THE BOARD AND COLLECTED PURSUANT TO SECTION
 24 24-34-105, C.R.S.;

25 (c) BE A GRADUATE OF AN APPROVED NATUROPATHIC MEDICAL COLLEGE AND PASS
 26 A COMPETENCY EXAMINATION PRESCRIBED BY THE BOARD COVERING THE APPROPRIATE

1 NATUROPATHIC SUBJECTS; AND

2 (d) COMPLY WITH ANY FINANCIAL RESPONSIBILITY STANDARDS PROMULGATED BY
3 THE BOARD.

4 (2) TO OBTAIN A LICENSE TO PRACTICE NATUROPATHIC MEDICINE BY RECIPROCITY
5 AN APPLICANT SHALL:

6 (a) BE LICENSED TO PRACTICE NATUROPATHIC MEDICINE IN ANOTHER STATE, THE
7 DISTRICT OF COLUMBIA, OR A TERRITORY OF THE UNITED STATES, WHICH STATE, DISTRICT,
8 OR TERRITORY REQUIRES A WRITTEN EXAMINATION THAT IS SUBSTANTIALLY EQUIVALENT TO
9 THE WRITTEN EXAMINATION REQUIRED BY THE BOARD OF THIS STATE;

10 (b) BE A GRADUATE OF AN APPROVED NATUROPATHIC MEDICAL COLLEGE, AS
11 DEFINED IN SECTION 12-36.3-104 (1); AND

12 (c) COMPLY WITH THE REQUIREMENTS OF PARAGRAPHS (b), (c), AND (d) OF
13 SUBSECTION (1) OF THIS SECTION.

14 **12-36.3-107. License renewal - continuing education.** (1) A LICENSE TO PRACTICE
15 NATUROPATHIC MEDICINE SHALL BE RENEWED BIENNIALLY. A FEE IN AN AMOUNT
16 DETERMINED BY THE BOARD SHALL ACCOMPANY THE APPLICATION FOR RENEWAL.

17 (2) WHEN RENEWING A LICENSE, EACH NATUROPATHIC PHYSICIAN SHALL SUBMIT
18 TO THE BOARD, IF THE BOARD SO REQUIRES, EVIDENCE OF SUCCESSFUL COMPLETION OF THE
19 REQUISITE HOURS OF CONTINUING EDUCATION APPROVED BY THE BOARD DURING THE BIENNIAL
20 PERIOD.

21 **12-36.3-108. Exemptions.** (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED
22 TO PROHIBIT OR TO RESTRICT:

23 (a) THE PRACTICE OF A PROFESSION BY INDIVIDUALS WHO ARE LICENSED,
24 CERTIFIED, OR REGISTERED UNDER OTHER LAWS OF THIS STATE WHO ARE PERFORMING
25 SERVICES WITHIN THEIR AUTHORIZED SCOPE OF PRACTICE;

26 (b) THE PRACTICE OF NATUROPATHIC MEDICINE BY A LICENSED NATUROPATHIC

1 PHYSICIAN EMPLOYED BY THE GOVERNMENT OF THE UNITED STATES WHILE THE INDIVIDUAL
2 IS ENGAGED IN THE PERFORMANCE OF DUTIES PRESCRIBED BY THE LAWS AND REGULATIONS OF
3 THE UNITED STATES;

4 (c) THE PRACTICE BY A NATUROPATHIC PHYSICIAN DULY LICENSED IN ANOTHER
5 STATE, TERRITORY OF THE UNITED STATES, OR THE DISTRICT OF COLUMBIA WHEN
6 INCIDENTALLY CALLED INTO THIS STATE FOR CONSULTATION WITH A LICENSED PHYSICIAN; OR

7 (d) THE PRACTICE OF NATUROPATHIC MEDICINE BY STUDENTS ENROLLED IN AN
8 APPROVED NATUROPATHIC MEDICAL COLLEGE. THE PERFORMANCE OF SERVICES SHALL BE
9 PURSUANT TO A COURSE OF INSTRUCTION OR ASSIGNMENTS FROM AN INSTRUCTOR AND UNDER
10 THE SUPERVISION OF THE INSTRUCTOR. THE INSTRUCTOR SHALL BE A NATUROPATHIC
11 PHYSICIAN LICENSED PURSUANT TO THIS ARTICLE.

12 **12-36.3-109. Public health authority and responsibility.** NATUROPATHIC
13 PHYSICIANS SHALL HAVE THE SAME AUTHORITY AND RESPONSIBILITY AS OTHER HEALTH CARE
14 PROFESSIONALS REGARDING PUBLIC HEALTH LAWS, REPORTABLE DISEASES AND CONDITIONS,
15 COMMUNICABLE DISEASE CONTROL AND PREVENTION, RECORDING OF VITAL STATISTICS,
16 HEALTH AND PHYSICAL EXAMINATIONS, AND LOCAL BOARDS OF HEALTH; EXCEPT THAT SUCH
17 AUTHORITY SHALL BE LIMITED TO ACTIVITY CONSISTENT WITH THE SCOPE OF PRACTICE
18 AUTHORIZED BY THIS ARTICLE.

19 **12-36.3-110. Naturopathic board of examiners - subcommittee.** (1) THERE IS
20 HEREBY CREATED A NATUROPATHIC BOARD OF EXAMINERS IN THE DIVISION OF REGISTRATIONS
21 IN THE DEPARTMENT OF REGULATORY AGENCIES.

22 (2) (a) THE BOARD SHALL CONSIST OF THE FOLLOWING FIVE MEMBERS:

23 (I) SUBJECT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (2), THREE
24 NATUROPATHIC PHYSICIANS APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF THE
25 SENATE, EACH OF WHOM SHALL BE A DOCTOR OF NATUROPATHIC MEDICINE WHO HAS BEEN
26 ENGAGED IN THE PRACTICE OF NATUROPATHIC MEDICINE IN THIS STATE FOR THREE YEARS

1 IMMEDIATELY PRECEDING HIS OR HER APPOINTMENT; AND

2 (II) TWO PUBLIC MEMBERS APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF
3 THE SENATE, WHO SHALL:

4 (A) BE OF LEGAL AGE OF MAJORITY;

5 (B) BE A RESIDENT OF THIS STATE FOR FIVE YEARS IMMEDIATELY PRECEDING SUCH
6 APPOINTMENT; AND

7 (C) DEMONSTRATE AN INTEREST IN THE HEALTH ISSUES OF THIS STATE.

8 (b) THE NATUROPATHIC PHYSICIAN MEMBERS INITIALLY APPOINTED TO THE BOARD
9 ON AND AFTER JULY 1, 1994, SHALL POSSESS THE QUALIFICATIONS SPECIFIED IN SECTION
10 12-36.3-106; EXCEPT THAT SUCH MEMBERS SHALL PASS THE COMPETENCY EXAMINATION
11 PROVIDED FOR IN SECTION 12-36.3-111 (2) AND BE LICENSED BY JULY 1, 1995, OR SHALL BE
12 INELIGIBLE TO REMAIN AS MEMBERS OF THE BOARD AND SHALL BE REMOVED BY THE
13 GOVERNOR.

14 (3) BOARD MEMBERS SHALL SERVE FOR TERMS OF THREE YEARS; EXCEPT THAT OF
15 THE INITIAL BOARD MEMBERS APPOINTED ON AND AFTER JULY 1, 1994, ONE NATUROPATHIC
16 PHYSICIAN MEMBER SHALL SERVE FOR A TERM OF THREE YEARS, ONE NATUROPATHIC
17 PHYSICIAN MEMBER SHALL SERVE FOR A TERM OF TWO YEARS, AND ONE NATUROPATHIC
18 PHYSICIAN MEMBER SHALL SERVE FOR A TERM OF ONE YEAR, ONE PUBLIC MEMBER SHALL
19 SERVE FOR A TERM OF THREE YEARS, AND ONE PUBLIC MEMBER SHALL SERVE FOR A TERM OF
20 TWO YEARS. THE GOVERNOR SHALL HAVE THE AUTHORITY TO REMOVE ANY MEMBER FOR
21 MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE.

22 (4) THREE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE
23 TRANSACTION OF BUSINESS. THE BOARD SHALL ANNUALLY ELECT ONE OF ITS MEMBERS AS
24 CHAIR AND ONE AS VICE-CHAIR.

25 (5) (a) THE BOARD SHALL ESTABLISH A SUBCOMMITTEE WHICH SHALL HAVE THE
26 RESPONSIBILITIES DESCRIBED IN PARAGRAPH (d) OF THIS SUBSECTION (5). THE BOARD SHALL

1 APPOINT FIVE MEMBERS TO THE SUBCOMMITTEE, AT LEAST ONE OF WHOM SHALL BE A DOCTOR
2 OF MEDICINE OR A DOCTOR OF OSTEOPATHY AND AT LEAST ONE OF WHOM SHALL BE A
3 PHARMACIST.

4 (b) (I) SUBCOMMITTEE MEMBERS SHALL SERVE FOR TERMS OF THREE YEARS; EXCEPT
5 THAT OF THE INITIAL SUBCOMMITTEE MEMBERS APPOINTED ON AND AFTER JULY 1, 1994, THE
6 MEMBER WHO IS A DOCTOR OF MEDICINE OR DOCTOR OF OSTEOPATHY SHALL SERVE FOR A
7 TERM OF THREE YEARS, THE MEMBER WHO IS A PHARMACIST SHALL SERVE FOR A TERM OF TWO
8 YEARS, ONE OF THE OTHER THREE MEMBERS SHALL SERVE FOR A TERM OF THREE YEARS, ONE
9 OF THE OTHER TWO MEMBERS SHALL SERVE FOR A TERM OF TWO YEARS, AND THE OTHER
10 MEMBER SHALL SERVE FOR A TERM OF ONE YEAR.

11 (II) THE BOARD SHALL HAVE THE AUTHORITY TO REMOVE ANY SUBCOMMITTEE
12 MEMBER FOR MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE.

13 (c) THREE MEMBERS OF THE SUBCOMMITTEE SHALL CONSTITUTE A QUORUM FOR
14 THE TRANSACTION OF BUSINESS.

15 (d) THE SUBCOMMITTEE SHALL MEET FOR THE PURPOSE OF PROMULGATING AND
16 REVISING A LIST OF PRESCRIPTION MEDICINES WHICH SHALL BE PERMITTED TO BE
17 ADMINISTERED BY NATUROPATHIC PHYSICIANS. IF THE STATUS OF ANY ITEM DESCRIBED IN THIS
18 ARTICLE AS "NATURAL MEDICINES AND THERAPIES" CHANGES SO THAT A PRESCRIPTION IS
19 REQUIRED FOR USE, THE SUBCOMMITTEE SHALL EVALUATE ITS SAFETY AND VALUE AND MAY
20 ADD IT TO THE LIMITED PRESCRIPTION RIGHTS OF NATUROPATHIC PHYSICIANS. SUCH LIST
21 SHALL BE:

22 (I) LIMITED TO NATURALLY OCCURRING SUBSTANCES OR MANUFACTURED
23 SUBSTANCES THAT ARE SUBSTANTIALLY IDENTICAL TO SUCH NATURALLY OCCURRING
24 SUBSTANCES;

25 (II) CONSISTENT WITH GENERALLY ACCEPTED PRINCIPLES OF NATUROPATHIC
26 MEDICINE; AND

1 (III) WITHIN THE SCOPE OF TRAINING AND COMPETENCE OF SUCH NATUROPATHIC
2 PHYSICIANS.

3 12-36.3-111. Powers and duties of the board. (1) THE BOARD SHALL:

4 (a) (I) SET ALL FEES NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE;

5 (II) ALL SUCH FEES SHALL BE COLLECTED PURSUANT TO SECTION 24-34-105, C.R.S.

6 (b) INSURE THAT NATUROPATHIC PHYSICIANS LICENSED PURSUANT TO THIS ARTICLE
7 MEET MINIMUM STANDARDS OF PROFICIENCY AND COMPETENCY TO PROTECT THE HEALTH,
8 SAFETY, AND WELFARE OF THE PUBLIC;

9 (c) ADMINISTER AND ENFORCE ALL PROVISIONS OF THIS ARTICLE WHICH PERTAIN
10 TO LICENSEES AND APPLICANTS, AND ALL RULES ADOPTED BY THE BOARD UNDER THE
11 AUTHORITY GRANTED IN THIS ARTICLE;

12 (d) MAINTAIN AN ACCURATE ACCOUNT OF ALL RECEIPTS, EXPENDITURES, AND
13 REFUNDS GRANTED UNDER THIS ARTICLE;

14 (e) MAINTAIN A RECORD OF ITS ACTS AND PROCEEDINGS, INCLUDING THE ISSUANCE,
15 REFUSAL, RENEWAL, SUSPENSION, OR REVOCATION OF LICENSES;

16 (f) MAINTAIN A ROSTER OF ALL NATUROPATHIC PHYSICIANS LICENSED UNDER THIS
17 ARTICLE WHICH INDICATES:

18 (I) THE NAME OF THE LICENSEE;

19 (II) CURRENT PROFESSIONAL OFFICE ADDRESS;

20 (III) THE DATE OF ISSUANCE AND THE NUMBER OF THE LICENSEE'S LICENSE; AND

21 (IV) WHETHER THE LICENSEE IS IN GOOD STANDING.

22 (g) MAINTAIN ALL APPLICATIONS FOR LICENSURE AS A PERMANENT RECORD;

23 (h) MAINTAIN A PERMANENT RECORD OF THE RESULTS OF ALL BOARD LICENSING
24 EXAMINATIONS;

25 (i) MAINTAIN A PERMANENT RECORD OF ALL EXAMINATION RECORDS INCLUDING
26 WRITTEN EXAMINATION RECORDS AND TAPE RECORDINGS OF THE QUESTIONS AND ANSWERS IN

1 ORAL EXAMS;

2 (j) ANNUALLY COMPILE AND PUBLISH A DIRECTORY OF PERSONS LICENSED AS
3 NATUROPATHIC PHYSICIANS IN GOOD STANDING IN THIS STATE;

4 (k) NOTIFY EACH PERSON HOLDING A LICENSE UNDER THIS ARTICLE WHEN THE
5 RENEWAL APPLICATION AND FEE ARE DUE;

6 (l) MAKE INVESTIGATIONS, HOLD HEARINGS, AND TAKE EVIDENCE IN ALL MATTERS
7 RELATING TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE BOARD,
8 AND IN CONNECTION THEREWITH SUBPOENA WITNESSES, ADMINISTER OATHS AND COMPEL
9 TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, AND RECORDS RELEVANT
10 TO ANY INQUIRY OR HEARING. ANY SUBPOENA ISSUED PURSUANT TO THIS ARTICLE SHALL BE
11 ENFORCEABLE BY THE DISTRICT COURT.

12 (m) ADOPT AND PROMULGATE SUCH RULES AND REGULATIONS, INCLUDING BUT NOT
13 LIMITED TO THOSE SPECIFIED IN SECTION 12-36.3-115, AS THE BOARD MAY DEEM NECESSARY
14 AND PROPER TO CARRY OUT THE PROVISIONS OF THIS ARTICLE WHICH SHALL BE FAIR,
15 IMPARTIAL, AND NONDISCRIMINATORY.

16 (2) (a) THE BOARD SHALL HAVE THE AUTHORITY AND RESPONSIBILITY TO DEVELOP
17 AND REVISE AS NECESSARY THE COMPETENCY EXAMINATION REQUIRED UNDER SECTION
18 12-36.3-106 (1) (c).

19 (b) INITIAL APPOINTEES TO THE BOARD SHALL BE PROHIBITED FROM PARTICIPATION
20 IN THE DEVELOPMENT OF THE INITIAL COMPETENCY EXAMINATION. ANY OTHER PERSON WHO
21 PARTICIPATES IN THE DEVELOPMENT OF A COMPETENCY EXAMINATION SHALL BE PROHIBITED
22 FROM TAKING SUCH EXAMINATION FOR A PERIOD OF TWO YEARS FROM THE DATE THE
23 EXAMINATION IS FIRST GIVEN. FOR PURPOSES OF THE INITIAL EXAMINATION ONLY, THE
24 DIRECTOR OF THE DIVISION OF REGISTRATIONS SHALL HAVE THE FOLLOWING POWERS AND
25 DUTIES:

26 (I) TO FOLLOW THE REQUIREMENTS FOR LICENSURE PURSUANT TO SECTION

1 12-36.3-106;

2 (II) TO DESIGNATE IN ADVANCE A PLACE OF EXAMINATION; AND

3 (III) TO FOLLOW THE REQUIREMENTS OF THE BOARD FOR DETERMINING A PASSING
4 SCORE.

5 **12-36.3-112. Naturopathic childbirth specialty - certification.** (1) NO
6 NATUROPATHIC PHYSICIAN SHALL PRACTICE NATUROPATHIC CHILDBIRTH WITHOUT FIRST
7 OBTAINING A CERTIFICATE OF SPECIALTY PRACTICE. THE BOARD SHALL ADOPT RULES FOR THE
8 CERTIFICATION OF NATUROPATHIC PHYSICIANS FOR SPECIALTY PRACTICE.

9 (2) TO BE CERTIFIED TO PRACTICE NATUROPATHIC CHILDBIRTH, A NATUROPATHIC
10 PHYSICIAN SHALL BE REQUIRED TO:

11 (a) HAVE AT LEAST ONE HUNDRED HOURS OF COURSE WORK, INTERNSHIP, OR
12 PRECEPTORSHIP IN OBSTETRICS OR NATURAL CHILDBIRTH APPROVED BY THE BOARD;

13 (b) HAVE PARTICIPATED IN SEVENTY-FIVE SUPERVISED BIRTHS, INCLUDING
14 PRENATAL AND POSTNATAL CARE, UNDER THE DIRECT SUPERVISION OF A LICENSED
15 NATUROPATHIC, MEDICAL, OR OSTEOPATHIC PHYSICIAN WITH SPECIALTY TRAINING IN
16 OBSTETRICS OR NATURAL CHILDBIRTH; AND

17 (c) PASS A SPECIALTY EXAMINATION IN OBSTETRICS OR NATURAL CHILDBIRTH
18 APPROVED BY THE BOARD. THE BOARD MAY PRESCRIBE A NATIONAL STANDARDIZED
19 EXAMINATION IN NATUROPATHIC CHILDBIRTH AS CONSTITUTING SUCH SPECIALTY EXAMINATION.

20 **12-36.3-113. Unprofessional conduct - grounds for disciplinary action.**

21 (1) "UNPROFESSIONAL CONDUCT" AS USED IN THIS ARTICLE MEANS:

22 (a) FRAUD, MISREPRESENTATION, OR DECEPTION IN APPLYING FOR, SECURING,
23 RENEWING, OR SEEKING REINSTATEMENT OF A LICENSE OR IN TAKING ANY EXAMINATION
24 PROVIDED FOR IN THIS ARTICLE;

25 (b) CONVICTION OF A FELONY OR PLEADING GUILTY OR NOLO CONTENDERE TO A
26 FELONY;

1 (c) ADMINISTERING, DISPENSING, OR PRESCRIBING ANY HABIT-FORMING DRUG, AS
2 DEFINED IN SECTION 12-22-102 (13), OR ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION
3 12-22-303 (7), OTHER THAN IN THE COURSE OF LEGITIMATE PROFESSIONAL PRACTICE AS
4 DESCRIBED IN THIS ARTICLE;

5 (d) CONVICTION OF VIOLATION OF ANY FEDERAL OR STATE LAW REGULATING THE
6 POSSESSION, DISTRIBUTION, OR USE OF ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION
7 12-22-303 (7);

8 (e) HABITUAL OR EXCESSIVE USE OF ANY HABIT-FORMING DRUG, AS DEFINED IN
9 SECTION 12-22-102 (13), OR ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303
10 (7);

11 (f) THE AIDING OR ABETTING, IN THE PRACTICE OF NATUROPATHIC MEDICINE, OF
12 ANY PERSON NOT LICENSED TO PRACTICE NATUROPATHIC MEDICINE, AS DEFINED IN THIS
13 ARTICLE, OR OF ANY PERSON WHOSE LICENSE TO PRACTICE NATUROPATHIC MEDICINE IS
14 SUSPENDED;

15 (g) VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR
16 ASSISTING IN OR ABETTING THE VIOLATION OF OR CONSPIRING TO VIOLATE ANY PROVISION OR
17 TERM OF THIS ARTICLE;

18 (h) SUCH PHYSICAL OR MENTAL DISABILITY AS TO RENDER THE LICENSEE UNABLE
19 TO PERFORM NATUROPATHIC SERVICES WITH REASONABLE SKILL AND WITH SAFETY TO THE
20 PATIENT;

21 (i) AN ACT OR OMISSION CONSTITUTING GROSSLY NEGLIGENT NATUROPATHIC
22 PRACTICE OR TWO OR MORE ACTS OR OMISSIONS WHICH FAIL TO MEET GENERALLY ACCEPTED
23 STANDARDS OF NATUROPATHIC PRACTICE, WHETHER THE TWO OR MORE ACTS OR OMISSIONS
24 OCCUR DURING A SINGLE TREATMENT OF ONE PATIENT, DURING THE COURSE OF TREATMENT
25 OF ONE PATIENT, OR DURING THE TREATMENT OF MORE THAN ONE PATIENT,

26 (j) ENGAGING IN A SEXUAL ACT WITH A PATIENT DURING THE COURSE OF PATIENT

1 CARE. "SEXUAL ACT", AS USED IN THIS PARAGRAPH (j), MEANS SEXUAL CONTACT, SEXUAL
2 INTRUSION, OR SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401, C.R.S.;

3 (k) (I) ABUSE OF HEALTH INSURANCE PURSUANT TO SECTION 18-13-119, C.R.S.;

4 (II) ADVERTISING THROUGH NEWSPAPERS, MAGAZINES, CIRCULARS, DIRECT MAIL,
5 DIRECTORIES, RADIO, TELEVISION, OR OTHERWISE THAT THE LICENSEE WILL PERFORM ANY ACT
6 PROHIBITED BY SECTION 18-13-119 (3), C.R.S.;

7 (l) VIOLATION OF ANY VALID BOARD ORDER OR ANY RULE OR REGULATION
8 PROMULGATED BY THE BOARD IN CONFORMANCE WITH LAW;

9 (m) DISPENSING, INJECTING, OR PRESCRIBING AN ANABOLIC STEROID AS DEFINED
10 IN SECTION 18-18-102 (3), C.R.S., FOR THE PURPOSE OF THE HORMONAL MANIPULATION THAT
11 IS INTENDED TO INCREASE MUSCLE MASS, STRENGTH, OR WEIGHT WITHOUT A NECESSITY TO DO
12 SO, OR FOR THE INTENDED PURPOSE OF IMPROVING PERFORMANCE IN ANY FORM OF EXERCISE,
13 SPORT, OR GAME;

14 (n) DISPENSING OR INJECTING AN ANABOLIC STEROID AS DEFINED IN SECTION
15 18-18-102 (3), C.R.S., UNLESS SUCH ANABOLIC STEROID IS DISPENSED FROM A PHARMACY
16 PRESCRIPTION DRUG OUTLET PURSUANT TO A PRESCRIPTION ORDER OR IS DISPENSED BY A
17 LICENSED PRACTITIONER IN THE COURSE OF AND WITHIN THE SCOPE OF SUCH PRACTITIONER'S
18 PROFESSIONAL PRACTICE;

19 (o) PRESCRIBING, DISTRIBUTING, OR GIVING TO A FAMILY MEMBER OR TO ONESELF,
20 EXCEPT ON AN EMERGENCY BASIS, ANY SCHEDULE II CONTROLLED SUBSTANCE AS DEFINED IN
21 SECTION 18-18-204, C.R.S.;

22 (p) FAILING TO REPORT TO THE BOARD ANY ADVERSE ACTION TAKEN AGAINST THE
23 LICENSEE BY ANOTHER LICENSING AGENCY IN ANOTHER STATE, TERRITORY OF THE UNITED
24 STATES, OR COUNTRY, OR BY ANY PEER REVIEW BODY, HEALTH CARE INSTITUTION,
25 NATUROPATHIC SOCIETY OR ASSOCIATION, GOVERNMENTAL AGENCY, LAW ENFORCEMENT
26 AGENCY, OR COURT FOR ACTS OR CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR

1 DISCIPLINARY ACTION AS DESCRIBED IN THIS ARTICLE;

2 (q) FAILING TO REPORT TO THE BOARD THE SURRENDER OF A LICENSE OR OTHER
3 AUTHORIZATION TO PRACTICE NATUROPATHIC MEDICINE IN ANOTHER STATE, JURISDICTION, OR
4 NATUROPATHIC PROFESSIONAL ASSOCIATION OR SOCIETY WHILE UNDER INVESTIGATION BY ANY
5 OF THOSE AUTHORITIES OR BODIES FOR ACTS OR CONDUCT SIMILAR TO THAT WHICH WOULD
6 CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION AS DEFINED IN THIS ARTICLE;

7 (r) (I) ENGAGING IN ANY OF THE FOLLOWING ACTIVITIES AND PRACTICES:

8 (A) WILLFUL AND REPEATED ORDERING OR PERFORMANCE, WITHOUT CLINICAL
9 JUSTIFICATION, OF DEMONSTRABLY UNNECESSARY LABORATORY TESTS OR STUDIES;

10 (B) THE ADMINISTRATION, WITHOUT CLINICAL JUSTIFICATION, OF TREATMENT
11 WHICH IS DEMONSTRABLY UNNECESSARY;

12 (C) THE FAILURE TO OBTAIN CONSULTATIONS OR PERFORM REFERRALS WHEN
13 FAILING TO DO SO IS NOT CONSISTENT WITH THE STANDARD OF CARE FOR THE PROFESSION; OR

14 (D) ORDERING OR PERFORMING, WITHOUT CLINICAL JUSTIFICATION, ANY SERVICE,
15 X-RAY, OR TREATMENT WHICH IS CONTRARY TO RECOGNIZED STANDARDS OR THE PRACTICE
16 OF NATUROPATHIC MEDICINE AS INTERPRETED BY THE BOARD.

17 (II) IN DETERMINING WHICH ACTIVITIES AND PRACTICES ARE NOT CONSISTENT WITH
18 THE STANDARD OF CARE OR ARE CONTRARY TO RECOGNIZED STANDARDS OF THE PRACTICE OF
19 NATUROPATHIC MEDICINE, THE BOARD SHALL UTILIZE, IN ADDITION TO ITS OWN EXPERTISE,
20 THE STANDARDS DEVELOPED BY RECOGNIZED AND ESTABLISHED ACCREDITATION OR REVIEW
21 ORGANIZATIONS WHICH ORGANIZATIONS MEET REQUIREMENTS ESTABLISHED BY THE BOARD BY
22 RULE AND REGULATION.

23 (s) FALSIFYING OR REPEATEDLY MAKING INCORRECT ESSENTIAL ENTRIES OR
24 REPEATEDLY FAILING TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS:

25 (t) COMMITTING A FRAUDULENT INSURANCE ACT, AS DEFINED IN SECTION 10-1-127,
26 C.R.S.; OR

1 (2) A REVOCATION OR SUSPENSION OF A LICENSE TO PRACTICE NATUROPATHIC
2 MEDICINE IN ANY OTHER STATE, TERRITORY OF THE UNITED STATES, OR COUNTRY FOR
3 DISCIPLINARY REASONS SHALL BE DEEMED TO BE PRIMA FACIE EVIDENCE OF UNPROFESSIONAL
4 CONDUCT IF SUCH REVOCATION OR SUSPENSION WAS BASED UPON ACTS OR OMISSIONS IN ANY
5 OTHER STATE, TERRITORY OF THE UNITED STATES, OR COUNTRY THAT CONSTITUTE
6 UNPROFESSIONAL CONDUCT PURSUANT TO THIS SECTION.

7 **12-36.3-114. Revocation, suspension, supervision, probation procedure -**
8 **professional review - reconsideration and review of action by board.** (1) (a) WITH RESPECT
9 TO LICENSES ISSUED PURSUANT TO THIS ARTICLE THE BOARD MAY IMPOSE PROBATION WITH OR
10 WITHOUT SUPERVISION ON A LICENSEE, ISSUE A LETTER OF ADMONITION TO A LICENSEE,
11 SUSPEND, REVOKE, DENY, OR REFUSE TO RENEW ANY LICENSE PROVIDED FOR BY THIS ARTICLE
12 FOR ANY REASON STATED IN SECTION 12-36.3-113 OR FOR VIOLATING ANY TERM OF PROBATION
13 OF THE BOARD, OR TAKE SUCH OTHER INTERMEDIATE ACTION AS MAY BE DEEMED NECESSARY.

14 (b) UPON THE BOARD'S OWN MOTION OR UPON A SIGNED COMPLAINT, AN
15 INVESTIGATION MAY BE MADE IF THERE IS REASONABLE CAUSE TO BELIEVE THAT A
16 NATUROPATHIC PHYSICIAN HAS COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT PURSUANT
17 TO SECTION 12-36.3-113 OR, WHILE UNDER PROBATION, HAS VIOLATED THE TERMS OF SAID
18 PROBATION.

19 (c) IF THE BOARD FINDS SUCH PROBABILITY GREAT AND A HEARING IS CONDUCTED,
20 SUCH HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION
21 24-4-105, C.R.S.

22 (2) (a) HEARINGS UNDER THIS ARTICLE SHALL BE CONDUCTED IN ACCORDANCE
23 WITH THE PROVISIONS OF SECTION 24-4-105, C.R.S.; EXCEPT THAT THE BOARD MAY USE AN
24 ADMINISTRATIVE LAW JUDGE, WHO SHALL PERFORM ALL OF THOSE FUNCTIONS INDICATED IN
25 SECTION 24-4-105 (4), C.R.S.

26 (b) THE ACTION OF THE BOARD IN REFUSING TO GRANT OR RENEW A LICENSE,

1 REVOKING, OR SUSPENDING A LICENSE, ISSUING A LETTER OF ADMONITION, OR PLACING A
2 LICENSEE ON PROBATION OR UNDER SUPERVISION PURSUANT TO SUBSECTION (1) OF THIS
3 SECTION MAY BE REVIEWED BY THE COURT OF APPEALS BY APPROPRIATE PROCEEDINGS UNDER
4 SECTION 24-4-106 (11), C.R.S.

5 (c) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES MISCONDUCT WHICH, IN
6 THE OPINION OF THE BOARD, DOES NOT WARRANT FORMAL ACTION BY THE BOARD BUT WHICH
7 SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE BOARD MAY SEND A LETTER OF
8 ADMONITION BY CERTIFIED MAIL TO THE NATUROPATHIC PHYSICIAN AGAINST WHOM A
9 COMPLAINT WAS MADE AND A COPY THEREOF TO THE PERSON MAKING THE COMPLAINT, BUT,
10 WHEN THE BOARD SENDS A LETTER OF ADMONITION BY CERTIFIED MAIL TO A NATUROPATHIC
11 PHYSICIAN COMPLAINED AGAINST, THE BOARD SHALL ADVISE SUCH NATUROPATHIC PHYSICIAN
12 THAT THE NATUROPATHIC PHYSICIAN HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY
13 DAYS AFTER PROVEN RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE
14 INITIATED AGAINST THE NATUROPATHIC PHYSICIAN TO ADJUDICATE THE PROPRIETY OF THE
15 CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF SUCH REQUEST IS TIMELY
16 MADE, THE LETTER OF ADMONITION SHALL BE DEEMED VACATED, AND THE MATTER SHALL BE
17 PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

18 (3) NO PERSON WHOSE LICENSE IS REVOKED BY THE BOARD MAY REAPPLY FOR A
19 NEW LICENSE UNDER THE PROVISIONS OF THIS ARTICLE FOR AT LEAST TWO YEARS AFTER ANY
20 SUCH REVOCATION.

21 (4) ANY PERSON PARTICIPATING IN GOOD FAITH IN THE MAKING OF A COMPLAINT
22 OR REPORT OR PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING
23 PURSUANT TO THIS SECTION SHALL BE IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT
24 OTHERWISE MIGHT RESULT BY REASON OF SUCH ACTION.

25 (5) ANY MEMBER OF THE BOARD AND ANY WITNESS APPEARING BEFORE THE BOARD
26 SHALL BE IMMUNE FROM CRIMINAL LIABILITY AND FROM SUIT IN ANY CIVIL ACTION BROUGHT

1 BY A LICENSEE IF SUCH MEMBER OR WITNESS ACTS IN GOOD FAITH WITHIN THE SCOPE OF THE
2 FUNCTION OF THE BOARD, HAS MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE
3 MATTER AS TO WHICH SUCH MEMBER OR WITNESS ACTS, AND ACTS IN THE REASONABLE BELIEF
4 THAT THE ACTION TAKEN BY SUCH MEMBER OR WITNESS IS WARRANTED BY THE FACTS.

5 (6) (a) THE BOARD, ON ITS OWN MOTION OR UPON APPLICATION, WITHIN THIRTY
6 DAYS AFTER THE REFUSAL TO GRANT A LICENSE OR CERTIFICATE, THE IMPOSITION OF ANY
7 DISCIPLINE, OR THE ORDERING OF PROBATION, AS PROVIDED IN THIS SECTION, MAY RECONSIDER
8 ITS PRIOR ACTION AND GRANT, REINSTATE, OR RESTORE SUCH LICENSE OR CERTIFICATE OR
9 TERMINATE PROBATION, OR REDUCE THE SEVERITY OF ITS PRIOR DISCIPLINARY ACTION. THE
10 TAKING OF ANY SUCH FURTHER ACTION, OR THE HOLDING OF A HEARING WITH RESPECT
11 THERETO, SHALL REST IN THE SOLE DISCRETION OF THE BOARD.

12 (b) UPON THE RECEIPT OF SUCH APPLICATION, IT MAY BE FORWARDED TO THE
13 ATTORNEY GENERAL FOR SUCH INVESTIGATION AS MAY BE DEEMED NECESSARY. THE
14 PROCEEDINGS SHALL BE GOVERNED BY THE APPLICABLE PROVISIONS GOVERNING FORMAL
15 HEARINGS IN DISCIPLINARY PROCEEDINGS. THE ATTORNEY GENERAL MAY PRESENT EVIDENCE
16 BEARING UPON THE MATTERS IN ISSUE, AND THE BURDEN SHALL BE UPON THE APPLICANT
17 SEEKING REINSTATEMENT TO ESTABLISH THE AVERMENTS OF THE APPLICATION AS SPECIFIED
18 IN SECTION 24-4-105 (7), C.R.S. NO APPLICATION FOR REINSTATEMENT OR FOR MODIFICATION
19 OF A PRIOR ORDER SHALL BE ACCEPTED UNLESS THE APPLICANT DEPOSITS WITH THE BOARD ALL
20 AMOUNTS UNPAID UNDER ANY PRIOR ORDER OF THE BOARD.

21 **12-36.3-115. Rule-making.** (1) THE BOARD SHALL ADOPT RULES:

22 (a) THAT RELATE TO THE PRACTICE OF NATUROPATHIC HEALTH CARE;

23 (b) FOR THE SPECIALTY PRACTICE AND CERTIFICATION FOR NATUROPATHIC
24 CHILDBIRTH, PURSUANT TO SECTION 12-36.3-112; AND

25 (c) WHICH ARE NECESSARY AND PROPER FOR THE ADMINISTRATION OF THIS
26 ARTICLE.

1 (2) THE BOARD MAY ADOPT RULES PRESCRIBING CONTINUING EDUCATION
2 REQUIREMENTS FOR THE RENEWAL OF LICENSES ISSUED UNDER THIS ARTICLE.

3 **12-36.3-116. Enforcement and penalties.** PERSONS NOT LICENSED PURSUANT TO
4 THIS ARTICLE WHO HOLD THEMSELVES OUT AS A NATUROPATHIC PHYSICIAN OR SUGGEST IN ANY
5 WAY THAT THEY PRACTICE NATUROPATHIC MEDICINE COMMIT A CLASS 3 MISDEMEANOR FOR
6 EACH OFFENSE, AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. ANY
7 PERSON VIOLATING THE PROVISIONS OF THIS ARTICLE MAY BE ENJOINED BY THE DISTRICT
8 COURT ON PETITION BY THE BOARD.

9 **12-36.3-117. Repeal of article - review of functions.** THIS ARTICLE IS REPEALED,
10 EFFECTIVE JULY 1, 1999. PRIOR TO SUCH REPEAL, THE FUNCTIONS OF THE BOARD SHALL BE
11 REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

12 **12-36.3-118. Severability.** IF ANY PROVISION OF THIS ARTICLE OR THE APPLICATION
13 THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT
14 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE WHICH CAN BE GIVEN EFFECT
15 WITHOUT THE INVALID PROVISIONS OR APPLICATIONS, AND TO THIS END THE PROVISIONS OF
16 THIS ARTICLE ARE SEVERABLE.

17 **SECTION 2.** 24-1-122 (3), Colorado Revised Statutes, 1988 Repl. Vol., as
18 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19 **24-1-122. Department of regulatory agencies - creation.** (3) (mm) THE
20 NATUROPATHIC BOARD OF EXAMINERS, CREATED IN SECTION 12-36.3-110, C.R.S., SHALL
21 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS
22 IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A TYPE I TRANSFER AND
23 ALLOCATED TO THE DIVISION OF REGISTRATIONS.

24 **SECTION 3.** 24-34-104 (28) (c), Colorado Revised Statutes, 1988 Repl. Vol., as
25 amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

26 **24-34-104. General assembly review of regulatory agencies and functions for**

1 **termination, continuation, or reestablishment.** (28) (c) The following agencies and functions
2 of the specified agencies shall terminate July 1, 1999:

3 (IV) THE NATUROPATHIC BOARD OF EXAMINERS, CREATED BY ARTICLE 36.3 OF
4 TITLE 12, C.R.S.

5 **SECTION 4. Effective date.** This act shall take effect July 1, 1994; except that
6 requirements pertaining to application for licensure and payment of licensure fees shall take
7 effect January 1, 1995.

8 **SECTION 5. Safety clause.** The general assembly hereby finds, determines, and
9 declares that this act is necessary for the immediate preservation of the public peace, health, and
10 safety.

BILL 11

A BILL FOR AN ACT

101 CONCERNING A DECEPTIVE TRADE PRACTICE UNDER THE "COLORADO CONSUMER PROTECTION
102 ACT" FOR USE OF THE TERM "DIETITIAN" BY PERSONS NOT MEETING CERTAIN
103 QUALIFICATIONS.

Bill Summary

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

Makes it a deceptive trade practice for persons to claim orally or in writing that they are a "dietitian", "dietician", "certified dietitian", or "certified dietician" or to use the abbreviation "C.D.", or "D.", unless they have met certain experiential requirements and hold at least a baccalaureate degree in nutrition from an accredited or other specified institution.

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

2 SECTION 1. 6-1-105 (1), Colorado Revised Statutes, 1992 Repl. Vol., as amended,
3 is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade
5 practice when, in the course of such person's business, vocation, or occupation, such person:

6 (ee.5) CLAIMS EITHER ORALLY OR IN WRITING TO BE A DIETITIAN OR USES ANY
7 ABBREVIATION OR OTHER TERM, INCLUDING BUT NOT LIMITED TO "DIETITIAN", "DIETICIAN",
8 "CERTIFIED DIETITIAN", "CERTIFIED DIETICIAN", "C.D.", OR "D." TO INDICATE THAT SUCH
9 PERSON IS A DIETITIAN, UNLESS SUCH PERSON:

10 (I) POSSESSES A BACCALAUREATE, MASTERS, OR DOCTORATE DEGREE IN HUMAN
11 NUTRITION, FOODS AND NUTRITION, DIETETICS, NUTRITION EDUCATION, FOOD SYSTEMS
12 MANAGEMENT, OR PUBLIC HEALTH NUTRITION FROM AN INSTITUTION THAT IS:

13 (A) ACCREDITED BY A REGIONAL OR PROFESSIONAL ACCREDITING AGENCY

1 RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION OR THE COUNCIL ON
2 POSTSECONDARY ACCREDITATION, OR IS RECOGNIZED AS A CANDIDATE FOR ACCREDITATION BY
3 SUCH ACCREDITING AGENCY;

4 (B) AUTHORIZED TO GRANT DEGREES PURSUANT TO ARTICLE 2 OF TITLE 23, C.R.S. ;
5 OR

6 (C) A SCHOOL, INSTITUTE, COLLEGE, OR UNIVERSITY CHARTERED OUTSIDE THE
7 UNITED STATES, THE ACADEMIC DEGREE FROM WHICH HAS BEEN VALIDATED BY AN
8 ACCREDITING AGENCY APPROVED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS
9 EQUIVALENT TO A BACCALAUREATE OR POSTBACCALAUREATE DEGREE CONFERRED BY A
10 REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY IN THE UNITED STATES; AND

11 (II) MEETS ONE OF THE FOLLOWING:

12 (A) COMPLETES AT LEAST NINE HUNDRED HOURS OF A PLANNED, CONTINUOUS,
13 PREPROFESSIONAL WORK EXPERIENCE IN A NUTRITION OR DIETETIC PRACTICE UNDER THE
14 SUPERVISION OF A REGISTERED DIETITIAN WHO HAS BEEN CERTIFIED BY THE COMMISSION ON
15 DIETETIC REGISTRATION, THE CREDENTIALING ORGANIZATION AUTHORIZED BY THE AMERICAN
16 DIETETIC ASSOCIATION; OR

17 (B) HOLDS A CERTIFICATE OF REGISTERED DIETICIAN THROUGH THE COMMISSION
18 ON DIETETIC REGISTRATION.

19 SECTION 2. Effective date. This act shall take effect July 1, 1994.

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

BILL 12

A BILL FOR AN ACT

101 CONCERNING ENACTMENT OF THE "RESPIRATORY CARE PRACTICE ACT".

Bill Summary

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

Establishes the "Respiratory Care Practice Act". Describes the powers and duties of the director of the division of registrations under this act. Requires that persons who practice respiratory care be certified by the division of registrations in the department of regulatory agencies. Sets forth the requirements for certification and includes a provision for reciprocity. Provides that persons who are practicing respiratory care as of the effective date of this act shall be issued a certificate, but that if such persons do not apply for and receive their certification prior to a certain date they must meet the regular certification requirements.

Includes a provision for issuance of temporary certification. Provides that such certificates shall include any conditions and limitations the director deems necessary, and that persons holding such certificates shall be under the direct supervision of a physician or certified respiratory care practitioner. Requires that the director consult with appropriate professional organizations and empowers the director to set fees for certification, conduct necessary hearings, employ administrative law judges, and seek injunctive relief. Requires the director to deposit all fees with the state treasurer who shall credit them to the division of registrations cash fund.

Includes certificate renewal provisions. Provides that the director may reinstate a lapsed certificate if the request for reinstatement is made within a stated period of time and the requisite fees are paid. Provides that practitioners who desire to have an inactive status shall not be charged a fee for such status, but if they desire to change to active status they must meet all the requirements for certification.

Restricts the use of the term "respiratory care practitioner" and the abbreviation "R.C.P." to those who are certified respiratory care practitioners under this act.

Describes the grounds that will entitle the director to take disciplinary action against a certified practitioner. States that disciplinary action shall consist of revocation or suspension of certification, placement on probation, or the issuance of a letter of admonition. Requires that complaints of record be closed to public inspection during the investigatory period. Provides that it is unlawful for any person to practice respiratory care or to represent oneself as a respiratory care practitioner unless certified. Describes exceptions which include certain students, self-care by patients or family members, emergency services, and services rendered by other persons who are trained and licensed by the state.

Provides that nothing in this act permits the practice of medicine as defined in the "Colorado Medical Practice Act". Classifies certain acts as a misdemeanor and provides that imprisonment shall not be imposed. Provides that the functions of the department of regulatory agencies with respect to this act shall be subject to the sunset review process on a certain date.

1 SECTION 1. Title 12, Colorado Revised Statutes, 1991 Rep1 Vol., as amended,
2 is amended BY THE ADDITION OF A NEW ARTICLE to read:

3 ARTICLE 41.5

4 Respiratory Care Practice Act

5 12-41.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
6 THE "RESPIRATORY CARE PRACTICE ACT".

7 12-41.5-102. Legislative declaration. THE GENERAL ASSEMBLY FINDS AND
8 DETERMINES THAT THE PRACTICE OF RESPIRATORY CARE IN THE STATE OF COLORADO AFFECTS
9 THE PUBLIC HEALTH, SAFETY, AND WELFARE AND MUST BE SUBJECT TO REGULATION AND
10 CONTROL TO PROTECT THE PUBLIC FROM THE UNQUALIFIED PRACTICE OF RESPIRATORY CARE
11 AND FROM UNPROFESSIONAL CONDUCT. THE GENERAL ASSEMBLY FURTHER RECOGNIZES THE
12 PRACTICE OF RESPIRATORY CARE TO BE A DYNAMIC AND CHANGING ART AND SCIENCE WHICH
13 IS CONTINUALLY EVOLVING TO INCLUDE NEW IDEAS AND EVEN MORE SOPHISTICATED
14 TECHNIQUES IN PATIENT CARE.

15 12-41.5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
16 OTHERWISE REQUIRES:

17 (1) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE
18 DEPARTMENT OF REGULATORY AGENCIES.

19 (2) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF
20 REGULATORY AGENCIES.

21 (3) "MEDICAL DIRECTOR" MEANS THE MEDICAL DIRECTOR OF AN INPATIENT OR
22 OUTPATIENT RESPIRATORY CARE SERVICE, HOME CARE AGENCY, OR DEPARTMENT THEREOF WHO
23 IS A LICENSED PHYSICIAN AND HAS A SPECIAL INTEREST AND KNOWLEDGE IN THE DIAGNOSIS
24 AND TREATMENT OF RESPIRATORY PROBLEMS.

25 (4) "PERFORMANCE OF RESPIRATORY CARE" MEANS RESPIRATORY CARE PERFORMED
26 IN ACCORDANCE WITH THE DIRECTIONS OF A LICENSED PHYSICIAN OR MEDICAL DIRECTOR AND

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1 INCLUDES BUT IS NOT LIMITED TO THE DIAGNOSTIC AND THERAPEUTIC USE OF THE FOLLOWING:

- 2 (a) ADMINISTRATION OF MEDICAL GASES, EXCEPT FOR THE PURPOSE OF ANESTHESIA;
- 3 (b) ENVIRONMENTAL CONTROL MECHANISMS AND HYPERBARIC THERAPY;
- 4 (c) PHARMACOLOGIC AGENTS RELATED TO RESPIRATORY CARE PROCEDURES;
- 5 (d) MECHANICAL OR PHYSIOLOGICAL VENTILATORY SUPPORT;
- 6 (e) BRONCHOPULMONARY HYGIENE;
- 7 (f) CARDIOPULMONARY RESUSCITATION;
- 8 (g) MAINTENANCE OF THE NATURAL AIRWAY;
- 9 (h) INSERTION AND MAINTENANCE OF ARTIFICIAL AIRWAYS;
- 10 (i) HEMODYNAMIC AND OTHER RELATED PHYSIOLOGIC MEASUREMENTS OF THE

11 CARDIOPULMONARY SYSTEM; AND

- 12 (j) SPECIFIC DIAGNOSTIC AND TESTING TECHNIQUES EMPLOYED IN THE MEDICAL
- 13 MANAGEMENT OF PATIENTS TO ASSIST IN THE DIAGNOSIS, MONITORING, TREATMENT, AND
- 14 RESEARCH OF PULMONARY ABNORMALITIES, INCLUDING MEASUREMENTS OF VENTILATORY
- 15 VOLUMES, PRESSURES AND FLOWS, COLLECTION OF SPECIMENS OF BLOOD AND BLOOD GASES,
- 16 EXPIRED AND INSPIRED GAS SAMPLES, RESPIRATORY SECRETIONS, AND PULMONARY FUNCTION
- 17 TESTING.

18 (5) "PRACTICE OF RESPIRATORY CARE" INCLUDES:

- 19 (a) THERAPEUTIC AND DIAGNOSTIC USE OF MEDICAL GASES THAT INCLUDE
- 20 HYPERBARIC OXYGEN, HUMIDIFICATION, AEROSOLS, AND THE MAINTENANCE OF ASSOCIATED
- 21 APPARATUS;
- 22 (b) ADMINISTRATION OF DRUGS AND MEDICATIONS TO THE CARDIORESPIRATORY
- 23 SYSTEM;
- 24 (c) PROVISION OF VENTILATORY ASSISTANCE AND VENTILATORY CONTROL,
- 25 INCLUDING EXTRACORPOREAL LIFE-SUPPORT OR HYPERBARIC OXYGEN THERAPY;
- 26 (d) POSTURAL DRAINAGE, CHEST PHYSIOTHERAPY, BREATHING EXERCISES, AND

1 OTHER RESPIRATORY REHABILITATION PROCEDURES;

- 2 (e) CARDIOPULMONARY RESUSCITATION, INSERTION OF PERIPHERAL ARTERIAL OR
- 3 VENOUS CATHETERS, AND MAINTENANCE OF NATURAL AIRWAYS;
- 4 (f) INSERTION AND MAINTENANCE OF ARTIFICIAL AIRWAYS;
- 5 (g) PERFORMANCE OF ADDITIONAL PROCEDURES WHICH REQUIRE FORMAL TRAINING,
- 6 ARE JOINTLY RECOGNIZED BY THE MEDICAL AND RESPIRATORY CARE PROFESSIONS AS
- 7 APPROPRIATE TO BE PERFORMED BY CERTIFIED RESPIRATORY CARE PRACTITIONERS; AND
- 8 (h) TESTING TECHNIQUES EMPLOYED IN RESPIRATORY CARE THAT ASSIST IN
- 9 DIAGNOSIS, MONITORING, TREATMENT, EDUCATION, AND RESEARCH. TESTING TECHNIQUES
- 10 INCLUDE BUT ARE NOT LIMITED TO THE MEASUREMENT OF VENTILATORY VOLUMES, PRESSURES
- 11 AND FLOWS, SPECIMEN COLLECTION OF BLOOD, BLOOD GASES AND OTHER MATERIALS,
- 12 MEASUREMENT AND REPORTING OF ELECTROLYTES, PULMONARY FUNCTION TESTING,
- 13 DIAGNOSTIC MONITORING OR THERAPEUTIC INTERVENTION FOR DESATURATION, ABERRANT
- 14 VENTILATORY PATTERNS, AND RELATED SLEEP DISORDERS THAT INCLUDE BUT ARE NOT LIMITED
- 15 TO OBSTRUCTIVE AND CENTRAL APNEA, AND HEMODYNAMIC AND OTHER RELATED
- 16 PHYSIOLOGICAL MONITORING OF THE CARDIOPULMONARY SYSTEM.

17 (6) "RESPIRATORY CARE" MEANS THE DIRECT AND INDIRECT SERVICES PERFORMED

18 UNDER A MEDICAL DIRECTOR OR PRIMARY CARE PHYSICIAN IN THE TREATMENT, MANAGEMENT,

19 DIAGNOSTIC TESTING, CONTROL, AND CARE OF PATIENTS WITH DEFICIENCIES AND

20 ABNORMALITIES ASSOCIATED WITH THE CARDIOPULMONARY SYSTEM. RESPIRATORY CARE

21 INCLUDES "INHALATION THERAPY" AND "RESPIRATORY THERAPY".

22 (7) "RESPIRATORY CARE PRACTITIONER" MEANS A PERSON WHO IS:

- 23 (a) EMPLOYED IN THE PRACTICE OF RESPIRATORY CARE AND WHO HAS THE
- 24 KNOWLEDGE AND SKILL NECESSARY TO ADMINISTER RESPIRATORY CARE AS DEFINED IN THIS
- 25 ARTICLE;
- 26 (b) CAPABLE OF SERVING AS A RESOURCE TO THE PHYSICIAN WITH RESPECT TO SAFE

1 AND EFFECTIVE METHODS FOR ADMINISTERING RESPIRATORY CARE MODALITIES;

2 (c) ABLE TO FUNCTION IN SITUATIONS OF UNSUPERVISED PATIENT CONTACT
3 REQUIRING GREAT INDIVIDUAL JUDGMENT; AND

4 (d) CAPABLE OF SUPERVISING, DIRECTING, OR TEACHING LESS SKILLED PERSONNEL
5 IN THE PROVISION OF RESPIRATORY CARE SERVICES.

6 **12-41.5-104. Certification - reciprocity.** (1) AN APPLICANT FOR CERTIFICATION
7 TO PRACTICE RESPIRATORY CARE SHALL SUBMIT TO THE DIRECTOR WRITTEN EVIDENCE THAT
8 HE OR SHE HAS:

9 (a) COMPLETED A RESPIRATORY CARE EDUCATION PROGRAM APPROVED BY THE
10 AMERICAN MEDICAL ASSOCIATION; AND

11 (b) PASSED A WRITTEN EXAMINATION. THE EXAMINATION SHALL BE A NATIONAL
12 EXAMINATION RECOGNIZED BY THE DIRECTOR AS SATISFYING THIS REQUIREMENT.

13 (2) THE DIRECTOR SHALL ISSUE A CERTIFICATE TO PRACTICE RESPIRATORY CARE BY
14 ENDORSEMENT TO ANY APPLICANT WHO IS EITHER:

15 (a) CURRENTLY LICENSED OR CERTIFIED TO PRACTICE RESPIRATORY CARE UNDER
16 THE LAWS OF ANOTHER STATE, TERRITORY OF THE UNITED STATES, OR COUNTRY IF THE
17 QUALIFICATIONS OF THE APPLICANT ARE DEEMED BY THE DIRECTOR TO BE EQUIVALENT TO
18 THOSE REQUIRED BY THIS STATE; OR

19 (b) HOLDING CREDENTIALS CONFERRED BY THE NATIONAL BOARD FOR RESPIRATORY
20 CARE (NBRC) WHICH CREDENTIALS HAVE NOT BEEN SUSPENDED OR REVOKED. THE APPLICANT
21 SHALL BE REQUIRED TO CERTIFY UNDER OATH THAT SAID CREDENTIALS HAVE NOT BEEN
22 SUSPENDED OR REVOKED.

23 (3) NOTWITHSTANDING PROVISIONS OF THIS SECTION TO THE CONTRARY, THE
24 DIRECTOR SHALL ISSUE A CERTIFICATE TO PERFORM RESPIRATORY CARE TO ANY APPLICANT
25 WHO DEMONSTRATES THAT HE OR SHE WAS FUNCTIONING IN THE CAPACITY OF A RESPIRATORY
26 CARE PRACTITIONER AS OF THE EFFECTIVE DATE OF THIS ARTICLE. TO BE CERTIFIED UNDER

1 THE PROVISIONS OF THIS SUBSECTION (3), AN APPLICANT MUST BE ISSUED A CERTIFICATE NO
2 LATER THAN JUNE 30, 1995. IF SAID CERTIFICATE IS NOT ISSUED BY JUNE 30, 1995, THE
3 APPLICANT MAY BE REQUIRED, AT THE DISCRETION OF THE DIRECTOR, TO MEET THE
4 REQUIREMENTS OF SUBSECTION (1) OR (2) OF THIS SECTION.

5 (4) CERTIFICATES SHALL BE EFFECTIVE FOR TWO YEARS FROM THE DATE OF
6 ISSUANCE.

7 **12-41.5-105. Temporary certification.** (1) THE DIRECTOR MAY ISSUE A
8 TEMPORARY CERTIFICATE TO PRACTICE RESPIRATORY CARE UNDER THE DIRECT SUPERVISION
9 OF A CERTIFIED RESPIRATORY CARE PRACTITIONER, PRIMARY CARE PHYSICIAN, OR LICENSED
10 PHYSICIAN, TO ANY APPLICANT FOR CERTIFICATION WHO SHOWS WRITTEN EVIDENCE THAT HE
11 OR SHE:

12 (a) IS CURRENTLY PRACTICING, OR HAS WITHIN THE LAST TWELVE MONTHS
13 PRACTICED, RESPIRATORY CARE IN ANOTHER STATE, TERRITORY OF THE UNITED STATES, OR
14 COUNTRY AND WAS LICENSED OR CERTIFIED TO PRACTICE RESPIRATORY CARE IN THAT STATE,
15 TERRITORY OF THE UNITED STATES, OR COUNTRY; OR

16 (b) IS A STUDENT IN AN ACCREDITED RESPIRATORY CARE EDUCATION PROGRAM WHO
17 WILL GRADUATE WITHIN THE NEXT THREE MONTHS FROM A ONE-YEAR PROGRAM OR WITHIN
18 THE NEXT TWELVE MONTHS FROM AN ASSOCIATE DEGREE PROGRAM.

19 (2) TEMPORARY CERTIFICATES SHALL BE SUBJECT TO SUCH CONDITIONS AND
20 LIMITATIONS AS THE DIRECTOR MAY DEEM NECESSARY, AND SHALL EXPIRE AFTER A PERIOD OF
21 TWELVE MONTHS FROM THE DATE OF ISSUANCE.

22 (3) UPON EXPIRATION OF A TEMPORARY CERTIFICATE AND UPON PAYMENT OF A
23 FEE, THE DIRECTOR MAY ISSUE ANOTHER TEMPORARY CERTIFICATE TO AN APPLICANT FOR AN
24 ADDITIONAL PERIOD NOT TO EXCEED EIGHTEEN MONTHS FROM THE DATE OF ISSUANCE OF THE
25 FIRST TEMPORARY CERTIFICATE.

26 **12-41.5-106. Director - powers and duties.** (1) IN ADDITION TO ANY OTHER

1 POWERS AND DUTIES CONFERRED BY THIS ARTICLE, THE DIRECTOR SHALL HAVE THE
2 FOLLOWING POWERS AND DUTIES:

3 (a) TO ADOPT SUCH RULES AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS
4 OF THIS ARTICLE;

5 (b) TO ESTABLISH AND COLLECT FEES FOR CERTIFICATION, RENEWAL OF
6 CERTIFICATION, REINSTATEMENT OF CERTIFICATION, AND RENEWAL OF TEMPORARY
7 CERTIFICATION IN THE SAME MANNER AS IS AUTHORIZED BY SECTION 24-34-105, C.R.S.;

8 (c) TO ACCEPT OR DENY APPLICATIONS FOR CERTIFICATION;

9 (d) TO MAKE INVESTIGATIONS, HOLD HEARINGS, AND TAKE EVIDENCE WITH RESPECT
10 TO ANY COMPLAINT AGAINST ANY CERTIFICATE HOLDER WHEN THE DIRECTOR HAS REASONABLE
11 CAUSE TO BELIEVE THAT SAID CERTIFICATE HOLDER IS VIOLATING ANY OF THE PROVISIONS OF
12 THIS ARTICLE, AND TO SUBPOENA WITNESSES, ADMINISTER OATHS, AND COMPEL THE
13 TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, AND RECORDS RELEVANT
14 TO THOSE INVESTIGATIONS OR HEARINGS. ANY SUBPOENA ISSUED PURSUANT TO THIS ARTICLE
15 SHALL BE ENFORCEABLE BY THE DISTRICT COURT.

16 (e) TO CONDUCT ANY OTHER MEETINGS OR HEARINGS NECESSARY TO CARRY OUT
17 THE PROVISIONS OF THIS ARTICLE;

18 (f) THROUGH THE DEPARTMENT OF ADMINISTRATION, AND SUBJECT TO
19 APPROPRIATIONS MADE TO THE DEPARTMENT OF ADMINISTRATION, TO EMPLOY ADMINISTRATIVE
20 LAW JUDGES ON A FULL-TIME OR PART-TIME BASIS TO CONDUCT ANY HEARINGS REQUIRED BY
21 THIS ARTICLE. ADMINISTRATIVE LAW JUDGES SHALL BE APPOINTED PURSUANT TO PART 10 OF
22 ARTICLE 30 OF TITLE 24, C.R.S.

23 (g) TO SEEK, THROUGH THE OFFICE OF THE ATTORNEY GENERAL, AN INJUNCTION
24 IN ANY COURT OF COMPETENT JURISDICTION TO ENJOIN ANY PERSON FROM COMMITTING ANY
25 ACT PROHIBITED BY THIS ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH

26 (g), THE DIRECTOR SHALL NOT BE REQUIRED TO ALLEGE OR PROVE THE INADEQUACY OF ANY

1 REMEDY AT LAW OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM
2 A CONTINUED VIOLATION OF THIS ARTICLE.

3 (h) TO CONSULT WITH ANY PROFESSIONAL RESPIRATORY ASSOCIATION OR
4 ORGANIZATION WITH RESPECT TO RESPIRATORY CARE PRACTICE AND RELATED ISSUES.

5 **12-41.5-107. Professional identification.** (1) ONLY A PERSON HOLDING A
6 CERTIFICATE TO PRACTICE RESPIRATORY CARE THAT HAS BEEN ISSUED BY THE DIRECTOR MAY
7 USE THE TITLE "RESPIRATORY CARE PRACTITIONER" OR "R.C.P.".

8 (2) A CERTIFIED RESPIRATORY CARE PRACTITIONER SHALL SHOW PROOF OF
9 CERTIFICATION WHEN REQUESTED.

10 **12-41.5-108. Renewal of certification.** (1) AT LEAST SIXTY CALENDAR DAYS PRIOR
11 TO THE EXPIRATION OF A CERTIFICATE, THE DIRECTOR SHALL MAIL EXPIRATION NOTICES TO
12 EVERY PERSON CERTIFIED UNDER THIS ARTICLE. BEFORE THE DATE OF EXPIRATION THE
13 CERTIFICATE HOLDER SHALL COMPLETE THE NOTICE OF RENEWAL AND RETURN IT TO THE
14 DIVISION WITH THE RENEWAL FEE.

15 (2) UPON RECEIPT OF THE COMPLETED NOTICE OF RENEWAL, THE RENEWAL FEE,
16 AND PROOF THAT THE PRACTITIONER HAS COMPLETED TWENTY-FOUR HOURS OF CONTINUING
17 EDUCATION SPONSORED BY ANY PROFESSIONAL RESPIRATORY ASSOCIATION OR HEALTH CARE
18 ORGANIZATION THE DIRECTOR SHALL ISSUE A CERTIFICATE FOR THE CURRENT RENEWAL
19 PERIOD.

20 (3) THE DIRECTOR MAY REINSTATE A LAPSED CERTIFICATE UPON PAYMENT OF A
21 RENEWAL FEE AND A REINSTATEMENT FEE IF THE REQUEST FOR REINSTATEMENT IS MADE
22 WITHIN SIXTY DAYS AFTER THE END OF THE RENEWAL PERIOD.

23 (4) A RESPIRATORY CARE PRACTITIONER WHO DOES NOT ENGAGE IN THE PRACTICE
24 OF RESPIRATORY CARE DURING THE RENEWAL PERIOD IS NOT REQUIRED TO PAY THE RENEWAL
25 FEE IF HE OR SHE INTENDS TO REMAIN INACTIVE. IF SUCH PRACTITIONER DESIRES TO RESUME
26 THE PRACTICE OF RESPIRATORY CARE, HE OR SHE SHALL NOTIFY THE DIRECTOR AND SHALL

1 SATISFY THE CURRENT REQUIREMENTS OF THIS ARTICLE, IN ADDITION TO REMITTING THE
2 CURRENT RENEWAL FEE AND A REINSTATEMENT FEE.

3 **12-41.5-109. Fees - division of registrations cash fund.** ALL FEES SHALL BE
4 ESTABLISHED BY THE DIRECTOR IN THE SAME MANNER AS AUTHORIZED BY SECTION 24-34-105,
5 C.R.S. MONEYS COLLECTED UNDER THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE
6 TREASURER WHO SHALL CREDIT THE SAME TO THE DIVISION OF REGISTRATIONS CASH FUND,
7 CREATED BY SECTION 24-34-105, C.R.S.

8 **12-41.5-110. Grounds for action - disciplinary proceedings.** (1) THE DIRECTOR
9 MAY TAKE DISCIPLINARY ACTION AGAINST A CERTIFICATE HOLDER IF THE DIRECTOR FINDS
10 THAT SUCH PERSON:

11 (a) IS GUILTY OF FRAUD OR DECEIT IN PROCURING OR ATTEMPTING TO PROCURE A
12 CERTIFICATE, RENEWAL OF A CERTIFICATE, REINSTATEMENT OF A CERTIFICATE, OR RENEWAL
13 OF A TEMPORARY CERTIFICATE TO PRACTICE RESPIRATORY CARE;

14 (b) IS UNFIT OR INCOMPETENT;

15 (c) IS HABITUALLY INTEMPERATE IN THE USE OF ALCOHOLIC BEVERAGES;

16 (d) IS ADDICTED TO, OR HAS IMPROPERLY OBTAINED, POSSESSED, USED, OR
17 DISTRIBUTED HABIT-FORMING DRUGS, AS DEFINED IN SECTION 12-22-102 (13), OR CONTROLLED
18 SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7);

19 (e) IS GUILTY OF DISHONEST OR UNETHICAL CONDUCT;

20 (f) HAS PRACTICED RESPIRATORY CARE AFTER THE EXPIRATION OR SUSPENSION OF
21 HIS OR HER CERTIFICATE;

22 (g) HAS PRACTICED RESPIRATORY CARE UNDER COVER OF ANY CERTIFICATE OR
23 LICENSE ILLEGALLY OR FRAUDULENTLY OBTAINED OR ISSUED;

24 (h) HAS VIOLATED OR AIDED OR ABETTED OTHERS IN THE VIOLATION OF ANY
25 PROVISION OF THIS ARTICLE;

26 (i) HAS BEEN CONVICTED OF A FELONY; OR

1 (j) HAS FAILED TO MEET CONTINUING EDUCATION REQUIREMENTS PURSUANT TO
2 SECTION 12-41.5-108 (2).

3 (2) A PROCEEDING FOR DISCIPLINE OF A CERTIFICATE HOLDER MAY BE COMMENCED
4 BY THE DIRECTOR WHEN HE OR SHE HAS REASONABLE GROUNDS TO BELIEVE THAT A
5 CERTIFICATE HOLDER HAS VIOLATED ANY PROVISION OF THIS SECTION.

6 (3) DISCIPLINARY ACTIONS MAY CONSIST OF THE FOLLOWING:

7 (a) REVOCATION OR SUSPENSION OF CERTIFICATION;

8 (b) PLACEMENT OF THE CERTIFICATE HOLDER ON PROBATION; AND

9 (c) ISSUANCE OF LETTERS OF ADMONITION. WHEN A COMPLAINT OR INVESTIGATION
10 DISCLOSES AN INSTANCE OF CONDUCT WHICH, IN THE OPINION OF THE DIRECTOR, DOES NOT
11 WARRANT FORMAL ACTION BUT WHICH SHOULD NOT BE DISMISSED WITHOUT MERIT, THE
12 DIRECTOR MAY SEND A LETTER OF ADMONITION BY CERTIFIED MAIL TO THE RESPIRATORY CARE
13 PRACTITIONER AGAINST WHOM A COMPLAINT WAS MADE AND A COPY OF SAID LETTER TO THE
14 PERSON MAKING SAID COMPLAINT. WHEN SUCH LETTER OF ADMONITION IS SENT, THE
15 RESPIRATORY CARE PRACTITIONER COMPLAINED AGAINST SHALL BE ADVISED OF THE RIGHT TO
16 REQUEST, IN WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT OF THE LETTER, THAT
17 FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE
18 CONDUCT UPON WHICH THE LETTER OF ADMONITION WAS BASED. IF SUCH REQUEST IS TIMELY
19 MADE, THE LETTER OF ADMONITION SHALL BE DEEMED VACATED, AND THE MATTER SHALL BE
20 ADJUDICATED BY FORMAL DISCIPLINARY PROCEEDINGS.

21 (4) COMPLAINTS OF RECORD ON FILE WITH THE DIRECTOR AND THE RESULTS OF
22 INVESTIGATIONS SHALL BE CLOSED TO PUBLIC INSPECTION DURING THE INVESTIGATORY PERIOD
23 AND UNTIL DISMISSED OR UNTIL NOTICE OF HEARING AND CHARGES ARE SERVED ON A
24 CERTIFICATE HOLDER. THE DIRECTOR'S RECORDS AND PAPERS SHALL BE SUBJECT TO THE
25 PROVISIONS OF SECTIONS 24-72-203 AND 24-72-204, C.R.S.

26 **12-41.5-111. Exceptions.** (1) THIS ARTICLE DOES NOT PROHIBIT:

1 (a) ANY PRACTICE OF RESPIRATORY CARE THAT IS AN INTEGRAL PART OF A
2 PROGRAM OF STUDY BY STUDENTS ENROLLED IN AN ACCREDITED RESPIRATORY CARE
3 EDUCATION PROGRAM APPROVED BY THE DIRECTOR. STUDENTS ENROLLED IN RESPIRATORY
4 THERAPY EDUCATION PROGRAMS SHALL BE IDENTIFIED AS "STUDENT RCP" AND SHALL ONLY
5 PROVIDE RESPIRATORY CARE UNDER DIRECT CLINICAL SUPERVISION;

6 (b) SELF-CARE BY A PATIENT OR GRATUITOUS CARE BY A FRIEND OR FAMILY
7 MEMBER WHO DOES NOT REPRESENT HIMSELF OR HERSELF TO BE A RESPIRATORY CARE
8 PRACTITIONER;

9 (c) RESPIRATORY CARE SERVICES RENDERED IN THE COURSE OF AN EMERGENCY;

10 (d) CARE ADMINISTERED IN THE COURSE OF ASSIGNED DUTIES OF PERSONS IN THE
11 MILITARY SERVICES OR WORKING IN FEDERAL FACILITIES;

12 (e) A RESPIRATORY CARE PRACTITIONER FROM PERFORMING TECHNIQUES
13 RECOGNIZED AS ADVANCES IN THE ART OF RESPIRATORY CARE LEARNED THROUGH FORMALIZED
14 OR SPECIALIZED TRAINING;

15 (f) THE PRACTICE OF OTHER PERSONS AND HEALTH PROVIDERS FORMALLY TRAINED
16 AND LICENSED BY APPROPRIATE AGENCIES OF THE STATE OF COLORADO; OR

17 (g) AN INDIVIDUAL WHO HAS PASSED AN EXAMINATION THAT INCLUDES ONE OR
18 MORE OF THE PROCEDURES SPECIFIED IN SECTION 12-41.5-103 (4), (5), (6), AND (7), FROM
19 PERFORMING ONLY THOSE PROCEDURES FOR WHICH HE OR SHE WAS TESTED SO LONG AS THE
20 TESTING ORGANIZATION OFFERING THE EXAMINATION IS APPROVED BY THE DIRECTOR.

21 **12-41.5-112. Practice of medicine prohibited.** NOTHING IN THIS ARTICLE SHALL
22 BE CONSTRUED TO PERMIT THE PRACTICE OF MEDICINE, AS DEFINED IN SECTION 12-36-106.

23 **12-41.5-113. Unlawful acts.** PURSUANT TO THE PROVISIONS OF SECTION
24 12-41.5-114, IT IS UNLAWFUL FOR ANY PERSON TO PRACTICE RESPIRATORY CARE OR REPRESENT
25 HIMSELF OR HERSELF TO BE A RESPIRATORY CARE PRACTITIONER UNLESS SUCH PERSON IS
26 CERTIFIED WITH THE DIVISION UNDER THIS ARTICLE.

1 **12-41.5-114. Offenses.** (1) IT IS UNLAWFUL FOR ANY PERSON TO:

2 (a) SELL, FRAUDULENTLY OBTAIN, OR FURNISH ANY RESPIRATORY CARE
3 CERTIFICATE OR RECORD, OR AID OR ABET THEREIN;

4 (b) PRACTICE RESPIRATORY CARE UNDER COVER OF ANY RESPIRATORY CARE
5 CERTIFICATE, DIPLOMA, OR RECORD ILLEGALLY OR FRAUDULENTLY OBTAINED OR ISSUED;

6 (c) PRACTICE RESPIRATORY CARE UNLESS CERTIFIED TO DO SO UNDER THE
7 PROVISIONS OF THIS ARTICLE;

8 (d) IMPERSONATE A RESPIRATORY CARE PRACTITIONER OR USE THE TITLE
9 "RESPIRATORY CARE PRACTITIONER" OR "R.C.P.", UNLESS AUTHORIZED BY CERTIFICATE TO
10 PERFORM UNDER THE PROVISIONS OF THIS ARTICLE;

11 (e) PRACTICE RESPIRATORY CARE DURING THE TIME HIS OR HER CERTIFICATE IS
12 SUSPENDED, REVOKED, OR EXPIRED;

13 (f) FAIL TO NOTIFY THE DIVISION OF THE SUSPENSION, PROBATION, OR REVOCATION
14 OF ANY PAST OR CURRENTLY HELD LICENSES, CERTIFICATES, OR REGISTRATIONS REQUIRED TO
15 PRACTICE RESPIRATORY CARE IN THIS OR ANY OTHER JURISDICTION;

16 (g) KNOWINGLY EMPLOY ANY PERSON WHO IS NOT CERTIFIED IN THE PRACTICE OF
17 RESPIRATORY CARE IN THE CAPACITY OF A RESPIRATORY CARE PRACTITIONER;

18 (h) MAKE FALSE REPRESENTATIONS OF OR IMPERSONATE OR ACT AS A PROXY FOR
19 ANOTHER PERSON OR ALLOW OR AID ANY PERSON TO IMPERSONATE HIM OR HER IN
20 CONNECTION WITH ANY EXAMINATION OR APPLICATION FOR CERTIFICATE OR REQUEST TO BE
21 CERTIFIED; OR

22 (i) OTHERWISE VIOLATE ANY PROVISION OF THIS ARTICLE.

23 (2) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION COMMITS A CLASS
24 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.; EXCEPT
25 THAT IMPRISONMENT SHALL NOT BE IMPOSED FOR ANY SUCH VIOLATION.

26 **12-41.5-115. Severability.** IF ANY PROVISION OF THIS ARTICLE OR THE APPLICATION

1 THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY SHALL NOT
2 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ARTICLE WHICH CAN BE GIVEN EFFECT
3 WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
4 ARTICLE ARE DECLARED TO BE SEVERABLE.

5 **12-41.5-116. Repeal of article - termination of functions.** (1) THIS ARTICLE IS
6 REPEALED, EFFECTIVE JULY 1, 2000.

7 (2) THE CERTIFICATION FUNCTIONS OF THE DIRECTOR OF THE DIVISION OF
8 REGISTRATIONS AS SET FORTH IN THIS ARTICLE ARE TERMINATED ON JULY 1, 2000. PRIOR TO
9 SUCH TERMINATION, THE CERTIFICATION FUNCTIONS SHALL BE REVIEWED AS PROVIDED FOR IN
10 SECTION 24-34-104, C.R.S.

11 **SECTION 2.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended,
12 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13 **24-34-104. General assembly review of regulatory agencies and functions for**
14 **termination, continuation, or reestablishment.** (29.5) THE FOLLOWING FUNCTIONS OF THE
15 SPECIFIED AGENCY SHALL TERMINATE ON JULY 1, 2000: THE CERTIFICATION OF RESPIRATORY
16 CARE THERAPISTS THROUGH THE DEPARTMENT OF REGULATORY AGENCIES IN ACCORDANCE
17 WITH ARTICLE 41.5 OF TITLE 12, C.R.S.

18 **SECTION 3. Effective date - applicability.** This act shall take effect July 1, 1994,
19 and shall apply to all persons practicing respiratory care on or after said date.

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

BILL 13

A BILL FOR AN ACT

101 CONCERNING ADVISORY BODIES SCHEDULED FOR REPEAL JULY 1, 1994

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 following advisory bodies scheduled for repeal July 1, 1994: The correctional education program advisory board; the breeders, owners, and stallion awards and supplemental purses advisory committee; and the motion picture and television advisory committee.

Deletes obsolete provisions related to the advisory committee to advise and consult on matters concerning the law enforcement radio system and the population advisory council.

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

2 SECTION 1. 2-3-1203 (3) (g) (XIII), (3) (g) (XIV), (3) (g) (XV), (3) (g) (XVI),
3 and (3) (g) (XVII), Colorado Revised Statutes, 1980 Repl. Vol., as amended, are repealed as
4 follows:

5 2-3-1203. Sunset review of advisory committees. (3) The following dates are the
6 dates for which the statutory authorization for the designated advisory committees is scheduled
7 for repeal:

8 (g) July 1, 1994:

9 (XIII) ~~The correctional education program advisory board, appointed pursuant to~~
10 ~~section 17-32-104, C.R.S.;~~

11 (XIV) ~~The advisory committee to advise and consult on matters concerning the law~~
12 ~~enforcement radio system, which committee is appointed pursuant to section 24-30-904, C.R.S.;~~

13 (XV) ~~The breeders, owners, and stallion awards and supplemental purses advisory~~
14 ~~committee established pursuant to section 12-60-704 (3) (a).~~

1 (XVI) ~~The motion picture and television advisory committee, appointed pursuant to~~
2 ~~section 24-32-308, C.R.S.;~~

3 (XVII) ~~The population advisory council, appointed pursuant to section 24-40-103,~~
4 ~~C.R.S.;~~

5 SECTION 2. 12-60-704 (3) (b), Colorado Revised Statutes, 1991 Repl. Vol., as
6 amended, is repealed as follows:

7 12-60-704. Creation of horse breeders and owners awards and supplemental
8 purse fund - awards - advisory committee - sunset review. (3) (b) (I) ~~This subsection (3) is~~
9 ~~repealed, effective July 1, 1994.~~

10 (II) ~~Prior to said repeal, the advisory committee shall be reviewed as provided for~~
11 ~~in section 2-3-1203, C.R.S.~~

12 SECTION 3. 17-32-104 (2) (e), Colorado Revised Statutes, 1986 Repl. Vol., as
13 amended, is repealed as follows:

14 17-32-104. Division of correctional education - advisory board to the division.
15 (2) (e) (I) ~~This subsection (2) is repealed, effective July 1, 1994.~~

16 (II) ~~Prior to the repeal of this subsection (2), the correctional education program~~
17 ~~advisory board shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

18 SECTION 4. 24-32-308 (4), Colorado Revised Statutes, 1991 Repl. Vol., as
19 amended, is repealed as follows:

20 24-32-308. Motion picture and television advisory commission abolished -
21 reestablished. (4) (a) ~~This section is repealed, effective July 1, 1994.~~

22 (b) ~~Prior to said repeal, the advisory committee appointed pursuant to this section~~
23 ~~shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

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

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