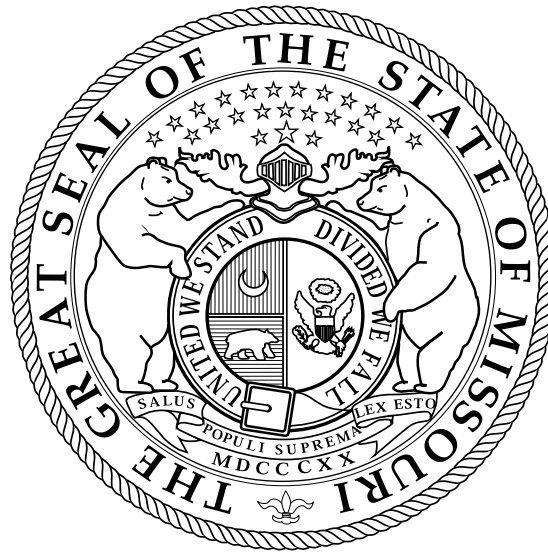


# MISSOURI REAL ESTATE COMMISSION

## STATUTES AND RULES



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# MISSOURI REAL ESTATE COMMISSION

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**MISSOURI REAL ESTATE COMMISSION**

# **STATUTES**

**CHAPTER 339**

### 339.010. Definitions--applicability of chapter.

1. A "real estate broker" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
- (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
- (10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860\* shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. A "real estate broker-salesperson" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign, who has a real estate broker license in good standing, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. A real estate broker-salesperson may not also operate as a real estate broker. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860\* shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

4. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860\* means the Missouri

real estate commission.

5. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860\* shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

6. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public, and shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, Internet advertising, websites, display or group ads in telephone directories, and billboards.

7. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860\* shall not apply to:

(1) Any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof;

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of the agent or the owner of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless

\*Section 339.860 was repealed in 2007.

performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission whereby the advertising of real estate is incidental to its operation;

(10) Any developer selling Missouri land owned by the developer;

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, that without compensation, either monetary or in-kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, Internet site, or other medium.

### **339.020. Brokers and salespersons, unlawful to act without license.**

It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic, to act as a real estate broker, real estate broker-salesperson, or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

### **339.030. Business entities may be licensed, when, fee.**

A corporation, partnership, limited partnership, limited liability company, professional corporation, or association shall be granted a broker's, broker-salesperson's, or salesperson's license when the required fee is paid and:

(1) For a real estate broker individual licenses have been issued to every member, general partner, associate, manager, member, or officer of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who actively participates in its brokerage business and to every person, partnership, limited partnership, limited liability company, professional corporation, or corporation who acts as a salesperson for such partnership, limited partnership, limited liability company, association, professional corporation, or corporation; or

(2) For a real estate broker-salesperson when an individual broker-salesperson license has been issued to every general partner, associate, manager, member, or officer\* of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who acts as a broker-salesperson, and individual salesperson licenses have been issued to all general partners, associates, managers, members, or officers of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who act as a salesperson; or

(3) For a real estate salesperson when individual salesperson licenses have been issued to all general partners, associates, managers, members, or officers of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who act as a salesperson.

### **339.040. Licenses granted to whom--examination--qualifications--fee--temporary broker's license, when--renewal, requirements.**

1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

(1) Are persons of good moral character; and

(2) Bear a good reputation for honesty, integrity, and fair dealing; and

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860\*\*, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least two years immediately preceding the date of application, and shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission. Each application for a broker-salesperson license shall include evidence of the current broker



license held by the applicant.

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, broker-salesperson, salesperson, officer, manager, general partner, member or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.

9. Each entity that provides continuing education required under the provisions of subsection 8 of this section may make available instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for such courses. The commission may by regulation require the individual completing such distance-delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the course and approved by the commission.

10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed general partners, officers, managers, members or associates of a real estate partnership, limited partnership, limited liability company, professional corporation, corporation, or association whereby the affairs of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association under the supervision of the commission.

**339.045. Real estate schools--accreditation--registration--fee, how determined.**

1. An institution or organization desiring to conduct a school or offer a course of instruction to prepare persons to be licensed under this chapter, or to offer post-licensure courses, shall apply to the commission for accreditation, and shall submit evidence

that it is prepared to carry out a prescribed minimum curriculum in real estate principles and practices and can meet other standards established by the commission. An investigation of the school and of the institution or organization with which such school is affiliated shall be made by the executive secretary or other authorized representative of the commission, who shall submit a written report of the investigation to the commission. If, in the opinion of the commission, the requirements for an accredited school for instruction in real estate principles and practices are met, the commission shall approve the school as an accredited real estate school upon payment of a fee in an amount to be set by the commission. All schools so accredited shall register at required intervals on a form provided and pay the required registration fee fixed by the commission.

2. The commission shall prescribe minimum curricula and standards for accreditation of real estate schools, courses of instruction preparing persons to be licensed under this chapter and courses offered for post-licensure credit.

3. From time to time as deemed necessary by the commission it shall be the duty of the commission through its executive secretary or other authorized representative to survey all accredited real estate schools operated in this state. If the commission determines that any accredited real estate school is not maintaining the standards required by the commission, notices thereof in writing specifying the defect or defects shall be given immediately to the school. The commission may file a complaint with the administrative hearing commission if a school fails to correct these conditions to the satisfaction of the commission within thirty days, or such longer period as may be authorized in writing by the commission. The hearing and any subsequent suspension or revocation of accreditation shall be governed by chapter 621, RSMo.

4. No member of the commission, nor any relative within the fourth degree of consanguinity or affinity, nor any member or employee of the commissioner's firm or business entity, shall have any economic interest in, receive remuneration from, or teach or solicit customers for any real estate school or courses of instruction as heretofore described in this chapter.

**339.050. Form of application.**

Applications for licenses shall be in writing, on blanks furnished by the commission, accompanied by such information and recommendations as it may require. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration.

**339.060. Fees, amount, set how--term of licenses.**

1. The commission shall set the amount of the fees which sections 339.010 to 339.180 and sections 339.710 to 339.860 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.010 to 339.180 and sections 339.710 to 339.860.

2. Every license granted under sections 339.010 to 339.180

and sections 339.710 to 339.860 shall be renewed each licensing period and the commission shall issue a new license upon receipt of the properly completed application of the applicant and the required renewal fee.

**339.070. Fees, collection and disposition--fund, source, use, transferred to general revenue, when.**

1. All fees and charges payable under this chapter shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the "Real Estate Commission Fund". No money shall be paid out of this fund except by an appropriation by the general assembly. Warrants shall be issued monthly, upon the state treasurer out of this fund only, for the payment of the salaries and all necessary expenses of the commission. Vouchers for salaries and expenses shall be first approved by the commission. The total expense for every purpose incurred by the commission shall not exceed the total fees and charges collected and paid into the state treasury.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

**339.080. Denial of application or license, when, notice-hearing.**

1. The commission may refuse to examine or issue a license to any person known by it to be guilty of any of the acts or practices specified in subsection 2 of section 339.100, or to any person previously licensed whose license has been revoked, or may refuse to issue a license to any association, partnership, corporation, professional corporation, limited partnership, or limited liability company of which such person is a manager, officer or general partner, or in which as a member, partner or associate\* such person has or exercises a controlling interest either directly or indirectly, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

2. Any person denied a license or the right to be examined shall be so notified by the commission in writing stating the reasons for denial or refusal to examine and informing the person so denied of his right to file a complaint with the administrative hearing commission in accordance with the applicable provisions of sections 621.015 to 621.198 and the rules promulgated thereunder. All notices hereunder shall be sent by registered or certified mail to the last known address of the applicant.

**339.090. License of nonresident--fee--reciprocity--rulemaking authority.**

The commission may prescribe necessary rules and regulations pursuant to chapter 536, RSMo, to provide for the licensure

of nonresidents. Such rules shall require the nonresident to pay a fee and may provide for licensure without examination if such reciprocity is extended to Missouri residents. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

**339.100. Investigation of certain practices, procedure--subpoenas--formal complaints--revocation or suspension of licenses--digest may be published--revocation of licenses for certain offenses.**

1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any real estate-related activity of a licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860\* or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability of a violation of sections 339.010 to 339.180 and sections 339.710 to 339.860\*. The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

\*Section 339.860 was repealed in 2007.

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to timely deliver a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860\*;

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express written consent of the broker with whom associated;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;

(13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860\*, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860\*;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

(17) Failure to timely inform seller of all written offers unless otherwise instructed in writing by the seller;

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United

States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860\* granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860\*;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860\* who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860\*;

(24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(25) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or license renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision;

(26) Engaging in, committing, or assisting any person in engaging in or committing mortgage fraud, as defined in section 443.930, RSMo.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate, or the imposition of a civil penalty by the commission not to exceed two thousand five hundred dollars for each offense. Each day of a continued violation shall constitute a separate offense.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an

\*Section 339.860 was repealed in 2007.

applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children;

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material; and

(5) Mortgage fraud as defined in section 570.310, RSMo.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission.

**339.105. Separate bank escrow accounts required--service charges for account may be made by personal deposit by broker, amount allowed.**

1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

2. Each broker shall notify the commission of his or her intent not to maintain an escrow account, or the name of the financial

institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

3. In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

4. Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595, RSMo. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.

5. A broker shall not be entitled to any money or other money paid to him or her in connection with any real estate sales transaction as part or all of his or her commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

6. When, through investigations or otherwise, the commission has reasonable cause to believe that a licensee has acted, is acting or is about to act in violation of this section, the commission may, through the attorney general or any assistants designated by the attorney general, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.

7. Any such suit shall be commenced in either the county in which the defendant resides or in the county in which the defendant has acted, is acting or is about to act in violation of this section.

8. In such proceeding, the court shall have power to issue such temporary restraining or injunction orders, without bond, which are necessary to protect the public interest. Any action brought under this section shall be in addition to and not in lieu of any other provisions of this chapter. In such action, the commission or the state need not allege or prove that there is no adequate remedy at law or that any individual has suffered any economic injury as a result of the activity sought to be enjoined.

**339.110. Refusal of licenses, when.**

The commission may refuse to issue a license to any person who is known by it to have been found guilty of forgery, embezzlement, obtaining money under false pretenses,

\*Section 339.860 was repealed in 2007.

extortion, criminal conspiracy to defraud, or other like offense, or to any association, partnership, corporation, professional corporation, limited partnership, or limited liability company of which such person is a manager, officer or general partner, or in which as a member, partner or associate such person has or exercises a controlling interest either directly or indirectly, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

**339.120. Commission, created--members, qualifications, terms, compensation--powers and duties--rulemaking authority, procedure.**

1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860\*. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of the members of the commission shall be for five years, and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860\*, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860\*. Each member of the commission shall receive as compensation an amount set by the commission not to exceed seventy-five dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner for cause.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860\* or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860\*, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860\*. All members, includ-

ing public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The commission shall employ such board personnel, as defined in subdivision (4) of subsection 10 of section 324.001, RSMo, as it shall deem necessary to discharge the duties imposed by the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860\*.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 339.010 to 339.180 and sections 339.710 to 339.860\* shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**339.125. Rulemaking procedure.**

No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

**339.130. Legal status of commission.**

The commission may sue and be sued in its official name, and shall have a seal which shall be affixed to certified copies of records and papers on file, and to such other instruments as the commission may direct, and all courts shall take judicial notice of such seal. Copies of records and proceedings of the commission, and of all papers on file in its office, certified under the said seal shall be received as evidence in all courts of record. The office of the commission shall be at Jefferson City.

**339.150. No fee to be paid to unlicensed person--exception when broker refuses to pay for services rendered knowing the person was unlicensed, effect.**

1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860\*, unless such a person is:

(1) A licensed real estate salesperson or a licensed real estate broker as required by section 339.020; or

(2) For a transaction involving commercial real estate as defined in section 339.710, a person regularly engaged in the real estate brokerage business outside the state of Missouri who has, in such forms as the commission may adopt by rule:

\*Section 339.860 was repealed in 2007.

(a) Executed a brokerage agreement with the Missouri real estate broker;

(b) Consented to the jurisdiction of Missouri and the commission;

(c) Consented to disciplinary procedures under section 339.100; and

(d) Appointed the commission as his or her agent for service of process regarding any administrative or legal actions relating to the conduct in Missouri; or

(3) For any other transaction, a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

**339.151. No commission or consideration unless reasonable cause for payment or contractual relationship exists.**

1. No licensee shall pay a commission or any other valuable consideration unless reasonable cause for payment exists or a contractual relationship exists with the licensee. Reasonable cause does not exist unless the party seeking the compensation or other valuable consideration actually introduces the business to the real estate licensee before a relationship is established between the licensee and a principal to the transaction, including, but not limited to:

- (1) A subagency relationship;
- (2) A transaction brokerage relationship; or
- (3) A cooperative brokerage relationship.

2. It shall be a violation of this section to:

(1) Solicit or request compensation or other valuable consideration from a real estate licensee without reasonable cause;

(2) Interfere with a written representation relationship of another licensee or attempt to induce a customer or client to

break a written representation agreement with another licensee for the purpose of replacing such agreement with a new representation agreement in order to obtain a commission or other valuable consideration. Interfering with the written representation agreement of another licensee includes, but is not limited to:

(a) Threatening to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a customer or client of a real estate licensee because of an existing representation agreement in order to obtain compensation or other valuable consideration; or

(b) Counseling a customer or client of another real estate licensee on how to terminate or amend an existing relationship agreement in order to obtain a commission or other valuable consideration.

Communicating corporate relocation policy or benefits to a transferring employee shall not be considered interference as long as the communication does not involve advice or encouragement on how to terminate or amend an existing relationship agreement.

3. The fact that reasonable cause to solicit or request a commission or other valuable consideration exists does not necessarily mean that a legal right to the commission or other valuable consideration exists.

4. Any violation of this section shall be grounds for investigation, complaint, proceedings and discipline pursuant to section 339.100.

5. Nothing in this chapter shall prevent any consumer from joining any organization in which one of the benefits of membership may be that such organization can negotiate a reduced rate or price for real estate costs for its members nor shall it prohibit an inducement to the buyer or lessee paid and supplied by the owner of the property directly to a buyer or lessee of the property.

6. Nothing in this section shall be construed to limit the ability of an employer to direct an employee to follow the terms of the relocation package provided for that employee, nor shall it be construed to limit an employer's choice of relocation service providers.

**339.160. Real estate brokers and salespersons may not bring legal action for compensation unless licensed.**

No person, partnership, limited partnership, limited liability company, professional corporation, corporation or association engaged within this state in the business or acting in the capacity of a real estate broker, real estate broker-salesperson or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, limited partnership, limited liability company, professional corporation, corporation or association, or its member, manager, officer, general partner or associate, as applicable, was a licensed real estate broker, broker-salesperson or salesperson at the time when the alleged cause of action arose.

### **339.170. Penalty for violation.**

Any person or corporation, professional corporation, partnership, limited partnership, limited liability company or association knowingly violating any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860\* shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or any member, manager, officer, associate, general partner or agent of a partnership, association, corporation, professional corporation, limited partnership, or limited liability company who actively participate in such entity's brokerage business, who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180 and sections 339.710 to 339.860\*, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

### **339.175. Mortgage fraud, commission may file court action--civil penalty--investigation authority.**

1. If the commission believes that a real estate broker or real estate sales person has engaged in, is engaging in, or has willfully taken a substantial step toward engaging in an act, practice, omission, or course of business constituting mortgage fraud, as defined in section 443.930, RSMo, or that a person has materially aided or is materially aiding any such act, practice, omission, course of business, the commission may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the person. Upon a proper showing, the court may issue a permanent or temporary injunction, restraining order, or declaratory judgment.

2. The court may impose a civil penalty against the person not to exceed two thousand five hundred dollars for each violation and may grant any other relief the court determines is just and proper under the circumstances including, but not limited to, a temporary suspension of any license issued by the commission.

3. The commission may initiate an investigation and take all measures necessary to find the facts of any potential violation of this section, including issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents and other evidence. The commission may conduct joint investigations, enter into confidentiality agreements and share information obtained relating to an investigation under this section with other governmental agencies.

4. The enforcement authority of the commission under this section is cumulative to any other statutory authority of the commission.

### **339.180. Practice without a license--endangering welfare of others--injunction, procedure.**

1. It shall be unlawful for any person or entity not licensed under this chapter to perform any act for which a real estate license is required. Upon application by the commission, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as

may be appropriate to enjoin a person or entity from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a permit or license is required by this chapter upon a showing that such acts or practices were performed or offered to be performed without a permit or license; or

(2) Engaging in any practice or business authorized by a permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any person with, or who is considering obtaining, a legal interest in real property in this state.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

### **339.190. Real estate licensee, immunity from liability, when.**

1. A real estate licensee shall be immune from liability for statements made by engineers, land surveyors, geologists, environmental hazard experts, wood-destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other home inspection experts unless:

(1) The statement was made by a person employed by the licensee or the broker with whom the licensee is associated;

(2) The person making the statement was selected by and engaged by the licensee. For purposes of this section, the ordering of a report or inspection alone shall not constitute selecting or engaging a person; or

(3) The licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

2. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for any information contained in a seller's disclosure for residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real estate licensee is a signatory to such or the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

3. A real estate licensee acting as a courier of documents referenced in this section shall not be considered to be making the statements contained in such documents.

### **339.200. Prohibited acts--investigation may be initiated, when, procedure.**

1. It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, RSMo, against any unlicensed person who:

(1) Engages in or offers to perform any act for which a

license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860; or

(2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person holds any license required by sections 339.010 to 339.180 and sections 339.710 to 339.860.

2. When reviewing complaints against unlicensed persons, the commission may initiate an investigation and take all measures necessary to find the facts of any potential violation, including issuing subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence.

3. If the commission files a complaint with the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 1 of this section for action are met, the commission may, either singularly or in combination with other provisions of this chapter, impose a civil penalty against the person named in the complaint in an amount not to exceed the limit authorized by section 339.205.

**339.205. Civil penalty may be imposed, when--amount, limit, factors--settlement procedures.**

1. In actions against unlicensed persons or disciplinary actions against licensed persons, the commission may issue an order imposing a civil penalty. Such penalty shall not be imposed until the findings of facts and conclusions of law by the administrative hearing commission have been delivered to the commission in accordance with section 621.110, RSMo. Further, no civil penalty shall be assessed until a formal meeting and vote by the board has been taken to impose such a penalty.

2. Any civil penalty imposed by the commission shall not exceed two thousand five hundred dollars for each offense. Each day of a continued violation constitutes a separate offense, with a maximum penalty of twenty-five thousand dollars. In determining the amount of penalty to be imposed, the commission may consider any of the following:

- (1) Whether the amount imposed will be a substantial deterrent to the violation;
- (2) The circumstances leading to the violation;
- (3) The severity of the violation and the risk of harm to the public;
- (4) The economic benefits gained by the violator as a result of noncompliance; and
- (5) The interest of the public.

3. Any final order imposing a civil penalty is subject to judicial review upon the filing of a petition under section 536.100, RSMo, by any person subject to the penalty.

4. Payment of a civil penalty shall be made within sixty days of filing the order, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the commission. If the penalty is not timely paid, the commission shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty,

including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

5. An action to enforce an order under this section may be joined with an action for an injunction.

6. Any offer of settlement to resolve a civil penalty under this section shall be in writing, state that an action for imposition of a civil penalty may be initiated by the attorney general representing the commission under this section, and identify any dollar amount as an offer of settlement, which shall be negotiated in good faith through conference, conciliation, and persuasion.

7. Failure to pay a civil penalty by any person licensed under this chapter shall be grounds for denying, disciplining or refusing to renew or reinstate a license or certificate of authority.

8. Penalties collected under this section shall be handled in accordance with section 7 of article IX of the Missouri Constitution. Such penalties shall not be considered a charitable contribution for tax purposes.

**339.710. Definitions.**

For purposes of sections 339.010 to 339.180, and sections 339.710 to 339.860\*, the following terms mean:

(1) "Adverse material fact", a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

- (a) Environmental hazards affecting the property;
- (b) Physical condition of the property which adversely affects the value of the property;
- (c) Material defects in the property;
- (d) Material defects in the title to the property;
- (e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860\*. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

- (a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or
- (b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860\*;



(7) "Commercial real estate", any real estate other than real estate containing one to four residential units or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

(8) "Commission", the Missouri real estate commission;

(9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860\* or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

(10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with the licensee;

(11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

(12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of real estate broker as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, limited partnership, association, limited liability corporation, professional corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, limited partnership, association, limited liability company, professional corporation or corporation. Every real estate broker partnership, limited partnership, association, limited liability company, professional corporation or corporation shall appoint a designated broker;

(13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

(14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

(15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

(16) "Exclusive brokerage agreement", means a written brokerage agreement which provides that the broker has the sole right, through the broker or through one or more affiliated licensees, to act as the exclusive limited agent, representative, or transaction broker of the client or customer that meets the requirements of section 339.780;

(17) "Licensee", a real estate broker or salesperson as defined in section 339.010;

(18) "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

(19) "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

(20) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

(21) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(c) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

(22) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(23) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860\*, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, pro-

vided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

**339.720. Licensee's duties and obligations in writing--licensee as transaction broker, exceptions.**

1. A licensee's general duties and obligations arising from the limited agency relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the activities enumerated in section 339.010, a licensee may act as an agent in any transaction in accordance with a written agreement as described in section 339.780.

2. A licensee shall be considered a transaction broker unless:

(1) The designated broker enters into a written seller's agent or landlord's agent agreement with the party or parties to be represented pursuant to subsection 2 of section 339.780;

(2) The designated broker enters into a subagency agreement with another designated broker pursuant to subsection 5 of section 339.780;

(3) The designated broker establishes a buyer's or tenant's agency relationship pursuant to subsection 3 of section 339.780;

(4) The designated broker enters into a written agency agreement pursuant to subsection 8 of section 339.780;

(5) The designated broker and the affiliated licensees are performing ministerial acts;

(6) The designated broker enters into a written dual agency agreement with the parties pursuant to subsection 4 of section 339.780;

(7) The designated broker is acting in a manner described in paragraph (c) of subdivision (23) of section 339.710 without proper notice of assumption of transaction broker status; or

(8) The licensee is making a listing presentation, which may include pricing and marketing advice about a potential future transaction, to a customer in anticipation of entering into a signed agency brokerage service agreement as a direct result of the presentation.

3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation to a designated broker unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection 3 of section 339.780.

4. A licensee may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a transaction broker or a seller's agent working with that seller in buying another property as a buyer's agent, as a subagent or as a transaction broker if the licensee complies with sections 339.710 to 339.860 in establishing the relationships for each transaction.

**339.730. Licensee as limited agent representing seller or landlord, duties--confidential information disclosure, when--licensee's duties to customer--showing alternative properties--subagent, duties.**

1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

(1) To perform the terms of the written agreement made with the client;

(2) To exercise reasonable skill and care for the client;

(3) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

(a) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;

(b) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease;

(c) Disclosing to the client all adverse material facts actually known or that should have been known by the licensee; and

(d) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(4) To account in a timely manner for all money and property received;

(5) To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and

(6) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.

2. A licensee acting as a seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action shall arise against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure.

3. A licensee acting as a seller's or landlord's agent owes no duty or obligation to a customer, except that a licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A seller's or landlord's agent owes no duty to conduct an independent inspection or discover any adverse material facts for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any independent inspector.

4. A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the client.

5. A seller or landlord may agree in writing with a seller's or landlord's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting as a subagent on the seller's or landlord's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.

**339.740. Licensee representing head buyer or tenant--duties and obligations of--disclosure of confidential information--licensee's duty to a customer--showing of properties--subagents.**

1. A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations:

(1) To perform the terms of any written agreement made with the client;

(2) To exercise reasonable skill and care for the client;

(3) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

(a) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease;

(b) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease;

(c) Disclosing to the client adverse material facts actually known or that should have been known by the licensee; and

(d) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(4) To account in a timely manner for all money and property received;

(5) To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and

(6) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.

2. A licensee acting as a buyer's or tenant's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a licensee acting as a buyer's or tenant's agent for making any required or permitted disclosure.

3. A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a customer, except that the licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or

any independent inspector.

4. A buyer's or tenant's agent may show properties in which the client is interested to other prospective buyers or tenants without breaching any duty or obligation to the client. This section shall not be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property.

5. A client may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting on the buyer's or tenant's behalf as a subagent shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.

**339.750. Dual agent, consent--dual agent as limited agent--disclosure of nonconfidential information, when--nondisclosure of information, when--confidential information--no imputation of information.**

1. A licensee may act as a dual agent only with the consent of all parties to the transaction. Consent shall be presumed by a written agreement pursuant to section 339.780.

2. A dual agent shall be a limited agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required by sections 339.730 and 339.740 unless otherwise provided for in this section.

3. Except as provided in subsections 4 and 5 of this section, a dual agent may disclose any information to one client that the licensee gains from the other client if the information is material to the transaction unless it is confidential information as defined in section 339.710.

4. The following information shall not be disclosed by a dual agent without the consent of the client to whom the information pertains:

(1) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;

(2) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;

(3) What the motivating factors are for any client buying, selling, or leasing the property;

(4) That a client will agree to financing terms other than those offered; and

(5) The terms of any prior offers or counter offers made by any party.

5. A dual agent shall not disclose to one client any confidential information about the other client unless the disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a dual agent for making any required or permitted disclosure. A dual agent does not terminate the dual agency relationship by making any required or permitted disclosure.

6. In a dual agency relationship there shall be no imputation of knowledge or information between the client and the dual agent or among persons within an entity engaged as a dual agent.

### **339.755. Duties and obligations of transaction broker.**

1. A real estate licensee may provide real estate service to any party in a prospective transaction without an agency or fiduciary relationship to one or more parties to the transaction. Such licensee shall be called a transaction broker.

2. A transaction broker shall have the following duties and obligations:

(1) To perform the terms of any written or oral agreement made with any party to the transaction;

(2) To exercise reasonable skill, care and diligence as a transaction broker, including but not limited to:

(a) Presenting all written offers and counteroffers in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent unless otherwise provided in the agreement entered with the party;

(b) Informing the parties regarding the transaction and suggesting that such parties obtain expert advice as to material matters about which the transaction broker knows but the specifics of which are beyond the expertise of such broker;

(c) Accounting in a timely manner for all money and property received;

(d) To disclose to each party to the transaction any adverse material facts of which the licensee has actual notice or knowledge;

(e) Assisting the parties in complying with the terms and conditions of any contract;

(f) The parties to a transaction brokerage transaction shall not be liable for any acts of the transaction broker.

3. The following information shall not be disclosed by a transaction broker without the informed consent of the party or parties disclosing such information to the broker:

(1) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;

(2) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;

(3) What the motivating factors are for any party buying, selling or leasing the property;

(4) That a seller or buyer will agree to financing terms other than those offered;

(5) Any confidential information about the other party, unless disclosure of such information is required by law, statute, rules or regulations or failure to disclose such information would constitute fraud or dishonest dealing.

4. A transaction broker has no duty to conduct an independent inspection or investigation for adverse material facts for the parties.

5. A transaction broker has no duty to conduct an independent investigation of the buyer's financial condition.

6. A transaction broker may do the following without breaching any obligation or responsibility:

(1) Show alternative properties not owned by the seller or landlord to a prospective buyer or tenant;

(2) List competing properties for sale or lease;

(3) Show properties in which the buyer or tenant is interested to other prospective buyers or tenants;

(4) Serve as a single agent, subagent or designated agent or broker, limited agent, disclosed dual agent for the same or for different parties in other real estate transactions.

7. In a transaction broker relationship each party and the transaction broker, including all persons within an entity engaged as the transaction broker if the transaction broker is an entity, are considered to possess only actual knowledge and information. There is no imputation of knowledge or information by operation of law between any party and the transaction broker or between any party and any person within an entity engaged as the transaction broker if the transaction broker is an entity.

8. A transaction broker may cooperate with other brokers and such cooperation does not establish an agency or subagency relationship.

9. Nothing in this section prohibits a transaction broker from acting as a single limited agent, dual agent or subagent whether on behalf of a buyer or seller, as long as the requirements governing disclosure of such fact are met.

10. Nothing in this section alters or eliminates the responsibility of a broker as set forth in this section for the conduct and actions of a licensee operating under the broker's license.

11. A transaction broker shall:

(1) Comply with all applicable requirements of sections 339.710 to 339.860, subsection 2 of section 339.010 and all rules and regulations promulgated pursuant to such sections; and

(2) Comply with any applicable federal, state and local laws, rules, regulations and ordinances, including fair housing and civil rights statutes and regulations.

12. If any licensee who represents another party to the same transaction either solely or through affiliate licensees refuses transaction broker status and wants to continue an agency relationship with both parties to the transaction, such licensee shall have the right to become a designated agent or a dual agent as provided for in sections 339.730 to 339.860.

13. In any transaction a licensee may without liability withdraw from representing a client who has not consented to a conversion to transaction brokerage. Such withdrawal shall not prejudice the ability of the licensee or affiliated licensee to continue to represent the other client in the transaction or limit the licensee from representing the client who refused the transaction brokerage representation in another transaction not involving transaction brokerage.

### **339.760. Written agreement, adoption by designated broker, scope.**

Every designated broker who has affiliated licensees shall adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities.

**339.770. Broker disclosure form for residential real estate transaction, provided by licensee, prior agreement, effect.**

1. In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a written agreement for services as described in subdivision (5) of section 339.710, the licensee shall provide that person with a written copy of the current broker disclosure form which has been prescribed by the commission.

2. When a seller, landlord, buyer, or tenant has already entered into a written agreement for services with a designated broker, no other licensee shall be required to make the disclosures required by this section.

3. Disclosures made in accordance with sections 339.710 to 339.860 shall be sufficient as a matter of law to disclose brokerage relationships to the public.

**339.780. Brokerage services, written agreements for, parties to, authorizations by designated broker--written agreements, limited agency, single agent, dual agent or sub-agent.**

1. All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

3. Before or while engaging in any acts enumerated in section 339.010, except ministerial acts defined in section 339.710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339.740 and the terms of compensation.

4. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a dual agent shall enter into a written agreement with the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The agreement shall include a licensee's duties and responsibilities specified in section 339.750 and the terms of compensation.

5. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a subagent shall enter into a written agreement with the designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer

that he or she is a subagent of the client. If a designated broker has made an appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such appointment may enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.

6. A designated broker who intends to act as a transaction broker and who expects to receive compensation from the party he or she assists shall enter into a written transaction brokerage agreement with such party or parties contracting for the broker's service. The transaction brokerage agreement shall include a licensee's duties and responsibilities specified in section 339.755 and the terms of compensation.

7. All exclusive brokerage agreements shall specify that the broker, through the broker or through one or more affiliated licensees, shall provide, at a minimum, the following services:

(1) Accepting delivery of and presenting to the client or customer offers and counteroffers to buy, sell, or lease the client's or customer's property or the property the client or customer seeks to purchase or lease;

(2) Assisting the client or customer in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and the counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and

(3) Answering the client's or customer's questions relating to the offers, counteroffers, notices, and contingencies.

8. Nothing contained in this section shall prohibit the public from entering into written contracts with any broker which contain duties, obligations, or responsibilities which are in addition to those specified in this section.

**339.790. Commencement of agreement, when--duties after termination of agreement.**

1. The relationships set forth in this section commence on the effective date of the real estate broker's agreement and continue until performance, completion, termination or expiration of that agreement.

2. A real estate broker and an affiliated licensee owe no further duty or obligation after termination, expiration, completion or performance of the brokerage agreement, except the duties of:

(1) Accounting in a timely manner for all money and property related to, and received during, the relationship; and

(2) Treating as confidential information provided by the client during the course of the relationship that may reasonably be expected to have a negative impact on the client's real estate activity unless:

(a) The client to whom the information pertains grants written consent;

(b) Disclosure of the information is required by law;

(c) The information is made public or becomes public by the words or conduct of the client to whom the information pertains or from a source other than the real estate brokerage or the affiliated licensee; or

(d) Disclosure is necessary to defend the designated broker or an affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee.

**339.800. Compensation of designated broker, paid by whom, sharing compensation--payment establishing agency--agreement by seller or buyer on sharing compensation.**

1. In any real estate transaction, the designated broker's compensation may be paid by the seller, the landlord, the buyer, the tenant, or a third party or by sharing the compensation between designated brokers.

2. Payment of compensation by itself shall not establish an agency relationship or transaction brokerage relationship between the party who paid the compensation and the designated broker or any affiliated licensee.

3. A seller or landlord may agree that a designated broker may share with another designated broker the compensation paid by the seller or landlord.

4. A buyer or tenant may agree that a designated broker may share with another designated broker the compensation paid by the buyer or tenant.

5. A designated broker may be compensated by more than one party for services in a transaction with the knowledge of all the parties at or before the time of entering into a written contract to buy, sell, or lease.

6. Nothing contained in this section shall relieve the licensee from the requirement of obtaining a written agreement for brokerage services or other written agreement addressing compensation.

**339.810. Misrepresentation, client liability--licensee liability--liability for subagent, limited agent licensee liability--licensee as subagent, liability.**

1. A client shall not be liable for a misrepresentation of such client's limited agent or subagent arising out of the limited agency agreement unless the client knew or should have known of the misrepresentation.

2. A client shall not be liable for a misrepresentation of such client's transaction broker arising out of the transaction broker agreement unless the client has actual knowledge of the misrepresentation.

3. A licensee who is serving as a limited agent or subagent of a client shall not be liable for misrepresentation of such licensee's client arising out of the brokerage agreement unless the licensee knew or should have known of the misrepresentation.

4. A licensee who is serving as a limited agent of a client shall not be liable for a misrepresentation of any subagent unless the licensee knew or should have known of the misrepresentation. A limited agent licensee shall not be liable for misrepresentation of an affiliated licensee unless such limited agent licensee knew or should have known of the misrepresentation.

5. A licensee who is serving as a subagent shall not be liable for a misrepresentation of the limited agent unless the subagent knew or should have known of the misrepresentation.

6. A licensee who is serving as a transaction broker shall not be liable for misrepresentation of such licensee's client arising out of the brokerage agreement unless the licensee had actual knowledge of the misrepresentation.

**339.820. Limited agency agreement, listings or representing client, appointment of affiliated licensees.**

1. A designated broker entering into a limited agency agreement with a client for the listing of property or for the purpose of representing that person in the buying, selling, exchanging, renting, or leasing of real estate may appoint in writing affiliated licensees as designated agents to the exclusion of all other affiliated licensees. A designated broker entering into a written transaction brokerage agreement with a party for the listing of property or for the purpose of assisting that person in buying, selling, exchanging, renting, or leasing of real estate may appoint in writing affiliated licensees as designated transaction brokers to the exclusion of all other affiliated licensees. If a designated broker has made an appointment pursuant to this section, an affiliated licensee assisting a party without a written agreement shall be presumed to be a transaction broker to the exclusion of all other affiliated licensees, unless a different brokerage relationship status has been disclosed to or established with that party.

2. A designated broker shall not be considered to be a dual agent or a transaction broker solely because such broker makes an appointment pursuant to this section, except that any licensee who personally represents both the seller and buyer or both the landlord and tenant in a particular transaction shall be a dual agent or a transaction broker and shall be required to comply with the provisions governing dual agents or transaction brokers.

**339.830. Designated agents' and transaction brokers' duties to client--licensees' protections from liability.**

1. All designated agents or designated transaction brokers to the extent allowed by their licenses shall have the same duties and responsibilities to the client and customer pursuant to sections 339.730 to 339.755 as the designated broker except as provided in section 339.820.

2. All licensees have the same protections from vicarious liability as provided in sections 339.710 to 339.860 as does their designated broker.

3. The provisions of this section and sections 339.710, 339.720, 339.755, 339.780, and 339.820 shall become effective January 1, 2000.

**339.840. Supersession of agency law, no limitation of civil actions.**

Sections 339.710 to 339.860 shall supersede the common law of agency with respect to whom the fiduciary duties of an agent are owed in a real estate transaction. Sections 339.710 to 339.860 shall not be construed to limit civil actions for negligence, fraud, misrepresentation or breach of contract.

**339.845. Notice of delinquent taxes to be sent by commission.**

If the commission receives a notice of delinquent taxes from the director of revenue under the provisions of section 324.010 regarding a real estate broker or salesperson, the commission shall immediately send a copy of such notice to the real estate broker with which the real estate broker or salesperson is associated.

**339.850. Rules and regulations, promulgation, authority.**

Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 339.710 to 339.860, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after January 1, 1999. All rulemaking authority delegated prior to January 1, 1999, is of no force and effect and repealed as of January 1, 1999, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to January 1, 1999. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to January 1, 1999.

**339.855. Severability clause.**

If any provision of sections 339.710 to 339.860 or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of sections 339.710 to 339.860 which can be given effect without the invalid provision or application and to such end the provisions of sections 339.710 to 339.860 are declared to be severable; however, nothing in this section shall be construed to affect the nonseverable grant of rulemaking authority in section 339.850.

**MISSOURI REAL ESTATE COMMISSION**

# **BOARD RULES**

**DIVISION 2250**



**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 1**

**Organization and Description of Commission**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 1-Organization and Description of Commission**

**20 CSR 2250-1.010 General Organization**

(1) The Missouri Real Estate Commission, an agency of the Division of Professional Registration of the Department of Insurance, Financial Institutions and Professional Registration created by Chapter 339, RSMo is responsible for the examination, licensing and regulation of persons and firms who engage in real estate business in this state as a vocation.

(2) The commission consists of seven (7) members who, except one (1) voting public member, must have had at least ten (10) years experience as a real estate broker. The members are appointed by the governor with the advice and consent of the senate. Each member is appointed to a term of five (5) years. One (1) of the members acts as chairman and one (1) of the members acts as vice chairman.

(3) The commission may do all things necessary to carry into effect the provisions of Chapter 339, RSMo and may promulgate from time-to-time necessary rules compatible with the provisions of that chapter.

(4) The commission shall hold regular meetings to review applications, complaints, investigations and audits as well as transact any necessary business as may properly come before it.

(5) Requests for general information, applications, complaint forms or copies of statutes and rules may be directed to the Missouri Real Estate Commission, 3605 Missouri Boulevard, PO Box 1339, Jefferson City, MO 65102, telephone (573) 751-2628, FAX number (573) 751-2777.

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 2**

**General Rules**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 2—General Rules**

**20 CSR 2250-2.010 Definitions**

(1) Words defined in section 339.010, RSMo shall have the same meaning when used in these rules.

(2) The following words shall be defined as stated:

(A) Commission shall mean the Missouri Real Estate Commission;

(B) License law shall mean Chapter 339, RSMo;

(C) Association shall mean an unincorporated body of persons united and acting together for the prosecution of some common enterprise, but not a partnership; and

(D) Residential property shall mean all real property improved by a structure which is used or intended to be used primarily for residential living by human occupants and which contains not more than four (4) dwelling units or which contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term cooperative housing association means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement.

(E) Commercial real estate shall mean any real estate other than real estate containing one to four (1–4) residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes as provided by section 137.016, RSMo. Commercial real estate does not include single family residential units including, condominiums, townhouses or homes in a subdivision when that real estate is sold, leased or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four (4) residential units.

(3) The singular number shall include the plural, the plural the singular and the use of any gender shall be applicable to all genders.

**20 CSR 2250-2.020 Commission Action**

(1) Any act to be taken by the commission, pursuant to the license law or these rules, may be performed by such number of the commission's members or by the officers, employees, agents or representatives of the commission as is permitted by law and authorized by a majority of the commission's membership. The commission may take any authorized action by a mail ballot or by a conference telephone call and the action so taken shall be recorded in the minutes of the commission.

(2) Neither the director nor any other employee or agent of

the commission, during the period of employment by the commission, shall engage in any act for which a license is required under the provisions of the license law or receive or become entitled to receive any fee or compensation of any kind, in any capacity whatsoever, either directly or indirectly, in connection with any real estate transaction. Nothing in this rule shall prohibit the executive director nor any employee or agent of the commission from being issued a license by the commission, so long as the license is held on an inactive status during the period of the holder's employment.

**20 CSR 2250-2.030 Records**

(1) All records kept in the office of the commission, under the authority of the license law shall be open to public inspection under such regulations as the commission may prescribe, provided that records compiled in connection with the investigation of a complaint against a licensee which could result in discipline of the license or compiled for the purpose of processing applications for licensure, are deemed to be confidential and therefore not subject to inspection by the public.

(2) It shall be improper for a real estate commissioner to discuss with a licensee or any other person, except members of the commission's staff or counsel, any matter which is confidential, including one of a disciplinary nature which is pending before the Missouri Real Estate Commission or the Administrative Hearing Commission.

**20 CSR 2250-2.040 Disputes**

(1) The commission will not enter into disputes between licensees concerning matters of commissions. The license law and these rules are designed to regulate the business conduct of licensees in the interest of the public and to discipline licensees when warranted. The commission has no authority to award money damages, but, as a condition of probation, may order restitution be made to injured parties.

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 3**

**Applications for License; License Examinations**



**Title 20—DEPARTMENT OF  
INSURANCE, FINANCIAL  
INSTITUTIONS AND  
PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real  
Estate Commission  
Chapter 3—Applications for  
License; License Examinations**

**20 CSR 2250-3.010 Applications for License**

*PURPOSE: This rule informs applicants of the requirements, procedures, and qualifications necessary for obtaining a license.*

(1) Licenses shall be granted only to persons who present, and corporations, associations or partnerships whose officers, associates, or partners present, satisfactory proof to the commission that they are persons of good moral character; bear a good reputation for honesty, integrity, and fair dealing; and are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

(2) All applications for license shall be made on forms approved by the commission and completed and signed by the applicant. The commission may deny issuance of a license to any applicant submitting an incomplete application or an application containing any false or misleading information or to any applicant failing to submit the correct fees with an application.

(3) All individuals applying for an original Missouri real estate license after December 31, 2010, must provide acceptable proof of having submitted fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and a Federal Bureau of Investigation fingerprint background check. Any fees due to fingerprint background checks shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor. Individuals who hold a current Missouri real estate license and have previously satisfied this requirement with a previous Missouri real estate license application will be considered to have met this requirement.

(4) Salesperson.

(A) Every application for original salesperson license shall be accompanied by proof acceptable to the commission that the applicant has met all applicable requirements of sections 339.010 through 339.190, RSMo, and these rules, including, but not limited to:

1. Proof of successful completion of an approved forty-eight- (48-) hour course of

study known as "Salesperson Pre-Examination Course" prior to the date of examination and no more than six (6) months prior to the receipt date as affixed by the United States Postal Service or recognized common carrier, or the date the application is hand-delivered to the Missouri Real Estate Commission during regular business hours;

2. Proof of satisfactory completion of both national and state portions of the required examination after the successful completion of the course identified as "Salesperson Pre-Examination Course"; and

3. Proof of successful completion of an approved twenty-four- (24-) hour course known as "Missouri Real Estate Practice Course" completed after successful completion of the "Salesperson Pre-Examination Course."

(5) Original salesperson type applications postmarked August 1 through September 30 of every even-numbered year will be issued a license for the subsequent licensing period without being required to obtain continuing education or submit a renewal application.

(6) Broker Type License.

(A) Every application for original broker type license shall be accompanied by proof acceptable to the commission that the applicant has met all applicable requirements of the license law and these rules, including, but not limited to:

1. Evidence of having been an actively licensed Missouri salesperson, or holding an active real estate license in another state or jurisdiction, for no less than twenty-four (24) of the last thirty (30) months immediately preceding the date of application for license;

2. Proof of successful completion of an approved forty-eight- (48-) hour course of study known as the "Broker Pre-Examination Course" no more than six (6) months prior to the receipt date as affixed by the United States Postal Service or recognized common carrier, or the date the application is hand-delivered to the Missouri Real Estate Commission during regular business hours; and

3. Proof of satisfactory completion of both portions of the required examination after having completed the "Broker Pre-Examination Course."

(7) Original broker type applications postmarked May 1 through June 30 of every even-numbered year will be issued a license for the subsequent licensing period without being required to obtain continuing education or submit a renewal application.

(8) Applicants will have six (6) months after satisfactory completion of the required

course(s) of study within which to pass the required examination and apply for license. After six (6) months, credit for such course(s) and examination will expire, and satisfactory completion of the required course(s) and examination must be repeated before applying for license.

(9) The respective pre-examination course must be completed and the completion certificate received prior to the candidate attempting to take the required examination.

(10) The commission may require an applicant for a license to furnish a recent passport-type photograph and court documents, as well as any other information deemed necessary by the commission to determine the applicant's qualifications for a license.

(11) The commission reserves the right, at its discretion, to hold any application for a reasonable length of time for investigation.

*AUTHORITY: sections 339.090 and 339.120, RSMo Supp. 2013.\* This rule originally filed as 4 CSR 250-3.010. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed June 28, 2002, effective Dec. 30, 2002. Amended: Filed April 6, 2006, effective Sept. 30, 2006. Moved to 20 CSR 2250-3.010, effective Aug. 28, 2006. Amended: Filed Oct. 12, 2007, effective April 30, 2008. Amended: Filed Aug. 18, 2009, effective Feb. 28, 2010. Amended: Filed July 15, 2016, effective Dec. 30, 2016.*

*\*Original authority: 339.090, RSMo 1941, amended 1978, 2001 and 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008.*

**20 CSR 2250-3.020 License Examinations**

*PURPOSE: This rule establishes how and by whom the examination shall be given. The requirements, fees and prohibitions are included in this rule.*

(1) The form, content, method of administration, passing standards and schedule of written license examinations shall be determined by the commission and the date and place of examinations shall be announced as far in advance as is practicable. In conducting examinations, the commission may utilize professional testing services.



(2) Fees payable by applicants for broker and salesperson license examinations shall be established by agreement with the commission and testing service administering the examination. Fees shall be paid as directed by the commission.

(3) No applicant shall be permitted to take any memoranda, pamphlet, book or paper into an examination room and otherwise shall be subject to the rules imposed by the administrator of the examination. If any applicant violates any rules imposed by the administrator while taking an examination such act shall be reason to deny issuance of a license to the applicant(s) involved.

*AUTHORITY: sections 339.090 and 339.120, RSMo Supp. 2005.\* This rule originally filed as 4 CSR 250-3.020. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Sept. 8, 2003, effective March 30, 2004. Amended: Filed April 6, 2006, effective Sept. 30, 2006. Moved to 20 CSR 2250-3.020, effective Aug. 28, 2006.*

*\*Original authority: 339.090, RSMo 1941, amended 1978, 2001 and 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1999, 2004.*

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 4**

**Form and Contents**



**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 4—Licenses**

**20 CSR 2250-4.010 Form and Contents**

(1) The commission shall issue to each licensee a license in such form as shall be prescribed by the commission.

**20 CSR 2250-4.020 Expiration and Renewal; Name and Address Changes**

(1) Renewal of License.

(A) Every license issued and every license renewal for a broker, corporation, broker-officer, partnership, broker-partner, association, broker-associate, broker-salesperson, professional corporation (broker-salesperson) or inactive broker license shall expire June 30 in each even-numbered year.

(B) Every license issued and every license renewal for professional corporation (salesperson), salesperson, or inactive salesperson license shall expire September 30 in each even-numbered year.

(C) The commission may mail to each licensee, at least thirty (30) days prior to license expiration, a notice of the expiration and an application for renewal of license to the licensee's address on file with the commission.

(D) The commission may issue a new license for each renewal period upon receipt of a properly completed renewal application, including proof of completion of the continuing education requirement pursuant to 20 CSR 2250-10.100, and the biennial fee, if the receipt date as affixed by the United States Postal Service or recognized common carrier, or if hand-delivered to the Missouri Real Estate Commission before the close of business, is no later than the date of license expiration. Additionally, for the renewal immediately following January 1, 2011, the licensee must provide acceptable proof of having submitted, between January 1, 2011, and the submission of the licensee's 2012 real estate renewal, fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and a Federal Bureau of Investigation fingerprint background check. Any fees due to fingerprint background checks shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor.

(E) Delinquent renewal applications must be accompanied by a delinquent fee of fifty dollars (\$50) per month or partial month elapsed since the date of license expiration. Delinquent fees are not to exceed two hundred dollars (\$200).

(F) Any licensee who fails to complete continuing education requirements during the renewal period must submit with their renewal proof of completion of the Missouri Real Estate Practice Course as identified in 20 CSR 2250-6.060. This course must have been completed no more than six (6) months prior to the receipt date as affixed by the United States Postal Service or recognized common carrier or the date the application is hand-delivered to the Missouri Real Estate Commission during regular business hours.

(2) Failure of a licensee to receive the notice and applica-

tion to renew from the commission shall not excuse the licensee from the requirements for renewal contained in this rule. Any licensee who fails to renew during a subsequent renewal period is no longer licensed and in order to become licensed again will be required to requalify as if an original applicant. Until a new license is procured, the holder of an expired license shall not perform any act for which a license is required.

(3) A renewal license will not be issued until the license of the broker with whom the licensee is associated has been renewed.

(4) Within ten (10) days following a change in name or home address, each licensee shall notify the commission in writing.

**20 CSR 2250-4.030 Fictitious Name**

(1) Any broker doing business under any name other than the broker's legal name or any entity doing business under any name other than the name registered with the secretary of state, shall first comply with the provisions of sections 417.200–417.230, RSMo on the registration of fictitious names and shall furnish the commission a copy of the registration within ten (10) days of receipt of the official registration from the secretary of state.

**20 CSR 2250-4.040 Individual License; Business Name; Inactive Brokers**

(1) A broker shall not conduct business under any other name or at any other address than the one for which the broker's individual license is issued unless the broker first complies with 20 CSR 2250-4.030. If a broker changes his/her name, home or business address, the broker shall notify the commission in writing within ten (10) days after the change becomes effective.

(2) When a broker returns his/her license to the commission, the broker must first comply with the provisions of 20 CSR 2250-8.155. The broker shall have six (6) months in which to change status or reinstate the license. If the application to change status or reinstate the license is not made within the six (6)-month period, the applicant will be required to complete the Missouri Real Estate Practice Course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not reinstated or placed on inactive status within the subsequent renewal period, the licensee will be required to requalify as if an original applicant.

(3) A broker may apply for inactive broker status. This request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the broker clearly printed with the word inactive and the inactive broker shall not engage in any activity for which a license is required. An inactive broker license must be renewed biennially on or before June 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A broker license which is inactive may not be reactivated until the licensee presents to the commission

the proper application accompanied by the required fee and a certificate from a school accredited by the commission evidencing satisfactory completion, within the preceding six (6) months, of the Missouri Real Estate Practice Course required by 20 CSR 2250-6.060.

#### **20 CSR 2250-4.050 Broker-Salesperson and Salesperson Licensees; Transfers; Inactive Salespersons**

(1) A broker whose license is in good standing and who elects to operate under the supervision of a licensed broker shall first comply with the provisions of 20 CSR 2250-8.155. The broker shall surrender his/her license to the commission for conversion to a broker-salesperson license. A broker-salesperson license will be issued upon receipt of the properly completed application accompanied by the required fee. No individual holding a broker-salesperson license may have a salesperson licensed under him/her. A broker license may be reinstated upon proper application to the commission accompanied by the required fee.

(2) A broker-salesperson or salesperson license shall be issued only to a person who is associated with a licensed broker. The license of each broker-salesperson or salesperson shall be mailed to the broker. A broker-salesperson or salesperson cannot be licensed with more than one (1) broker during the same period of time.

(3) Within seventy-two (72) hours of the termination of the association of any broker-salesperson or salesperson, a broker shall notify the commission and shall return to the commission that licensee's license. The broker shall provide a dated and timed receipt to the licensee when the licensee submits a letter of termination to the broker. When a licensee's license is surrendered to the commission, the licensee shall have six (6) months in which to transfer to another broker or change license status. If the application for transfer or change in status is not made within the six (6)-month period, the applicant will be required to complete the required Missouri Real Estate Practice Course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not transferred or placed on inactive status, or if no status change has been made within the subsequent renewal period, the licensee will be required to requalify as if an original applicant.

(4) An original licensee or a licensee changing license status/type shall not be deemed to be entitled to engage in any activity for which a license is required until the new license is received by the broker or until written notification is received from the commission that the application is being processed. When a broker-salesperson or salesperson transfers from one broker to another without changing license type, the licensee shall be deemed transferred at the time the properly completed application is mailed by certified, registered, or overnight delivery, if all materials required to transfer are mailed under one (1) cover. The new broker is responsible for seeing that the application is complete and that the application for transfer is mailed by certified, registered, or overnight delivery to ensure proof of delivery. If the application is deemed incomplete, the transfer will not be effective until the new license is received by the broker or until written notification is received from the commission that the applica-

tion is being processed.

(5) Upon termination of a licensee's association with a broker, the licensee shall return all property belonging to the broker, including, but not limited to all listing information acquired by the licensee in any manner during the licensee's association with the broker.

(6) A salesperson whose association with a broker is terminated may request the commission to transfer the license to an inactive status. The request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the salesperson clearly printed with the word inactive and the inactive salesperson shall not be associated with a broker nor engage in any activity for which a license is required. An inactive salesperson license must be renewed biennially on or before September 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A salesperson license which is in an inactive status may not be reactivated until the licensee presents to the commission a certificate from a school accredited by the commission evidencing satisfactory completion by that person, within the preceding six (6) months, of the Missouri Real Estate Practice Course required by 20 CSR 2250-6.060. The holder of an inactive salesperson license may be transferred to active status upon proper application to the commission accompanied by the required fee and the school completion certificate.

(7) A broker-salesperson whose association with a broker is terminated may request the commission to transfer the license to an inactive status and shall be subject to the provisions of 20 CSR 2250-4.040(3).

#### **20 CSR 2250-4.070 Partnership, Association or Corporation License**

(1) Every partnership, association, or corporation must obtain a separate and distinct real estate broker license before transacting business as a broker pursuant to Chapter 339, RSMo. If the partnership, association, or corporation wishes to do business under an assumed or fictitious name, it shall first comply with 20 CSR 2250-4.030 regarding registration of the name.

(2) Before a broker license will be issued to a partnership, association, or corporation, each partner in a partnership or each associate in an association or each officer of a corporation, who actively participates in the supervision of the real estate brokerage business of the firm, as defined in the license law, shall hold the appropriate broker license and each broker-salesperson or salesperson associated with the firm who engages in activities defined in the license law shall hold the appropriate license. In addition, each broker-partner, broker-associate, or broker-officer shall retain a comparable position/title within the firm. An individual that maintains a salesperson license may also hold an officer title within a corporation.

(3) At the time of issuance of a partnership, association, or corporation license, the applicant shall make application to the commission on a form approved by the commission

which shall include the following:

(A) The full name of the firm, the address of its principal place of business, and a statement as to its form of organization;

(B) The name, residence, and business addresses of each Missouri-licensed partner in a partnership, associate in an association, or officer of a corporation;

(C) The name and business address of the broker-partner, broker-associate, or broker-officer who has been designated by the firm as responsible for contact with the commission on business of the firm and to whom the commission will address its correspondence;

(D) The address of each branch office of the firm which engages in the activities outlined in Chapter 339, RSMo, and the name of the person in charge of the business at that address;

(E) If applying for a corporation license, a copy of the certificate of incorporation must be provided; and

(F) A statement that the information furnished is complete, true, and correct in all respects and that the entity is currently in good standing with the secretary of state. The commission must be notified in writing within ten (10) days of every change in a partnership, association, or corporation which changes any information furnished or causes the information to be incomplete. The designated broker for the firm shall be responsible for the notification.

(4) A change in the name of a partnership, association, or corporation shall require the filing of a new application with the commission accompanied by the required fee, the previously issued license and documentation from the secretary of state acknowledging the name change.

(5) A person qualifying for or renewing a broker license as a partner, associate, or officer in a licensed firm shall be issued a license as a broker-partner, broker-associate, or broker-officer, as the case may be. At the request of the holder, any such license in good standing may be converted by the commission to an individual broker, broker-salesperson, or inactive broker license on a form approved by the commission and accompanied by the required fee.

(6) Any person who qualifies as a broker may also be licensed as a broker-officer, broker-associate, or broker-partner or any combination of the four (4) types of broker licensure.

(7) The holder of a broker-partner, broker-associate, or broker-officer license is not required to maintain a separate escrow or trust account while affiliated with a licensed entity.

(8) When a broker-partner, broker-associate, or broker-officer license is returned to the commission, the licensee shall have six (6) months in which to change status or reinstate the license. If the application to change status or reinstate the license is not made within the six- (6-) month period, the applicant will be required to complete the required Missouri Real Estate Practice Course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not reinstated or placed on inactive status within the subsequent renewal period, the licensee will be required to requalify as if an original applicant.

## **20 CSR 2250-4.075 Professional Corporations**

(1) Only salespersons and broker-salespersons who are licensed to render the services mentioned in section 339.010.2, RSMo may be licensed as professional corporations.

(2) All applications for licensure as a professional corporation shall be subject to the provisions of 20 CSR 2250-3.010 and all applicable provisions of Chapter 339, RSMo.

(3) Before a professional corporation license will be issued, the proposed corporate name must be approved by the commission. The applicant shall file with the commission an application for name approval accompanied by the required fee.

(4) All professional corporation licenses shall be issued in the name of the salesperson or broker-salesperson to whom the license is issued. No fictitious names will be accepted. The name shall contain the words Professional Corporation or the abbreviation P.C. and the licensee shall use that designation in the course of rendering any professional service.

(5) All stock or shares in a professional corporation must be held by the salesperson or broker-salesperson to whom the professional corporation license is issued.

(6) At the time of issuance of a license to a professional corporation, the applicant or licensee shall file with the commission an application, accompanied by the required fee and the certificate of incorporation.

(7) Upon dissolution of a licensed professional corporation, the professional corporation is subject to the provisions of 20 CSR 2250-4.050.

## **20 CSR 2250-4.080 Nonresident Licenses; Reciprocity**

(1) A nonresident person, partnership, association or corporation seeking a license to engage in the real estate business in Missouri shall apply for an appropriate license on a form provided by the commission accompanied by the required fee.

(2) An individual who holds a real estate license in another state or jurisdiction desiring to obtain a real estate license in Missouri, must fulfill the following requirements:

(A) Salesperson Requirements:

1. An individual holding a current and active salesperson license in another state or jurisdiction at the time of application for a Missouri salesperson license must pass the state portion of the Missouri salesperson exam and complete the twenty-four (24)-hour Missouri Real Estate Practice Course. The Missouri Real Estate Practice Course may be taken before or after the exam date, but must be taken prior to applying for licensure. The forty-eight (48)-hour Missouri salesperson pre-examination course shall be waived. Application for licensure must be submitted to the commission within six (6) months of passing the state portion of the Missouri salesperson exam; and

2. A license (history) certification issued from the real estate commission of the state or jurisdiction from where

applying must be provided with the application for licensure. The nonresident certification must be issued no more than three (3) months prior to application for a Missouri license.

(B) Broker Requirements:

1. An individual holding a current and active salesperson license in another state or jurisdiction wishing to obtain a Missouri broker's license, must have twenty-four (24) of the last thirty (30) months active salesperson experience, complete the Missouri forty-eight (48)-hour broker pre-examination course, pass both portions of the Missouri broker exam and apply for licensure within six (6) months of the forty-eight (48)-hour broker course completion date;

2. An individual holding a current and active broker license in another state or jurisdiction, other than those states and jurisdictions that issue only broker licenses, must have twenty-four (24) of the last thirty (30) months active license experience as a salesperson or broker, pass the state portion of the Missouri broker exam, and apply for licensure within six (6) months of passing the state portion of the Missouri broker exam. The forty-eight (48)-hour broker pre-examination course shall be waived;

3. If licensed in a state or jurisdiction that only issues broker licenses, Missouri will recognize the single license as a salesperson license and applicants must comply with 20 CSR 2250-4.080(2)(B)1.; and

4. A license (history) certification issued from the real estate commission of the state or jurisdiction from where applying must be provided with the application for licensure. The license certification must be issued no more than three (3) months prior to application for a Missouri license.

(3) The commission may issue a nonresident license to a partnership, association or corporation organized and licensed as a real estate broker under the laws of another state or jurisdiction, provided that the applicant furnishes with the application:

(A) A license (history) certification, issued no more than three (3) months prior to the application for the Missouri license, from the nonresident licensing authority that the entity is in good standing; and

(B) Evidence that the applicant has complied with all applicable laws with respect to qualifying to do business in this state.

(4) In addition to the specific requirements set forth in this rule, every applicant for a nonresident license must meet all requirements applicable to Missouri residents and domestic firms applying for the same type of license. After licensure, a nonresident licensee shall be subject to and shall comply with all provisions of the license law and these rules.

(5) The commission may waive the examination prescribed by the license law for a nonresident individual duly licensed in any other state under the laws of which a similar exemption is extended to licensees of Missouri, provided a written agreement for reciprocal licensing exists between the licensing authorities of the states involved.

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 5**

**Payment**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 5—Fees**

**20 CSR 2250-5.010 Payment**

(1) All fees shall be paid by personal check, cashier's check or money order made payable to the Missouri Real Estate Commission. All fees are nonrefundable.

(2) No license fee or portion of the license fee will be refunded should any license be surrendered, suspended or revoked during the term for which the license is issued.

**20 CSR 2250-5.020 Application and License Fees**

(1) An application fee of fifty dollars (\$50) in addition to the original issuance fee shall be paid upon original application for a broker or salesperson license to defray the expense of processing and investigating the application.

(2) The following fees shall be paid for original issuance:

- (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson..... \$ 80
- (B) Salesperson ..... \$ 40
- (C) Partnership, Association, Corporation or Professional Corporation ..... \$ 80
- (D) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation ..... \$150 and
- (E) Nonresident Salesperson ..... \$100

(3) The following fees shall be paid for renewal of licenses:

- (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson ..... \$ 50
- (B) Salesperson or Inactive Salesperson ..... \$ 40
- (C) Partnership, Association, Corporation or Professional Corporation ..... \$ 50
- (D) Delinquent Fee ..... \$ 50 (per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee) .... \$200
- (E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation..... \$150 and
- (F) Nonresident Salesperson and Inactive Salesperson ..... \$100

(4) Effective April 1, 2008, the following fees shall be paid for the 2008 renewal of licenses expiring June 30, 2008 and September 30, 2008:

- (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson ..... \$ 10
- (B) Salesperson or Inactive Salesperson ..... \$ 10
- (C) Partnership, Association, Corporation or

- Professional Corporation..... \$ 10
- (D) Delinquent Fee..... \$ 50 (per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee) ..... \$200
- (E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation ..... \$ 10 and
- (F) Nonresident Salesperson and Inactive Salesperson ..... \$ 10

(5) The following fees shall be paid for the appropriate transactions:

- (A) Transfer/Status Change..... \$ 50
- (B) Replacement of a Lost, Destroyed or Stolen License ..... \$ 25
- (C) Certification of Licensure ..... \$ 10 and
- (D) Professional Corporation Name Approval Fee..... \$ 10

**20 CSR 2250-5.030 Miscellaneous Fees**

(1) The following miscellaneous fees for certain services rendered by the Missouri Real Estate Commission are as follows:

- (A) Duplicate Pin Card Fee ..... \$25
- (B) Bad Check Replacement Fee ..... \$25

(2) Payment of any copying fees and search fees pursuant to section 610.026, RSMo may be required before any information will be provided.

**20 CSR 2250-5.040 Application Fees for School Accreditation and Course Approval**

(1) The following fees are established for school accreditation:

- (A) Initial School Accreditation Application Fee ..... \$200
- (B) Course Approval Application Fee for courses over twelve (12) hours (per course per delivery method) ..... \$400
- (C) Course Approval Application Fee for courses less than or equal to twelve (12) hours (per course per delivery method) ..... \$100
- (D) School Accreditation Renewal Application Fee ..... \$100

(2) The following fees have been established for course approval:

- (A) Course Renewal Application Fee for course over twelve (12) hours ..... \$200
- (B) Course Renewal Application Fee for course less than or equal to twelve (12) hours (per course per delivery method) ..... \$ 50

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 6**

**Educational Requirements**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 6—Educational Requirements**

**20 CSR 2250-6.060 Content of Salesperson and Broker  
Pre-Examination Courses and the Missouri Real Estate  
Practice Course**

(1) Schools accredited to teach the forty-eight (48)-hour Salesperson Pre-Examination Course and the forty-eight (48)-hour Broker Pre-Examination Course shall develop these courses based on the detailed content outline as provided by the professional testing service contracted to administer the examination for the Missouri Real Estate Commission. This detailed content outline shall be based on the testing service's most recent job analysis of real estate professionals.

(2) The twenty-four (24)-hour Missouri Real Estate Practice Course must address the following topics:

- (A) Broker Disclosure Form;
- (B) Listing a Property.
  - 1. Types of seller agency agreements.
  - 2. Elements of seller agency agreements;
- (C) Buyer Representation.
  - 1. Types of buyer agency agreements.
  - 2. Elements of buyer agency agreements;
- (D) Acting as a Dual Agent or Transaction Broker;
- (E) Termination of Brokerage Relationships;
- (F) Compensation;
- (G) Cooperating with Other Licensees;
- (H) Obligations of Agents to Clients and Customers;
- (I) Pricing Property;
- (J) Role of the Appraiser;
- (K) Types of Financing;
- (L) Estimating Closing Costs;
- (M) Contracts;
- (N) Earnest Money;
- (O) Avoiding Misrepresentation; and
- (P) Types of Construction.



**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 7**

**Schools**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 7—Schools**

**20 CSR 2250-7.010 Standards for Real Estate School  
Accreditation and Renewal**

(1) A school wishing to offer a Salesperson Pre-Examination Course, a Broker Pre-Examination Course, a Missouri Real Estate Practice Course and/or continuing education course(s) in Missouri will be accredited by the commission upon compliance with the following requirements:

(A) Each person involved directly or indirectly in the sponsorship of a school or who participates or has an interest, financial or otherwise, in its operation, shall be at least eighteen (18) years of age and a person of good moral character and bear a good reputation for honesty, integrity and fair dealings;

(B) Each school shall be supervised by an administrator, who shall be in charge of its operations and programs;

(C) The school shall be responsible to see that the school's instructors have the specialized preparation, training and experience in the subject matter to be taught to ensure competent instruction;

(D) The school shall advise all students, prior to contractual obligation, that certain criminal convictions may prevent the student from receiving or retaining a real estate license;

(E) The school shall enter into a contract with each student enrolling to take a Salesperson Pre-Examination Course, Broker Pre-Examination Course, or the Missouri Real Estate Practice Course of study. This contract shall identify the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books which become the property of the student upon payment, the standard for the issuance of a certificate of satisfactory completion and such other matters as are material to the relationship between the school and the student;

(F) The Salesperson Pre-Examination Course, Broker Pre-Examination Course, and Missouri Real Estate Practice Course offered shall include the subjects set forth in 20 CSR 2250-6.060;

(G) In the case of classroom delivery courses, each area of study shall be conducted and supervised by an instructor who shall be present in the classroom at all times;

(H) In the case of distance delivered courses, an instructor must respond to each student's inquiries by the end of the next regular business day;

(I) The school shall issue to each student who satisfactorily completes the prescribed course of study a certificate of satisfactory completion on a form prescribed by the commission;

(J) For any continuing education classroom course attended by more than twenty-five (25) students, the sponsor shall have a person other than the instructor present to assist in administrative duties including, but not limited to, keeping records of attendance, preparing and distributing certificates and assuring that the physical facilities meet the requirements of this section;

(K) Record Maintenance.

1. Each school shall maintain for each student a record which shall include the course of instruction undertaken, dates of attendance and areas of study completed satisfactorily.

2. Each school shall maintain a copy of the attendance records for each date and time a particular course is offered.

3. A school shall supply duplicate certificates to the individuals upon request. A reasonable charge may be made for duplicate certificates.

4. Schools approved to offer courses by distance delivery, in addition, shall maintain records of all final examinations and examination administration.

5. Each student's records shall be maintained by the school for a minimum of four (4) years and shall be available for inspection by the student or by the commission or its authorized agent during regular business hours or shall provide them to the commission by certified mail within thirty (30) days of written request.

6. If a school closes, within ten (10) days, the school owner must provide in writing to the Missouri Real Estate Commission the contact information for the custodian of records for the previous four (4) years. If the school is closed due to a merger or sale, the records shall be turned over to and become the responsibility of the new school;

(L) Advertising and Publicity.

1. No school shall use any name for advertising or publicity purposes other than the name shown upon its application for accreditation.

2. No school shall advertise or imply that it is recommended, endorsed or approved by the commission, but an accredited school may indicate what courses it has been approved to teach by the Missouri Real Estate Commission.

3. No school shall permit its administrator, staff, instructor(s), or any person associated in any way to provide any misleading information to the public or prospective students.

4. No school shall permit its administrator, staff, instructor(s), or any person associated in any way approved to teach the pre-examination courses to make any warranties or guarantees that a student will pass the real estate license examination by taking its courses.

5. Each school shall advertise any approved course in clear and unambiguous terms, which includes a statement indicating the number of hours of education credit for which the course is approved and the correct title of the course as it is stated in the course approval letter provided by the commission.

6. No real estate education course shall be announced or advertised until it is approved by the commission, in writing, for credit; and

(M) Physical facilities used to teach any approved classroom course shall:

1. Be designed primarily for classroom purposes or designed for multipurpose use in the case of meeting halls and convention facilities;

2. Contain proper seating and writing surfaces;

3. Be properly lighted;

4. Be properly ventilated;

5. Be reasonably free from distracting pedestrian traffic;

6. Be reasonably free of sound and light disturbances;

and

7. Not contain recruiting material and be free of reference to individual real estate firms, groups of firms or franchises, unless the course is restricted to only licensees of the referenced firm or franchise and the notice submitted by the school to the commission is clearly marked as a restricted class.

(2) When the commission has accredited a school based upon its application and submissions, a letter of accreditation shall be issued to the school. Accreditation is granted and limited to the specific ownership as shown on the application.

(3) A school must notify the commission of any change of administrator within ten (10) days.

(4) Each school shall report to the commission, in writing within ten (10) days, any changes in the information contained in the application for accreditation or the exhibits appended to the application. Changes will not be deemed accepted until such time as acknowledgement of the changes is provided by the commission.

(5) Initial accreditation of a school shall be valid for no more than one (1) year and shall expire on March 31. Accreditation shall be renewable upon submission of an accepted renewal application as provided by the commission no earlier than sixty (60) days prior to and no later than the accreditation expiration date. If renewed before expiration, the accreditation shall expire on March 31 of the second odd-numbered year to follow the renewal date. Failure to renew prior to accreditation expiration shall void all course approvals and the school shall no longer be deemed accredited and will be required to submit the appropriate applications and documents as a new school.

#### **20 CSR 2250-7.020 Application for Accreditation**

(1) Any person or entity seeking accreditation or renewal of accreditation for a school offering a real estate classroom course of study in Missouri shall submit a completed application on a form prescribed by the commission and accompanied by supporting documents specified in the application.

(2) Any person or entity seeking accreditation or renewal of accreditation for a school offering any real estate course of study by distance delivery must submit the following:

(A) A completed application on a form prescribed by the commission and accompanied by supporting documents specified in the application; and

(B) An acknowledgement that the school has the means to reasonably capture the average time each student took to complete each distance delivered course.

(3) The commission reserves the right, at its discretion, to hold any application for a reasonable length of time for investigation and review.

#### **20 CSR 2250-7.060 Instructor Standards**

(1) Each school is responsible for hiring only appropriately trained instructors with practical experience or formal educa-

tion/training on the subject matter being presented.

#### **20 CSR 2250-7.070 General Requirements**

(1) Any school offering a Salesperson and/or Broker Pre-Examination Course, Missouri Real Estate Practice Course and/or continuing education course(s) must be accredited to teach real estate courses in Missouri before offering or advertising such course(s) for credit.

(2) For the purpose of the course offerings by accredited real estate schools, an hour means sixty (60) minutes, at least fifty (50) minutes of which shall be devoted to actual instruction and no more than ten (10) minutes of which shall be devoted to a recess. Times allotted for supervised examinations may be regarded as hours of instruction.

(3) A student enrolled in a Salesperson Pre-Examination Course shall not receive credit for attending any portion of a Broker Pre-Examination Course.

(4) A student enrolled in a Broker Pre-Examination Course shall not receive credit for attending any portion of a Salesperson Pre-Examination Course.

(5) Course approval will be for the duration of the license period for which approval is sought.

(6) All applications for course approval shall be submitted by the originating school at least ninety (90) days prior to the date the course is initially expected to be offered. Applications shall include a complete course outline showing all subjects covered in the course. In the case of a continuing education course no fewer than three (3) unique learning objectives per course hour shall be identified and included in the application prescribed by the Missouri Real Estate Commission. The commission will respond in writing to all requests for course approval within forty-five (45) days of receipt of a properly completed application. The commission will either assign a course number or other identification to a course when it is approved or will notify the applicant of the grounds for the course not being approved.

(7) If the commission determines that a proposed course does not meet prescribed standards or if the proposed course does not adequately reflect and present current real estate knowledge toward the goal of public protection and service, notice in writing specifying the deficiencies will be provided to the school. The school shall have no more than sixty (60) days to correct the deficiencies or the course will be deemed denied.

(8) With prior written permission on file from the original school, other accredited schools may offer a currently approved course and must be able to present the written permission upon request to the commission.

(9) Courses that are substantially unchanged that have been approved in the immediately preceding license period may make application, prior to the expiration date of that course, as a course renewal on a form prescribed by the commission.

(10) No classroom Salesperson Pre-Examination Course, Broker Pre-Examination Course, or Missouri Real Estate Practice Course may exceed eight (8) hours in length per day and must provide for at least a half-hour break after four (4) hours.

(11) No part of any approved education course shall be used to solicit membership in organizations, recruit licensees for affiliation with any organization, or advertise the merits of any organization.

(12) Dates, times, and location(s) of classroom course offerings must be electronically submitted to the commission at least ten (10) days prior to each course offering. Should changes occur in this information, the school must submit the changes immediately via the reporting method prescribed by the commission.

(13) Advertising for an approved distance delivered course shall clearly describe all course requirements that must be met by the licensee/student, including satisfactory completion of a final examination.

(14) The student must be physically present in the classroom during one hundred percent (100%) of the actual classroom instruction unless there is good cause as determined by the school and then the school, at its discretion, may allow a student to be absent up to ten percent (10%) of the required hours and still be issued a certificate of attendance. Documentation of duration of absence must be maintained in the school's records.

(15) No school shall allow anyone to use the school's premises or classroom to recruit new affiliates for any company one (1) hour before, one (1) hour after, during break periods, lunch periods, or during an instruction period, nor shall any school provide lists of students attending classes to any broker for the purposes of recruiting.

(16) The school, at the close of any classroom course, shall hand to each individual who has satisfactorily completed the course, a certificate of course completion in a form prescribed by the commission. For licensees who register for the continuing education course on-site without pre-registration, the certificate of course completion must be sent to the licensee within five (5) days of the course completion and the school must have an adequate sign-in/sign-out procedure to ensure attendance and certificate issuance.

(17) Within no more than ten (10) days of the completion of a course, the school shall electronically submit to the commission in a format prescribed by the commission, a complete and accurate list of attendees who have satisfactorily completed the course.

(18) All courses of study must be taught in adherence to the outline on file with the commission. In the event a substantive change is proposed, the school must file a revised course outline on a form prescribed by the commission at least thirty (30) days in advance of the scheduled course offering. Approval in writing from the commission must be received prior to implementation of any substantive course change. The commission must respond to any proposed

changes within twenty (20) days of receipt.

## **20 CSR 2250-7.080 Additional Requirements for Approved Schools Offering Distance Delivered Courses**

(1) Schools desiring to offer the Salesperson and/or Broker Pre-Examination Course, the Missouri Real Estate Practice Course and/or continuing education course(s) by distance delivery must provide, in addition to the properly completed application, the following:

(A) An exact copy or access to the entire course as it will be offered to the student to demonstrate how the student will interact and acquire knowledge of the required subjects;

(B) For each three (3) hour course, two (2) final examination forms (primary and alternate) of thirty (30) multiple choice items each, with no duplication of items and a key showing correct responses. For each pre-examination course, Missouri Real Estate Practice Course, or continuing education course of more than three (3) hours, two (2) final examination forms (primary and alternate) of at least fifty (50) multiple choice items each, with no duplication of items and a key showing correct responses. Examinations must reflect sound test development practices and must measure knowledge of the subject matter of the entire course as set out in the learning objectives as well as reflect the level of knowledge presented in the program;

(C) A copy of all examination questions and answer key, and if any question pool is used, an explanation as to how pooled exam questions are selected;

(D) A statement setting out the methods the school will use to assure that examinations are maintained securely; and

(E) A statement attesting that within ten (10) days following administration of the final examination, the school shall deliver to the student who achieves a score of at least seventy-five percent (75%) a certificate of course completion on a form prescribed by the commission.

(2) For each continuing education course, a complete outline must also be provided to the commission showing all subjects covered in the course and no fewer than three (3) unique learning objectives per course hour.

(3) A course introduction statement must be provided to the student setting out the dates during which the course is approved by the commission, the terms and conditions under which the final examination will be administered, including review of the completed workbook, and a list of specific learning objectives referenced in the final examination.

(4) By July 31 and January 31, statistical information on completion times for the preceding period must be provided to the Missouri Real Estate Commission. If statistics indicate that at least fifty percent (50%) of real estate students took less time to complete the course than identified on the course submission, the school shall have ten (10) days to either withdraw the course offering or to provide an amended course outline to remedy the course deficiency.

## **20 CSR 2250-7.090 Investigation and Review of Accredited Schools and Approved Courses**

(1) The commission may, upon its own motion, or upon writ-

ten complaint filed by any person, investigate the school, courses, course delivery and/or records maintained by an accredited school.

(2) In conducting such investigation, the commission shall have the power to hold an investigatory hearing to determine whether there is a probability that the school, or any person acting on its behalf, has performed or attempted to perform any act or practice in violation of the statutes and regulations.

(3) The commission may also investigate approved or proposed course offerings by conferring with sponsors and instructors, by visiting (with or without prior notice), or by surveys to participants, instructors and/or the school administrator.

(4) The commission may deny, suspend, revoke or place on probation the accreditation of any school if it is determined that the school, administrator, staff, instructor(s) or any person associated in any way have violated any of the requirements of Chapter 7 of these regulations or have performed or attempted to perform any acts identified in 20 CSR 2250-7.090(5).

(5) The commission may cause a complaint against the school to be filed with the Administrative Hearing Commission as provided by law when the commission believes there is a probability that a school or any person acting on its behalf has performed or attempted to perform any of the following acts:

(A) Fails to maintain the standards set out in Chapter 7 of these regulations;

(B) Is a party to any falsification of any document or other information provided to, or maintained at the request of the commission;

(C) Makes any false statement or substantial misrepresentation in applying for accreditation;

(D) Submits an application or supporting material that contains false or misleading statements or substantial misrepresentations;

(E) Has an accumulative pass rate for first-time examinees taking the school's Salesperson Pre-Examination Course or Broker Pre-Examination Course that falls below forty percent (40%) for three (3) of the last six (6) months;

(F) Causes, permits or otherwise encourages the communication of any advertising or solicitation of any kind, whether written or oral, designed to induce or encourage students, enrolled or to be enrolled at the school to enter into employment with any broker;

(G) Permits any person or entity to recruit students enrolled at the school by means of coercion, pressure tactics, free offerings, rebates or similar means;

(H) Engages in conduct which constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness;

(I) Engages in inappropriate conduct in the classroom including but not limited to the use of profanity, telling of offensive jokes, and making inappropriate remarks unrelated to the subject matter;

(J) Fails to file with the commission, accurate, timely, and complete records;

(K) Awards credit to any student who has either not taken the course or who has failed to satisfactorily complete the course;

(L) Makes false statements regarding and/or promotes specific real estate related business models, organization

structures, or organizations and fee structures; and/or

(M) As a real estate licensee violates the statutes or regulations that govern the practice of real estate in this state.

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 8**

**Business Conduct and Practice**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 8—Business Conduct and Practice**

**20 CSR 2250-8.010 Place of Business**

(1) Every resident broker, except those who have placed their licenses on inactive status or those not actively engaged in real estate business, shall maintain a regularly established place of business in this state, which shall be open to the public during usual business hours or at regular stated intervals. No salesperson may be associated with a broker not maintaining a regularly established place of business or a broker not actively engaged in the real estate business. This rule does not apply to a broker-salesperson or to broker-partners, broker-associates or broker-officers of a firm which maintains a regular place of business.

(2) A broker's business sign of sufficient size to identify it and bearing the name under which the broker or the broker's firm is licensed, or the regular business name, shall be displayed outside of the broker's regular place of business.

**20 CSR 2250-8.020 Broker Supervision and Improper Use of License and Office**

(1) Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under 339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership. A broker shall not be held responsible for inadequate supervision if—

(A) A licensed or unlicensed person violates a provision of Chapter 339, RSMo or the rules for it in conflict with the supervising broker's specific written policies or instructions;

(B) Reasonable procedures have been established to verify that adequate supervision was being performed;

(C) The broker, upon learning of the violation, attempted to prevent or mitigate the damage;

(D) The broker did not participate in the violation;

(E) The broker did not ratify the violation; and

(F) The broker did not attempt to avoid learning of the violation.

(2) A broker shall not permit licensed and unlicensed persons affiliated with the broker to—

(A) Establish and carry on real estate brokerage business for their own benefit, directly or indirectly, where the broker's primary interest is the receipt of a fee or other valuable consideration for the use of the broker's license by others; or

(B) Where the broker has no control or only nominal control of the business affairs conducted under the broker's license or is only nominally associated with the business.

(3) Appointments of designated agents and designated transaction brokers under section 339.820, RSMo shall be entered into by the designated broker or office manager/supervising broker on behalf of that broker and affiliated

licensees.

(4) Appointments of designated agents and designated transaction brokers under section 339.820, RSMo shall be made in a written agreement for brokerage services or other written notice to the client or party, unless such appointment is presumed pursuant to section 339.820.1, RSMo.

(5) Individual brokers, designated brokers, and office managers/supervising brokers shall not be considered to be a dual agent or a transaction broker solely because such broker makes an appointment under section 339.820, RSMo. However, when such broker supervises the licensees for both sides of a transaction, that broker will be a dual agent or a transaction broker upon learning confidential information about either party to a transaction or upon being consulted by any licensee involved in the transaction. Also, when the broker supervises the licensee representing or assisting one (1) side of the transaction and personally represents or assists the other side, that broker will be a dual agent or a transaction broker.

**20 CSR 2250-8.030 Branch Offices**

(1) If a broker maintains a branch office(s), each shall be operated under the same name and license as the parent office and every such place of business shall comply with the provisions of 20 CSR 2250-8.010.

(2) Project sales, leasing, or management offices maintained on-site in an apartment building, development project, duplex, apartment complex, court, office building, shopping center, or industrial development are not required to be registered as branch offices.

(3) A branch office shall be under the direct supervision of either a licensed broker, broker-salesperson, or a broker-partner, broker-associate, or broker-officer of the principal licensed broker; provided that nothing contained in this rule shall be construed to relieve the principal licensed broker from responsibility for all brokerage activities conducted at the branch office. Nothing in this section shall be construed as to prohibit the office manager from engaging in the listing and sale of real estate.

(4) A broker shall notify the commission, in writing, within ten (10) days after opening or making any change in the address or managing licensee of a branch office.

**20 CSR 2250-8.040 Sales Manager**

(1) Any licensee who acts in the capacity of a sales manager or assistant sales manager for the broker shall be required to hold a broker-salesperson license or to be licensed as a broker-partner, broker-associate or broker-officer of the broker.

**20 CSR 2250-8.050 Clerical Personnel**

(1) The activities of unlicensed clerical or office employees of a broker shall be limited to the duties normally attributed to those positions. Unlicensed persons shall not do, or attempt to do, any of the activities set out under 339.010.1.(1)–(10), RSMo.

## 20 CSR 2250-8.060 Display of License

(1) Every broker shall maintain his/her license and the licenses of all associates in the regular place of business or branch office(s). The licenses shall be displayed to any member of the public on request.

## 20 CSR 2250-8.070 Advertising

(1) Disclosure.

(A) A licensee shall not advertise to sell, buy, exchange, rent, lease or manage property in any manner indicating that the offer to sell, buy, exchange, rent, lease or manage the property is being made by a private party not engaged in the real estate business. If any part of the offering, negotiation or completion of a real estate transaction is to be handled by, through or under the direction or supervision of a licensee, directly or indirectly, the licensee shall not advertise or represent to the public in any manner that the property is for sale or lease by the owner.

(B) If a licensee advertises to sell, buy, exchange, rent, lease or manage property in which the licensee has an interest, and if the property is not listed by a brokerage entity, the advertisement shall contain, in a prominent fashion, one (1) of the following:

1. By owner-broker;
2. By owner-salesperson; or
3. By owner-agent.

(C) Nothing in this section shall be construed to eliminate the disclosure requirements found elsewhere in these rules, including those contained in 20 CSR 2250-8.110.

(2) No real estate advertisement by a licensee shall show only a post office box number, telephone number or street address. Every advertisement of real estate by a licensee shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party advertising is a real estate broker and not a private party.

(3) Every advertisement of real estate by a licensee where the licensee has no interest in the real estate shall be made under the direct supervision and in the name of the broker or firm who holds the licensee's license. If the licensee's name or telephone number, or both, is used in any advertisement, the advertisement also shall include the name and telephone number of the broker or firm who holds the licensee's license.

(4) No licensee shall advertise to buy, sell, rent, lease, manage or exchange property in any manner that indicates, directly or indirectly, any unlawful discrimination against any individual or group because of race, color, religion, national origin, ancestry, sex, handicap or familial status.

(5) Guaranteed Sales.

(A) As used in this rule, the term guaranteed sales plan includes, but is not limited to: i) any plan in which a seller's real estate is guaranteed to be sold, or ii) any plan where a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

(B) Any written advertisement by a licensee of a guaranteed sales plan shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth (1/4) as large as the largest print in the advertisement.

(C) Any radio or television advertisement by a licensee of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.

(D) Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or plan, the price for which the property will be sold or purchased and the approximate net proceeds the seller may reasonably expect to receive.

## 20 CSR 2250-8.080 Franchises; Trade Names; Insignia

(1) If a broker maintains any business relationship or affiliation, whether by franchise agreement, contract or otherwise, with another organization and uses the name, trade name or insignia of the other organization in any manner in real estate advertising, the broker shall furnish the commission a copy of the franchise agreement or contract and such other related information as the commission may require.

(2) If the franchise agreement or contract under which a broker is operating provides that the franchisor or owner of the trade name or insignia has no legal liability for the actions of the broker using the trade name or insignia, the broker shall include in all listing agreements, contracts for sale and closing statements a clear and explicit statement to that effect in type reasonably calculated to gain the attention of the reader of the document.

## 20 CSR 2250-8.090 Brokerage Service Agreements

(1) A licensee shall not advertise or place a sign upon any property offering it for sale or lease to prospective customers without the written consent of the owner or his or her duly authorized agent.

(2) A licensee shall not show residential property unless a broker holds a currently effective written seller's/lessor's agency agreement, seller's/lessor's transaction brokerage agreement, or other written authorization to show.

(3) In a commercial real estate transaction, a brokerage service agreement prepared by legal counsel for the client/customer to be represented or assisted shall not be subject to the provisions of 20 CSR 2250-8.090(4)-(7).

(4) Seller's/Lessor's Agency (Sale/Lease Listing) Agreement.

(A) Every written listing agreement or other written agreement for brokerage services shall contain all of the following:

1. The price;
2. The commission to be paid (including any and all bonuses);



3. A definite beginning date;
  4. An expiration date;
  5. The licensee's duties and responsibilities;
  6. A statement which permits or prohibits the designated broker from offering subagency;
  7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
  8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;
  9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or transaction brokers;
  10. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the seller's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;
  11. The signatures of all owners and the listing broker or listing agent as authorized by the broker;
  12. The type of listing;
  13. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property; and
  14. All other terms and conditions under which the property is to be sold, leased, or exchanged.
- (B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the listing after the expiration date.
- (C) Any addendums, riders, endorsements, attachments, or changes to the listing agreement or other written agreement for brokerage services must contain the initials of all parties.
- (D) The licensee shall give a legible copy of every written listing agreement or other written agreement for brokerage services to the owner of the property at the time the signature of the owner is obtained.
- (E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.
- (F) No licensee shall make or enter into a net listing agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.
- (G) A listing agreement or other written agreement for brokerage services may not be assigned, sold, or otherwise transferred to another broker without the express written

consent of all parties to the original agreement.

(5) Buyer's/Tenant's Agency Agreement.

(A) Every written buyer or tenant authorization shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;
2. The commission or fee to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. A statement which permits or prohibits the designated broker from offering subagency;
7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;
9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or transaction brokers;
10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the buyer's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;
11. The signatures of the buyers or tenants and the broker or agent as authorized by the broker;
12. The type of agreement; and
13. All other terms and conditions prescribed by the buyers or tenants.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any addendums, riders, endorsements, attachments, or changes to the agreement or other written authorization must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the written authorization shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) A buyer or tenant agency agreement may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original buyer or tenant agency agreement.

(6) Transaction Brokerage Agreement Between Broker and Seller/Lessor.

(A) Every written seller's or lessor's transaction brokerage agreement shall contain all of the following:

1. The price;  
2. The commission to be paid (including any and all bonuses);

3. A definite beginning date;  
4. An expiration date;  
5. The licensee's duties and responsibilities;  
6. The signatures of all owners and the broker or affiliated licensee as authorized by the broker;  
7. The type of agreement;

8. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;

9. All other terms and conditions under which the property is to be sold, leased, or exchanged;

10. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or other transaction brokers; and

11. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any addendums, riders, endorsements, attachments, or changes to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement to the owner of the property at the time the signature of the owner(s) is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) No licensee shall make or enter into a net agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.

(G) Transaction brokerage agreements may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

(7) Transaction Brokerage Agreement Between Broker and Buyer/Tenant.

(A) Every written buyer's or tenant's transaction brokerage agreement shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;

2. The commission or fee to be paid (including any and

all bonuses);

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

6. The signatures of the buyers or tenants and the broker or affiliated licensee as authorized by the broker;

7. The type of agreement;

8. All other terms and conditions prescribed by the buyers or tenants;

9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or other transaction brokers; and

10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any addendums, riders, endorsements, attachments, or changes to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the agreement shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) Transaction brokerage agreements may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

(8) Other Written Authorization. Written authorization to show residential property without an agency agreement or transaction brokerage agreement with the owner/landlord must contain all of the following:

(A) A definite beginning date;

(B) An expiration date;

(C) The signatures of all owners or landlords and the broker or licensee as authorized by the broker;

(D) The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;

(E) Permission to enter and show the property;

(F) The commission or fee to be paid (including any and all bonuses);

(G) All other terms and conditions prescribed by the owners or landlords;

(H) Any addendums, riders, endorsements, attachments, or changes to the written authorization must contain

the initials of all parties; and

(I) A statement which confirms that the owner or landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the other written authorization, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(9) Every written property management agreement or other written authorization between a broker and the owners of the real estate shall:

(A) Identify the property to be managed;

(B) State the amount of fee or commission to be paid and when the fee or commission will be paid;

(C) Specify whether security deposits and prepaid rents will be held by the broker or the owner;

(D) Contain the beginning date of the agreement;

(E) Provide the terms and conditions for termination of the property management agreement by the broker or the owner of the property;

(F) Include the licensee's duties and responsibilities;

(G) Contain a statement which permits or prohibits the designated broker from offering subagency (not applicable for transaction broker agreements);

(H) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

(I) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

(J) Include specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by sections 339.710 to 339.860, RSMo, including but not limited to tenant's agents and/or transaction brokers;

(K) Contain a statement which confirms that the landlord received the Broker Disclosure Form prescribed by the commission:

1. On or before the signing of the brokerage relationship agreement; or

2. Upon the licensee obtaining any personal or financial information, whichever occurs first;

(L) Contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker; and

(M) Any addendums, riders, endorsements, or attachments to the property management agreement or other written authorization between a broker and the owners of the real estate shall contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker.

(10) The licensee shall give to the owner or the owner's authorized agent a legible copy of every written property management agreement or other written authorization at the time the signature of the owner is obtained. The licensee's broker shall retain a copy of the written property management agreement or other written authorization and a signed copy of any addendums, riders, endorsements, or attachments to the written property management agreement or other written authorization.

## 20 CSR 2250-8.095 Brokerage Relationship Disclosure

(1) Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to disclose such relationships in the following instances and manner:

(A) Seller's/Landlord's Agent or Subagent.

1. A licensee acting as an agent or subagent of the seller/landlord shall disclose this agency status no later than the first showing to a buyer/tenant who is not represented by or working with another licensee pursuant to sections 339.710 to 339.860, RSMo.

2. If the buyer/tenant is represented by another licensee, the disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.

3. If the seller's/landlord's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the seller's/landlord's agent.

4. In a cooperative sale/lease between a seller's/landlord's agent and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's agent shall make disclosure of this agency status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, their agent, or transaction broker, the seller's/landlord's agent shall disclose this agency status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.

6. If the landlord's agent is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)-(e), RSMo, make the disclosure described herein on behalf of the landlord's agent;

(B) Buyer's/Tenant's Agent or Subagent.

1. A licensee acting as an agent or subagent of the buyer/tenant shall disclose this agency status no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to sections 339.710 to 339.860, RSMo.

2. If the seller/landlord is represented by another licensee, the disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.

3. If the buyer's/tenant's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the buyer's/tenant's agent.

4. In a cooperative sale/lease between a buyer's/tenant's agent and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's agent shall make disclosure of this agency status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent, or transaction broker, the buyer's/tenant's agent shall establish first

contact with the seller's/landlord's agent or transaction broker and disclose this agency status prior to the presentation of an offer to exchange, purchase, rent, or lease.

6. If the landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5) (a)–(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

(C) Dual Agent.

1. A licensee acting as a dual agent in a real estate transaction shall disclose this agency status immediately upon its occurrence to all parties of a real estate transaction.

2. In a non-designated agency transaction, the disclosure made by the licensee procuring the buyer/tenant (selling licensee) shall serve as disclosure for the listing licensee and designated broker.

3. A designated broker who becomes a dual agent and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this agency status provided written consent was given by all parties to the real estate transaction pursuant to 339.750.1, RSMo;

(D) Transaction Broker Assisting Seller/Landlord.

1. A licensee assisting a seller/landlord as a transaction broker who has not been deemed a transaction broker pursuant to section 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to buyer/tenant who is not represented by or working with another licensee pursuant to sections 339.710 to 339.860, RSMo.

2. If the buyer/tenant is represented by another licensee, this disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.

3. If the licensee has not entered into a written transaction brokerage agreement with the seller/landlord, the licensee shall disclose the licensee's transaction broker status to the seller/landlord upon establishing such relationship with the seller/landlord.

4. In a cooperative sale between a seller's/landlord's transaction broker and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's transaction broker shall make disclosure of this brokerage relationship status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, or their agent or transaction broker, the seller's/landlord's transaction broker shall disclose this brokerage relationship status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.

6. If the landlord's transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)–(e), RSMo, make the disclosure described herein on behalf of the landlord's transaction broker;

(E) Transaction Broker Assisting Buyer/Tenant.

1. A licensee assisting a buyer/tenant as a transaction broker who has not been deemed a transaction broker pursuant to section 339.710(19)(c), RSMo, shall disclose

this brokerage relationship no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to sections 339.710 to 339.860, RSMo.

2. If the seller/landlord is represented by another licensee, this disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.

3. If the licensee has not entered into a written transaction brokerage agreement with the buyer/tenant, the licensee shall disclose the licensee's transaction broker status to the buyer/tenant upon establishing such relationship with the buyer/tenant.

4. In a cooperative sale/lease between a buyer's/tenant's transaction broker and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's transaction broker shall make disclosure of this brokerage relationship status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent, or transaction broker, the buyer's/tenant's transaction broker shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this brokerage relationship status prior to the presentation of an offer to exchange, purchase, rent, or lease.

6. If the landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5) (a)–(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

(F) Transaction Broker Pursuant to 339.710(19)(c), RSMo.

1. A licensee who becomes a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this transaction broker status immediately upon its occurrence to all parties to the real estate transaction to be confirmed in writing prior to the execution of the contract.

2. The disclosure of the licensee procuring the buyer (selling licensee) shall serve as disclosure for the listing licensee and designated broker.

3. A designated broker who becomes a transaction broker and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this status provided written consent was given by all parties to the real estate transaction.

## 20 CSR 2250-8.096 Brokerage Relationship Confirmation

(1) Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party's first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate contract, provided that any addendum or incorporated document containing the written confirmation must include a separate signature section for acknowledging the written confirmation that shall be signed and dated by each party to the real estate transaction.

(A) Written confirmation must—

1. Identify the licensee's brokerage relationship;
2. Identify the source or sources of compensation;
3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;
4. Confirm the seller's/landlord's and buyer's/tenant's receipt of the Broker Disclosure Form prescribed by the commission;

5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to 20 CSR 2250-8.200–20 CSR 2250-8.210, the landlord shall not be required to sign the written confirmation; and

6. Be signed and dated by the disclosing licensees on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200–20 CSR 2250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)–(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

(B) A signed copy shall be given to the seller/landlord and buyer/tenant and a signed copy shall be retained by the disclosing licensee's broker. If any party to the real estate transaction refuses to sign the confirmation, the licensee working with that party pursuant to 339.710 to 339.860, RSMo, shall set forth, sign and date a written explanation of the facts of refusal and the explanation shall be retained by the licensee's broker.

(2) In a commercial real estate transaction where the real estate contract is prepared by legal counsel for the seller/landlord or buyer/tenant, the written confirmation by the party or parties who are represented by legal counsel shall not be required.

#### **20 CSR 2250-8.097 Broker Disclosure Form**

(1) In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the licensee shall provide that person with a written copy of the current Broker Disclosure Form prescribed by the Missouri Real Estate Commission. In any event, a licensee shall provide the party that has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the Broker Disclosure Form upon obtaining any personal or financial information or before the signing of a brokerage service agreement, whichever occurs first. If a landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)–(e), RSMo, provide a tenant with a written copy of the current Broker Disclosure Form prescribed by the commission on behalf of the landlord's agent or transaction broker.

(2) The brokerage relationship marked as offered on the Broker Disclosure Form shall correspond to the written office policy adopted by the designated broker pursuant to

339.760.1, RSMo.

#### **20 CSR 2250-8.100 Offers**

(1) Every licensee shall make certain that all of the terms and conditions authorized by the principal in a transaction are specified and included in an offer to sell or buy and shall not offer the property on any other terms. Every written offer shall contain the legal description or property address, or both, and city where the property is located, or in the absence of, a clear description unmistakably identifying the property.

(2) Every licensee shall promptly tender to the seller or seller's agent every written offer to purchase and shall promptly tender to the buyer or buyer's agent any counteroffer made by the seller, including any back-up contracts properly identified as such, and upon procuring a proper acceptance of an offer to purchase shall promptly deliver copies of the same, signed by both buyer and seller, to each party to the transaction. A buyer or seller must be promptly advised when an offer or counteroffer has been rejected.

(3) Any change to a contract shall be initialed by all buyers and sellers. Acceptance of each fully executed contract shall include the date at which final agreement was reached either by 1) specific acknowledgement of final acceptance date; or 2) date of the last signature or initial to the contract.

#### **20 CSR 2250-8.110 Licensee's Interest in Transactions; Relationship with Parties**

(1) A licensee shall not acquire an interest in, sell, buy, exchange, rent or lease any real estate, directly or indirectly, without first making the licensee's status as a licensee known in writing to the other parties in the transaction.

(2) Before buying, exchanging, selling or leasing real estate for another party, the licensee shall disclose in writing any ownership which a licensee has or will have and the licensee's status as a licensee to all parties to the transaction.

(3) A licensee shall not advise against or discourage the use of the services of an attorney by any party in any real estate transaction.

(4) Directed or Controlled Business.

(A) Definitions.

1. The term settlement service includes any service provided in connection with a real estate sale, lease, trade, exchange or settlement including, but not limited to, the following: mortgage or other financing, title searches, title examinations, the provision of title certificates, title insurance, hazard insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest, fungus, mechanical or other inspections, services rendered by a real estate agent or broker, and the handling of the processing and closing or settlement.

2. The term controlled business arrangement means an arrangement in which a real estate licensee, or an associate of a real estate licensee, has either an affiliate relationship with or a direct or beneficial ownership interest of more than one percent (1%) in a provider of settlement services.

3. The term associate means one who has one (1)

or more of the following relationships with a real estate licensee:

A. A spouse, parent or child of a real estate licensee;

B. A corporation or business entity that controls, is controlled by or is under common control with a real estate licensee;

C. An employer, officer, director, partner, franchisor or franchisee of a real estate licensee; or

D. Anyone who has an agreement, arrangement or understanding with a real estate licensee, the purpose or substantial effect of which is to enable the real estate licensee to refer settlement business to benefit financially from the referrals of that business.

(B) A licensee who has a controlled business arrangement with a provider of settlement services and who, directly or indirectly, refers business to that provider or affirmatively influences the selection of that provider shall disclose the arrangement to the person whose business is referred or influenced. This disclosure shall be given on a separate form and shall be signed by the person whose business is referred or influenced. The disclosure shall be given and signed before or at substantially the same time that the business is referred or the provider is selected. The licensee shall retain a copy of the signed form. The form shall be in at least ten (10)-point type and shall contain the following language:

#### DISCLOSURE OF REFERRAL OF BUSINESS

I understand that (*Name of Real Estate Licensee*) has an affiliate relationship with or owns an interest in (*Name of Company to Which Business is Being Referred*) and is also recommending that I employ this company for (*Type of Service*).

I realize that (*Name of Real Estate Licensee*) may earn financial benefits from my use of this company.

I understand that I am not obligated to use this company, and may select a different company if I wish to do so.

This form has been fully explained to me.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Person Whose Business is Being Referred)

The form may be modified to describe more accurately the nature of the service, the referring entity and the entity receiving the referral, provided that its content and meaning are not changed in substance.

(C) A licensee, directly or indirectly, shall not require a party to a real estate sale or lease to use and shall not condition the performance of real estate brokerage services on the use by a party of any particular provider of settlement services.

(5) A licensee shall comply in all respects with the requirements of the federal Real Estate Settlement Procedures Act and corresponding regulations, in transactions governed by

the law and regulations.

(6) An "as is clause" written into a contract for the sale of real estate does not relieve a licensee of the requirements of section 339.100.2(2), RSMo.

#### 20 CSR 2250-8.120 Deposits to Escrow or Trust Account

(1) All money received by a licensee as set out in section 339.100.2(1), RSMo shall be deposited in the escrow or trust account maintained by the broker no later than ten (10) banking days following the last date on which the signatures or initials, or both, of all the parties to the contract are obtained, unless otherwise provided in the contract. Earnest money received prior to acceptance of a written contract may be deposited into the escrow account by the broker with the written authorization of the party(ies) providing the funds.

(2) A licensee shall immediately deliver to the broker with whom affiliated all money received in connection with a real estate transaction in which the licensee is engaged.

(3) The escrow or trust account maintained by a broker, as required by the license law, shall be a checking account in a bank, savings and loan or credit union. If the escrow or trust account maintained by a broker is an interest-bearing account, the broker shall disclose in writing to all parties to the transaction that the account is interest-bearing and the disclosure shall indicate who is to receive the interest.

(4) Each broker shall deposit into the escrow or trust account all funds coming into the broker's possession as set out in section 339.100.2(1), RSMo, including funds in which the broker may have some future interest or claim and including, but not limited to, earnest money deposits, prepaid rents, security deposits, loan proceeds and funds paid by or for the parties upon closing of the transaction. No broker shall commingle personal funds or other funds in the broker's escrow account except to the extent provided by section 339.105.1, RSMo. Commissions payable must be removed from the escrow account at the time the transaction is completed. After the transaction is completed, interest payable shall be disbursed to the appropriate party(ies) from the escrow account no later than ten (10) banking days following the receipt of the next statement of the escrow account. When the licensee receives all interest earned, interest payable to a licensee must be removed from the escrow account within ten (10) banking days following the receipt of the next statement of the escrow account.

(5) In addition to the notification required by section 339.105.2, RSMo, each broker shall consent upon the request of the commission or its agent to the examination and audit of the broker's escrow or trust account by the commission or its agent. As part of the consent, each broker, upon opening any additional account(s), shall execute a form entitled Consent to Examine and Audit Escrow or Trust Account.

(6) Each check written on an escrow account or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related real estate transaction(s). Each check written on an escrow account for commission shall be made payable to

the licensee to whom the commission is owed or to the firm's general operating account.

(7) The designated broker and the branch office manager shall be responsible for the maintenance of the escrow account and shall ensure the brokerage's compliance with the statutes and rules related to the brokerage escrow account(s).

#### **20 CSR 2250-8.130 Earnest and Escrow Money; Disputes**

(1) A broker shall not accept any note, nonnegotiable instrument or anything of value not readily negotiable as earnest money in a transaction without the signed, written consent of the owner of the real estate.

(2) In the event a dispute arises concerning the return or forfeiture of any monies or other valuables held by a broker in escrow, the broker shall continue to retain the money or valuables in escrow until a written release is obtained from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time payment may be made into the court. However, in the absence of a pending civil action or written release and upon passage of sixty (60) days from the date of the dispute, a broker may disburse escrow monies or valuables to either party to the transaction based upon a good faith decision by the broker that the opposite party has failed to perform as agreed, but this disbursement shall only be made after the broker has given fifteen (15) days' written notice by certified mail to all parties concerned at their last known address setting forth the broker's proposed action. The commission will not take disciplinary action against a broker who in good faith disburses escrow monies or other valuables pursuant to this rule; however, nothing in this rule relieves a broker of any civil action which the damaged party may file in a court of law nor does this rule require a broker to remove money or other valuables from the broker's escrow account when disposition is disputed by the parties.

#### **20 CSR 2250-8.140 Standard Forms**

(1) When acting as a broker in a transaction, a broker may use current standardized forms including, but not limited to, contracts, agency disclosures, property management agreements, listing agreements, warranty deeds, quit claim deeds, trust deeds, notes, security instruments and leases, prepared or approved by the broker's counsel or by the counsel for a trade association of which the broker is a member or associate member, or by a Missouri state or local bar association and may complete them by filling in blank spaces to show the parties, property description and terms necessary to close the transaction the broker has procured.

(2) A real estate broker shall not make a separate charge for completing any standardized forms and shall not prepare those forms for persons in transactions in which s/he is not acting as a broker, unless the broker is one of the parties to the contract or instrument or owns or is employed by an escrow company or closing firm which is handling the closing.

#### **20 CSR 2250-8.150 Closings and Closing Statements**

(1) Every broker shall deliver or cause to have delivered to the buyer and the seller in every real estate transaction

where s/he acts as a broker, at the time the transaction is consummated, a complete, accurate and detailed statement showing all material financial aspects of the transaction, including the true sale price, the earnest money received, any mortgages or deeds of trust of record, all money received by the broker in the transaction, the amount, and payee(s) of all disbursements made by the broker. If the buyer and seller are represented by different brokers, it shall be the responsibility of the listing broker to deliver, or cause to have delivered, the closing statements. If a broker personally handles a closing, on the day of closing the broker shall sign and date the closing statement.

(2) A broker may arrange for a closing to be administered by a title company, an escrow company, a lending institution or an attorney, in which case the broker shall not be required to sign the closing statement; however, it shall remain each broker's responsibility to require closing statements to be prepared, to review the closing statements to verify their accuracy and to deliver the closing statements to the buyer and the seller or cause them to be delivered. The detailed closing statement shall contain all material financial aspects of the transaction, including the true sale price, the earnest money received, any mortgages or deeds of trust of record, all monies received by the broker, closing agent or company in the transaction, the amount, and payee(s) of all disbursements made by the broker, closing agency or company and the signatures of the buyer and seller.

(3) The brokers for the buyer and the seller shall retain legible copies of both buyer's and seller's signed closing statements.

(4) A salesperson shall not conduct the closing of any real estate transaction except under the direct supervision of the manager or broker with whom the salesperson is associated.

#### **20 CSR 2250-8.155 Closing a Real Estate Brokerage Firm**

(1) Voluntary Closing.

(A) A real estate brokerage shall be closed in the following manner. The individual broker or the designated broker shall—

1. Notify the commission in writing on a form prescribed by the commission of the effective date of the closing, the location where the records will be stored, and that all requirements of 20 CSR 2250-8.155(1) have been met;

2. Notify all licensees associated with the brokerage in writing of the effective date of closing. The licenses of any licensees associated with the brokerage at the time of closing must be returned to the commission with the closing statement;

3. Notify all current listing, buyer or tenant agreement, and management contract clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the brokerage will close. All listing, buyer, tenant, and management clients must be advised in writing that they may enter into a new listing, buyer, tenant, or management agreement with the broker of their choice;

4. Remove all advertising signs from all properties which were listed with or managed by the brokerage. Arrange to cancel all advertising in the name of the brokerage, including office signs and telephone listing advertisements;

5. Maintain all escrow or trust accounts until all monies

are transferred to a title company, an escrow company, or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds; and

6. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company, or an attorney. In the case of a sale, transfer, or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the express written consent of all parties to the transactions. Notify all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

(2) Revocation/Suspension.

(A) Individual Broker or Corporation, Partnership, or Association. Upon the revocation or suspension of an individual broker, corporation, partnership, or association, the individual broker or designated broker shall—

1. Cease all brokerage business immediately upon the effective date of the suspension or revocation order;

2. Notify the commission of the location where records and files will be stored, as well as the name, address, and phone number of the custodian who will be storing the records and files;

3. Notify all licensees associated with the brokerage of the revocation/suspension and return all licenses held by the broker to the commission;

4. Notify all current listing, buyer or tenant agreement, and management contract clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the brokerage will close. All listing, buyer, tenant, and management clients must be advised in writing that they may enter into a new listing, buyer, tenant, or management agreement with the brokerage of their choice;

5. Remove all advertising signs from all properties which were listed with or managed by the brokerage;

6. Cancel or suspend all advertising and telephone listing advertisements. In case of suspension, post a notice of the suspension period on the outside of the office in a prominent location. In case of revocation, the licensee shall remove all office signs visible to the public;

7. Maintain all escrow or trust accounts until all monies are transferred to a title company, a lending institution, an escrow company, or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds;

8. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company, or an attorney. Notify all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

9. Notify the commission in writing on a form prescribed by the commission of the location where the records will be stored and that all requirements of 20 CSR 2250-8.155(2) have been met.

(3) Closing as a Result of Death or Disability. Upon the death or disability of an individual broker, or upon the death or disability of one (1) or more of the licensed broker-partners, broker-officers, or broker-associates of a real estate partnership, corporation, or association in which the affairs of the partnership, corporation, or association cannot be carried on, the following procedures shall apply:

(A) All licensees associated with the broker, corporation, partnership, or association must cease all brokerage activity until their licenses have been transferred to another broker; and

(B) The administrator or executor of the broker's, broker-officer's, broker-partner's, or broker-associate's estate or the legal representative thereof—

1. May, as provided in section 339.040.8, RSMo, apply for a temporary broker license for the sole purpose of concluding pending business;

2. Shall follow the procedures established in section (1) for voluntary closing; and

3. Shall notify the commission in writing on a form prescribed by the commission of the effective date of the closing, the location where the records will be stored, and that all requirements of 20 CSR 2250-8.155(3) have been met.

**20 CSR 2250-8.160 Retention of Records**

(1) Every broker shall retain for a period of at least three (3) years true copies of all business books; accounts, including voided checks; records; contracts; brokerage relationship agreements; closing statements and correspondence relating to each real estate transaction that the broker has handled. The records shall be made available for inspection by the commission and its authorized agents at all times during usual business hours at the broker's regular place of business. No broker shall charge a separate fee relating to retention of records.

(2) Every broker shall retain for a period of at least three (3) years true copies of all property management agreements, correspondence or other written authorization relating to each real estate transaction relating to leases, rentals or management activities the broker has handled. The broker must also retain all business books, accounts and records unless these records are released to the owner(s) or transferred to another broker by written detailed receipt or transmittal letter agreed to in writing by all parties to the transaction.

**20 CSR 2250-8.170 General**

(1) Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

**20 CSR 2250-8.200 Management Agreement Required**

(1) When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

(2) A licensee who is managing the leasing or rental of real



estate shall not act as an agent in the sale or exchange of that real estate unless the licensee complies with the requirements of 20 CSR 2250-8.090.

**20 CSR 2250-8.220 Escrow or Trust Account and a Separate Property Management Escrow Account Required**

(1) A broker shall establish and maintain a separate escrow account(s), to be designated as a property management escrow account(s), for the deposit of current rents and money received from the owner(s) or on the owner's(s') behalf for payment of expenses related to property management. Before making disbursements from a property management escrow account, a broker shall ensure that the account balance for that owner's(s') property(ies) is sufficient to cover the disbursements.

(2) All security deposits held by a broker shall be maintained, intact, in an escrow account other than the property management account(s), pursuant to section 339.105, RSMo, unless the owner(s) have agreed otherwise in writing.

(3) All money received by a broker in connection with any property management must be deposited within ten (10) banking days to the escrow or trust account maintained by the broker.

(4) A property manager shall immediately deliver to the supervising broker all money received in connection with any property management.

(5) The property management escrow account(s) maintained by the broker shall be an account in a bank, savings and loan, or credit union.

(6) Fees or commissions payable to a broker must be withdrawn from a property management escrow account at least once a month unless otherwise agreed in writing. Any rent paid in advance as a deposit for the last month's rent or as rent other than the current month's rent held by a broker shall be deposited in the property management escrow account unless otherwise agreed to in writing.

(7) In addition to the notification required by section 339.105.2, RSMo, each broker, upon the request of the commission or its agent, shall consent to the examination and audit of the broker's property management escrow account(s) by the commission or its agent. As part of the consent, each broker shall execute a form presented to him/her by the commission or its agent entitled Consent to Examine and Audit Escrow or Trust Account.

(8) Each check written on an escrow account, or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related transaction. Each check written on an escrow account for licensee fees or commission shall be made payable to the licensee who is owed the fee or commission or to the firm's general operating account.

**20 CSR 2250-8.230 Security Deposits: Disputes**

(1) The return of security deposits to lessees and disputes with lessees are governed by section 535.300, RSMo and any other applicable law.

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 9**

**Disciplinary Proceedings**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 9—Disciplinary Proceedings**

**20 CSR 2250-9.010 Complaints**

(1) A complaint against a licensee shall be in writing setting forth in clear and concise language the alleged violation, on forms provided by the commission, sworn to by the person making the complaint and submitted to the commission. Upon its own motion, the commission may initiate a complaint against a licensee.

(2) Each complaint received under this rule will be logged and maintained by the commission. The log will contain a record of each complainant's name and address (if given), the name and address of the subject(s) of the complaint, the date each complaint is received by the commission, a notation whether the complaint resulted in its dismissal by the commission or in formal charges being filed with the Administrative Hearing Commission, and the final disposition of the complaint. The log shall be a closed record of the commission.

(3) Each complaint received under this rule shall be acknowledged in writing to the complainant (if known). The complainant (if known) shall be notified of the final disposition of the complaint.

(4) This rule shall not be deemed to limit the commission's authority to file a complaint with the Administrative Hearing Commission charging a licensee with any actionable conduct or violation, whether any complaint exceeds the scope of the acts charged in a preliminary complaint filed with the commission and whether any complaint has been filed with the commission.

(5) The commission interprets this rule to exist for the benefit of those members of the public who submit complaints to the commission. This rule is not deemed to protect or benefit those licensees, or other persons against whom the commission has instituted or may institute administrative or judicial proceedings concerning possible violations of the provisions of Chapter 339, RSMo.

**20 CSR 2250-9.020 Investigation**

(1) Upon receipt of a complaint in proper form, the commission shall investigate the actions of the licensee against whom the complaint is made. In conducting an investigation, the commission, in its discretion, may request the licensee under investigation to answer the charges in writing and to produce relevant documentary evidence and may request the licensee to appear before it. A copy of any written answer of the licensee may be furnished to the complainant if it would assist in the investigation of the matters raised by the complaint.

**20 CSR 2250-9.030 Dismissal of Complaint**

(1) If an investigation reveals that a complaint does not involve a violation of the license law or these rules of the commission, the complaint will be dismissed by the commission and the parties involved will be so advised.

(2) Withdrawal of a valid, legitimate complaint against a licensee as the result of restitution of money or property to the complainant, or other corrective action by the licensee, shall not be grounds for dismissal of a complaint by the commission except at its discretion.

**20 CSR 2250-9.040 Violations**

(1) If an investigation discloses a probability that the acts of the licensee may be those to justify disciplinary action, the matter will be presented to the Administrative Hearing Commission for determination.

**20 CSR 2250-9.050 Action by the Commission**

(1) Upon final ruling by the Administrative Hearing Commission that the acts of a licensee constitute a violation of the license law or these rules, the commission shall proceed to revoke or suspend the license of the offending licensee or take other authorized action as it shall deem appropriate.

(2) The commission may require a person who formerly held a license but had the license placed on probation, suspended or revoked, to meet and perform certain conditions before reinstating or reissuing a license to this person. These conditions may include, but shall not be limited to, satisfactory completion of certain educational requirements, passage of a written examination of the type given to applicants for licensure, personal appearances before and periodic reports to the commission and restitution of money or property.

**MISSOURI REAL ESTATE COMMISSION**

# **CHAPTER 10**

**Continuing Education**

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
Division 2250—Missouri Real Estate Commission**

**Chapter 10—Continuing Education**

**20 CSR 2250-10.100 Continuing Education Requirements for Licensees**

(1) Each real estate licensee who holds an active license shall complete during the two (2)-year license period prior to renewal, as a condition precedent to license renewal, a minimum of twelve (12) hours of real estate instruction approved for continuing education credit by the Missouri Real Estate Commission. An active license is any license issued by the commission except those which have been placed on inactive status. Failure to provide the commission evidence of course completion as set forth shall constitute grounds for not renewing a license. For purposes of 20 CSR 2250-10, an hour is defined as sixty (60) minutes, at least fifty (50) minutes of which shall be devoted to actual classroom instruction and no more than ten (10) minutes of which shall be devoted to a recess. No credit will be allowed for fractional hours.

(2) Licensees will be responsible for verification, via the Missouri Real Estate Commission's Internet system, that all Missouri approved continuing education courses taken during the current renewal period by the licensee have been reported to the commission by the school. It shall be the licensee's responsibility to report any missing information to the course provider so that accurate records of courses are reflected in the commission's records.

(3) At least three (3) hours of the twelve (12) hours of approved instruction shall be taken in a course identified by the Missouri Real Estate Commission and noticed on its official website, no later than March 31 of each even-numbered year as a core course for the following renewal period. Should the commission not identify a topic for the core course, approved schools may submit courses for core consideration in any of the following areas:

- (A) Missouri laws governing the transfer of real property;
- (B) Broker supervision and escrow account management;
- (C) Fair housing;
- (D) Property management;
- (E) Commercial brokerage; or
- (F) Agency and brokerage relationships.

(4) The balance of the twelve (12) hours of instruction shall consist of courses which have been approved for continuing education credit by the Missouri Real Estate Commission. The commission will approve those courses which are determined by it to be those through which real estate licensees can remain qualified and can become more competent to provide a higher level of public service and public protection, and are based on consumer protection or service concepts which are founded on Missouri or federal laws related to real estate transactions.

(5) Individual licensees may receive continuing education credit for courses taken in Missouri or another state which have not been previously submitted by the sponsor for approval, provided course content, instructor qualifications

and course delivery are acceptable to the commission. Applications for non-preapproved course credit must be on a form prescribed by the commission, accompanied by a nonrefundable evaluation fee of ten dollars (\$10) per course along with a course description and a typed certificate of completion authenticated by the course provider. Applications for non-preapproved course credit must be postmarked as applied by the postal service or hand delivered to the office of the Missouri Real Estate Commission no later than ninety (90) days prior to the licensee's renewal date.

(6) The commission may waive all or part of the continuing education requirements upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted, with acceptable documentation, for the following causes:

- (A) Serious physical injury or illness of the licensee throughout the two (2)-year license period immediately preceding renewal of license;
- (B) Active duty in the armed services of the licensee throughout the two (2)-year license period immediately preceding renewal of license;
- (C) Is licensed to practice law;
- (D) Licensee is at least eighty (80) years of age;
- (E) Member of the United States or Missouri Senate or House of Representatives at any time during the renewal period to which the waiver applies; and
- (F) Member of the Missouri Real Estate Commission during any portion of the renewal period to which the waiver applies.

(7) The following offerings will not be considered by the commission to meet Missouri continuing education requirements even though these offerings may be approved by other states or jurisdictions:

- (A) Training or education not applicable to Missouri real estate practice;
- (B) Training or education in office and business skills such as typing, speedreading, memory improvement, report writing, personal motivation, salesmanship, sales psychology, and time management;
- (C) Sales promotions or other meetings held in conjunction with general real estate brokerage activity;
- (D) Meetings which are a normal part of in-house training;
- (E) That portion of any offering devoted to meals or refreshments; and
- (F) Any course or program that is less than three (3) hours in duration.

(8) Hours obtained in excess of the twelve (12) hours required during each license renewal period may not be carried forward to satisfy the requirements for any subsequent renewal period.

(9) Credit will be given to a licensee for completing a specific course only once during a license renewal period.

(10) An instructor who is also a licensee, may be granted continuing education credit for teaching an approved course to licensees. The credit may be granted to that instructor only once for each course or substantially similar course offered during any renewal period.

(11) Each licensee shall be responsible for providing the commission, upon request, a true copy of any certificate of course completion.

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