

March 24, 2020

**FOR IMMEDIATE RELEASE: Colorado's Approved COVID-19 Addendum**

The Colorado Bar Association ("CBA"), through its Real Estate Section Council, teamed up with the Colorado Association of Realtors to approve a contract addendum to address issues relating to the COVID-19 outbreak. Below are the highlights.

- ✓ The form is entitled the "COVID-19 Addendum".
- ✓ The addendum addresses two COVID-19 scenarios that are currently disrupting the Colorado real estate market by creating uncertainty.

The first provision of the COVID-19 addendum addresses real estate transactions that are impacted and/or delayed by shutdowns of title offices, government agencies (clerk & recorders), lenders, and/or appraisers. The first provision provides as follows:

1. COVID-19 Shutdown Extension. In the event due to COVID-19, a government entity (e.g.: Clerk and Recorder, etc.) or any third-party providing services or required information in connection with the Contract (e.g.: lender, appraiser, title company, surveyor, Owner's Association, etc.) ("Settlement Service Provider") closes its offices, suspends operations or otherwise prevents the Buyer and/or the Seller from timely performing under the Contract as originally contemplated, the outstanding Dates and Deadlines in Section 3.1. of the Contract, will each be extended by the Delay Period starting on the date the Buyer and/or Seller are once again able to perform. For example: If the Delay Period was fourteen (14) days and the Appraisal Deadline was scheduled for March 30, 2020, but the appraiser is unable to appraise the property due to a COVID-19 shutdown, the Appraisal Deadline, Appraisal Objection Deadline, Appraisal Resolution Deadline, Closing Date and any other deadline that has not passed in Section #3.1 would all be extended 14 days. The new Appraisal Deadline would be April 14, 2020. The parties understand that, for unforeseen reasons, there could be more than one Delay Period and that two or more Delay Periods might overlap. However, if Buyer and/or Seller is prevented from closing within \_\_\_\_\_ days from the original Closing Date due to governmental entities' and/or Settlement Service Providers' delays, this Contract terminates and, per Section 25.2 of the Contract, all Earnest Money will be returned to the Buyer. Nothing in this section prevents Buyer and Seller from mutually agreeing to amend or extend, in writing, any provision in the Contract to include deadlines.

The second provision of the COVID-19 addendum addresses real estate transactions that are impacted and/or delayed by mandatory or voluntary quarantines (or other state/local

action limiting individual movement to control the spread of the virus). The second provisions provides as follows:

2. COVID-19 Quarantine Extension. In the event either Buyer or Seller is subject to a voluntary quarantine, mandatory quarantine or shelter in place or equivalent order (“Quarantine” or “Quarantined”) in accordance with Colorado or federal recommendations concerning COVID-19, the then outstanding Dates and Deadlines in Section 3.1. of the Contract will be extended for the Delay Period from the date the non-Quarantined party receives written notice from the Quarantined party. For example: If the Delay Period was fourteen days (14) and the Closing Date was scheduled for March 30, 2020, but the Buyer sends written notice that Buyer is in Quarantine, then the Closing Date would be extended to April 13, 2020. Nothing in this provision terminates or otherwise excuses a party's performance under the Contract as amended. If the Quarantined party will not be able to perform the terms of the Contract in person (e.g.: attend closing, etc.), the Quarantined party must make other accommodations (e.g.: power of attorney, non-contact closing, etc.). Nothing in this section prevents Buyer and Seller from mutually agreeing to amend or extend, in writing, any provision in the Contract to include deadlines. By signing below, both Buyer and Seller waive all confidentiality Buyer and Seller may have regarding COVID-19.

- ✓ All other terms and conditions of the Contract remain the same.
- ✓ **NOTE:** The COVID-19 Addendum has *not* been approved by the Colorado Real Estate Commission.
- ✓ No standard Colorado Real Estate Commission approved form exists for these unprecedented circumstances. The Real Estate Commission does not meet for several weeks and cannot offer immediate assistance with a standard form for brokers to use.
- ✓ Independent from the Colorado Real Estate Commission’s authority, the CBA is authorized to create forms for broker use under C.R.S. § 12-10-403(4)(b)(V).
- ✓ The form is approved by the Colorado Bar Association for use by Colorado real estate brokers in accordance with any guidelines provided in the form.
- ✓ All Colorado real estate brokers are encouraged to familiarize themselves with the addendum, discuss it with their clients and, when approved, utilize the addendum starting immediately.
- ✓ The addendum protects Colorado brokers from accusations of the unauthorized practice of law in drafting non-standardized provisions.
- ✓ The addendum alleviates the burden on a buyer or seller from having to pay an attorney to draft contract language addressing the two scenarios.

- ✓ Colorado real estate brokers should recommend, however, that their clients discuss the legal and tax implications with an attorney or accountant. Be sure to document this advice in writing.
- ✓ The intended purpose of the COVID-19 Addendum is to address the public health mandates issued by federal, state and local governments, including the closure of title companies and county offices, the varying ability of parties, including notaries, to appear in person for closings, and anticipated shelter in place orders or enforced quarantines.
- ✓ The addendum seeks to strike a balance between the known risks and potential delays by charting a reasonable course addressing both the concerns of buyers and sellers.
- ✓ The addendum allows real estate transactions to proceed with a sense of security and certainty as to what should happen in the event of either scenario coming to fruition.
- ✓ Colorado real estate brokers can use the COVID-19 Addendum to “pause” pending real estate transactions where the parties want to close but cannot due to circumstances caused by COVID-19.
- ✓ The addendum resolves a conflict between a duty to protect private and confidential medical information and broker disclosure duties by incorporating a limited waiver for the disclosure of necessary COVID-19 related health information.

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**DISCLAIMER:** This article is a brief overview and survey of COVID-19 issues facing real estate professionals in general. The article is designed and its purpose is to serve only as a general discussion of these issues. This article does not constitute legal advice. The reader should consult with a licensed, experienced attorney on any specific or general matter in the reader’s particular jurisdiction. We hope that all real estate practitioners find this article to be a useful and practical tool in identifying COVID-19 issues.