

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 24-1094

BY REPRESENTATIVE(S) Lukens and Soper, Bird, Boesenecker, Froelich, Jodeh, Lindstedt, Marshall, Mauro, McCluskie; also SENATOR(S) Roberts and Will, Priola.

CONCERNING EARNEST MONEY DEPOSITS RECEIVED AFTER THE REAL ESTATE COMMISSION HAS APPROVED A DEVELOPER'S SUBDIVISION REGISTRATION, AND, IN CONNECTION THEREWITH, ALLOWING THE USE OF DEVELOPER SUBDIVISION EARNEST MONEY DEPOSITS BY ACCREDITED INVESTORS.

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

SECTION 1. In Colorado Revised Statutes, 12-10-502, **add** (3) as follows:

12-10-502. Registration required. (3) (a) UPON THE COMMISSION'S APPROVAL OF A DEVELOPER'S SUBDIVISION REGISTRATION PURSUANT TO SECTION 12-10-503, THE DEVELOPER MAY ENTER INTO BINDING PURCHASE CONTRACTS WITH PROSPECTIVE BUYERS AND ACCEPT EARNEST MONEY DEPOSITS. EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION, AN EARNEST MONEY DEPOSIT MUST BE HELD IN TRUST BY AN INDEPENDENT THIRD PARTY.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) (I) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION OR ANY OTHER PROVISION IN THIS PART 5, UPON SUBDIVISION REGISTRATION APPROVAL, A DEVELOPER MAY RECEIVE EARNEST MONEY DEPOSITS FROM AN ACCREDITED INVESTOR AND USE SOME OR ALL OF THE FUNDS TOWARD DEVELOPMENT OF A SUBDIVISION, BUT ONLY IF THE PURCHASE CONTRACT OR OTHER WRITTEN DISCLOSURE CONTAINS A CLEAR STATEMENT SETTING FORTH:

- (A) TO WHOM THE FUNDS WILL BE DELIVERED;
- (B) WHEN THE DELIVERY OF THE FUNDS WILL OCCUR;
- (C) HOW THE FUNDS WILL BE USED; AND
- (D) ANY RESTRICTION ON THE USE OF THE FUNDS.

(II) A DEVELOPER MAY RECEIVE EARNEST MONEY DEPOSITS FROM AN ACCREDITED INVESTOR PURSUANT TO THE REQUIREMENTS IN SUBSECTION (3)(b)(I) OF THIS SECTION WITHOUT FIRST HAVING TO POST A BOND OR OTHER SECURITY.

(c) THIS SUBSECTION (3) APPLIES ONLY IF THE SUBDIVISION IS A TIME SHARE ESTATE, AS DEFINED IN SECTION 38-33-110 (5).

SECTION 2. In Colorado Revised Statutes, 12-10-501, **amend** (1); and **add** (1.5) as follows:

12-10-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) ~~"Commission" means the real estate commission established under section 12-10-206~~ "ACCREDITED INVESTOR" HAS THE SAME MEANING AS DEFINED IN THE SECURITIES AND EXCHANGE COMMISSION'S RULE 501 OF REGULATION D, 17 CFR 230.501 (a).

(1.5) "COMMISSION" MEANS THE REAL ESTATE COMMISSION ESTABLISHED UNDER SECTION 12-10-206.

SECTION 3. Act subject to petition - effective date. This act

takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO