

An \* in the left margin indicates a change in the statute, rule or text since the last publication of the manual.

## **CHAPTER 25 – COMMISSION APPROVED AND MISCELLANEOUS FORMS**

### **COMMISSION APPROVED FORMS**

Through the adoption and promulgation of Commission Rule F, it became compulsory for all real estate brokers licensed by the State of Colorado to use Commission approved forms in most of their contracting. 12-61-803(4) C.R.S. grants the Colorado Real Estate Commission statutory authority to promulgate standard forms for use by licensees.

One of the major purposes of the rule is to help to insure broker compliance with the Colorado Supreme Court Conway-Bogue decision. (See case summary in Chapter 5) A second purpose is to help promote uniformity in contracting to the end that the public is better protected. The privileges granted should not be abused by the real estate broker.

### **Rule F – Use of Commission Approved Forms**

#### **F-1. Permitted and Prohibited Form Modifications**

- (a) No modifications shall be made to a Commission-approved form by a broker except as provided in rules promulgated by the Commission and as set forth in this Rule F-1 through F-7. For purposes of Rule F-1 through F-7, the term “Commission-approved form” means any form promulgated by the Commission; the term “broker” shall also include brokerage firm.
- (b) A broker may add its firm name, address, telephone, e-mail, trademark or other identifying information on a Commission-approved form.
- (c) Any deletion to the printed body of a Commission-approved form, or any “Additional Provision” or “Addenda” which by its terms serves to amend or delete portions of the approved language, must result from negotiations or the instruction(s) of the party(ies) to the transaction and must be made directly on the printed body of the form by striking through the amended or deleted portion in a legible manner that does not obscure the deletion that has been made.
- (d) Blank spaces on a Commission-approved form may be lengthened or shortened to accommodate the applicable data or information.
- (e) Provisions that are inserted into blank spaces must be printed in a style of type that clearly differentiates such insertions from the style of type used for the Commission-approved form language.
- (f) A broker may omit part or all of the following provisions of the “Contract to Buy and Sell Real Estate”, or corresponding provisions in other Commission-approved forms, if such provisions do not apply to the transaction. In the event any provision is omitted, the provision’s caption or heading must remain unaltered on the form followed by the words “OMITTED AS INAPPLICABLE”.
  - 1. Subsection 3(e) and 3 (f) Parking and Storage Facilities and Water Rights
  - 2. Subsection 4 (b), (c) and (d) New Loan, Assumption and Seller Financing
  - 3. Section 5 Financing Conditions and Obligations
  - 4. Subsection 7 (d) Common Interest Community Governing Documents
  - 5. Subsection 8 (f) Right of First Refusal or Approval
  - 6. Section 9 Lead-Based Paint
  - 7. Section 15 (c) Association Assessments
- (g) A broker may omit part or all of the following provisions of the “Counterproposal” and the “Agreement to Amend/Extend Contract” if such provisions do not apply to the

transaction. In the event any provision is omitted, the provision's caption or heading must remain unaltered on the form followed by the words "OMITTED AS INAPPLICABLE".

1. Subsection 2 (c) Dates and Deadlines table

**F-2. Additional Provisions**

- (a) The "Additional Provisions" section of a Commission-approved form must contain only those transaction-specific terms or acknowledgments that result from negotiations or the instruction(s) of the party(ies) to the transaction.
- (b) A broker who is not a principal party to the contract may not insert personal provisions, personal disclaimers or exculpatory language in favor of the broker in the "Additional Provisions" section of a Commission-approved form.

**F-3 Addenda**

- (a) If a broker originates or initiates the use of a preprinted or prepared addendum that modifies or adds to the terms of a Commission-approved contract form which does not result from the negotiations of the parties, such addendum must be prepared by:
  - (1) an attorney representing the broker or brokerage firm; or
  - (2) a principal party to the transaction; or
  - (3) an attorney representing a principal party.
- (b) An addendum permitted by this Rule F- 3 (a), shall not be included within the body of, or in the "Additional Provisions" section of, a Commission-approved form.
- (c) A broker who is not a principal party to the contract may not insert personal provisions, personal disclaimers or exculpatory language in favor of the broker in an addendum.
- (d) If an addendum is prepared by a broker's attorney, the following disclosure must appear on each page of the addendum in the same sized type as the size of type used in the addendum: "This addendum has not been approved by the Colorado Real Estate Commission. It was prepared by (insert licensed name of broker or brokerage firm's) legal counsel."
- (e) If an addendum to a listing, tenant or right to buy contract, is prepared by a broker or brokerage firm, the following disclosure must appear on each page of the addendum in the same sized type as the size of type used in the addendum:

"This addendum has not been approved by the Colorado Real Estate Commission. It was prepared by (insert licensed name of broker or brokerage firm)."

**F-4 Prohibited Provisions**

No contract provision, including modifications permitted by Rules F-1 through F-3, shall relieve a broker from compliance with the real estate license law, section 12-61-101, et. seq., or the Rules of the Commission.

Pursuant to Rule E-12, when a written agreement contains a provision entitling the broker to a commission on a sale or purchase made after the expiration of the agreement, such provision must refer only to those persons or properties with whom or on which the broker negotiated during the term of the agreement, and whose names or addresses, were submitted in writing to the seller or buyer during the term of the agreement, including any extension thereof.

**F-5 Explanation of Permitted Modifications**

The broker shall explain all permitted modifications, deletions, omissions, insertions, additional provisions and addenda to the principal party and must recommend that the parties obtain expert advice as to the material matters that are beyond the expertise of the broker.

**F-6 Commission-Approved Form Reproduction:**

- (a) Commission-approved forms used by a broker, including permitted modification made by a broker, shall be legible.

- (b) Brokers generating Commission-approved forms through the use of a computer shall ensure that a security software program is utilized that prevents inadvertent change or prohibited modification of Commission-approved forms by the broker or other computer user.

### **F-7 Commission Approved Forms**

Real estate brokers are required to use Commission-approved forms as appropriate to a transaction or circumstance to which a relevant form is applicable. In instances when the Commission has not developed an approved form within the purview of this rule, and other forms are used, they are not governed by Rule F. Other forms used by a broker shall not be prepared by a broker, unless otherwise permitted by law.

The following are the forms promulgated by the real estate commission and are within the purview of Rule F:

#### **Commission Approved Forms Index**

Editor's Note for the On-Line Version of the Colorado

Real Estate Manual: The current Commission Approved

Forms are located on the Commission's web site at:

<http://www.dora.state.co.us/real-estate/contracts/contracts.htm>