

DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4CCR 725-2

EMERGENCY RULE

Chapter 16 Conservation Easements Appraisals
16.1 Affidavit for Conservation Easement Appraisals

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of emergency rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

- Section 1. Statement of Basis and Authority
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Section 1. Statement of Basis and Authority

The statutory basis for the rules titled Rules of the Board of Real Estate Appraisers is Part 7 of Title 12, Article 61, Colorado Revised Statutes, as amended. ~~The General Assembly passed Senate Bill 90-34, effective July 1, 1990, which created the Board and mandated the licensing of real estate appraisers under the statutory terms and conditions. The General Assembly has variously amended the statutes by passing House Bill 92-1177, House Bill 96-1080, Senate Bill 97-90, House Bill 97-1056, House Bill 00-1137 and House Bill 02-1130.~~

The Board of Real Estate Appraisers adopts the following emergency rule entitled, **Affidavit for Conservation Easement Appraisals**, according to authority as found in §§ 12-61-719(2), 12-61-704(1)(a), 12-61-715(1)(c) and 24-4-103(6), C.R.S.

Section 2. Scope and Purpose

The Colorado Board of Real Estate Appraisers finds that immediate adoption of this emergency rule is imperatively necessary to comply with state law (§12-61-719, C.R.S. Conservation Easement Appraisals) and for the preservation of public health, safety or welfare and that compliance with the rulemaking requirements of § 24-4-103, C.R.S., applicable to non-emergency rules, would be contrary to the public interest.

Section 12-61-719(1), C.R.S. requires an appraiser who conducts an appraisal for a conservation easement to submit a copy of the completed appraisal to the Division of Real Estate within thirty days following the completion of the appraisal. The Section also requires the appraiser to submit an affidavit with the appraisal. Section 12-61-719(2), C.R.S. provides the Board of Real Estate

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Appraisers with the authority to promulgate rules concerning the form and content of the affidavit. Section 12-61-719, C.R.S. became effective July 1, 2008.

Section 12-61-704(1)(a), C.R.S. requires the Board of Real Estate Appraisers to promulgate and amend, as necessary, rules and regulations as required for the implementation of part 7 of Title 12, Article 61.

Section 12-61-715(1)(c), C.R.S. requires the Board of Real Estate Appraisers to conduct its business and promulgate rules and regulations in a manner not inconsistent with Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended.

The purpose of this emergency rule is to ensure compliance with Section 12-61-719, C.R.S. The purpose of this emergency rule is also to effectuate the legislative directive to promulgate necessary and appropriate rules for the implementation of part 7 of Title 12, Article 61.

The specific purpose of this emergency rule is to adopt a new rule concerning the form and content of the affidavit required to be submitted to the Division of Real Estate by an appraiser who conducts an appraisal for a conservation easement.

Without the immediate adoption of this emergency rule, the public's interest is not served. Wherefore, the Board of Real Estate Appraisers, pursuant to § 24-4-103(6), C.R.S. has an obvious and stated need to adopt this emergency rule.

Section 3. Applicability

This emergency rule governs real estate appraisers who are subject to the requirements of Part 7 of Title 12, Article 61 of the Colorado Revised Statutes.

Section 4. Chapter 16 Conservation Easement Appraisals

CHAPTER 16 CONSERVATION EASEMENT APPRAISALS

- 16.1** Pursuant to Section 12-61-719(1), **C.R.S.** any appraiser who conducts an appraisal for a conservation easement shall submit a copy of the completed appraisal to the Division of Real Estate within thirty days following the completion of the appraisal. The appraisal shall be accompanied by an affidavit from the appraiser. Pursuant to Section 12-61-719(2), **C.R.S.** the affidavit submitted with a conservation easement appraisal shall be in a form approved by the Board. The following form entitled, “Affidavit for Conservation Easement Appraisals” has been approved by the Board and must be submitted to the Division of Real Estate by an appraiser who conducts an appraisal for a conservation easement, together with a copy of the conservation easement appraisal:

[Affidavit for Conservation Easement Appraisals]

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Section 5. Effective Date

This emergency rule is effective August 8, 2008.

Affidavit for Conservation Easement Appraisals

**(If more than one appraiser signed the certification in the appraisal,
each must complete and sign a separate affidavit.)**

I _____
 (Full Name) (Colorado Appraiser License Number)

Do hereby affirm:

1. I completed, as defined in Section 12-61-719(1), C.R.S., an appraisal of a conservation easement on _____.
 Month/Day/Year
2. The value of the unencumbered property is \$_____, and the total value of the conservation easement in gross is \$_____.
3. The method(s) I used to determine these values are (check one or more):
 Sales Comparison Approach Cost Approach Income Approach
 Other: _____
4. If I have separately allocated the values of sand and gravel, minerals, water, or improvements, I state that the separate value of the sand and gravel, minerals, water, or improvements before and after the conservation easement in gross is granted is as follows:

	Value Before Easement	Value After Easement
Sand and Gravel	\$ _____	\$ _____
Minerals	\$ _____	\$ _____
Water	\$ _____	\$ _____
Improvements	\$ _____	\$ _____

5. I *did* *did not* use Subdivision Analysis to establish the value of the conservation easement.
6. The landowner or a family member, as defined in Section 267(c)4 of the Federal “Internal Revenue Code of 1986”, as amended,
 does *or* does not
 own other property contiguous to the property encumbered by the appraised conservation easement.

7. The landowner or a related person, as defined in Section 267(b) of the Federal “Internal Revenue Code of 1986”, as amended,

does *or* does not

own other property, of which the value may be increased by the donation of the property encumbered by the appraised conservation easement, whether contiguous or not.

8. I have satisfied the qualified appraiser and licensing requirements set forth in Section 39-22-522 (3.3), C.R.S. as follows:

9. I verify that I have met the specified classroom education requirements established by the Board of Real Estate Appraisers, if any, for conservation easement appraisals pursuant to Section 12-61-719(7), C.R.S. The date(s) and method(s) used to meet these requirements are set out below. (If there is insufficient space to fill in all the relevant information, please attach an additional page to this affidavit.)

Course Title	Date of Course	Method of Delivery

10. I have conducted _____ previous conservation easement appraisals (insert the number of conservation easements previously conducted or “none” if no conservation easements have been previously conducted).

Under penalties of perjury, I declare that to the best of my knowledge and belief, this affidavit is true, correct and complete.

Authorized Signature	Title	Date
Print Name	Telephone Number	