



## Louisiana Rules and Regulations

The Louisiana Real Estate Commission has adopted the following Rules and Regulations pursuant to the authority granted in the Louisiana Revised Statutes, Title 37, Section 1435. The Rules and Regulations serve as an extension of the Real Estate License Law and assist the Commission in the enforcement and administration thereof. This information is provided as a courtesy to real estate licensees and the general viewing public.

### Chapter 1. Authority

#### §101. Adoption

- A. The rules and regulations of the Louisiana Real Estate Commission contained herein have been adopted pursuant to and in compliance with R.S. 37:1430 et seq., and any violation of these rules or regulations, or of any real estate licensing law, shall be sufficient cause for any disciplinary action permitted by law.

### Chapter 3. Initial License Applications

#### §301. Forms

- A. Initial license applications shall be in such form and detail as prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.
- B. Initial license applications shall be classed in the following categories:
  - 1. salesperson;
  - 2. broker—individual;
  - 3. broker—corporation, partnership, limited liability company;
  - 4. broker—branch office.

#### §303. Sponsorship

- A. Applicants for a salesperson license shall be sponsored by an active licensed broker and shall submit the Affidavit of Sponsorship Form (Part B) prescribed by the commission as proof of sponsorship.
- B. The Affidavit of Sponsorship Form (Part B) may be submitted with the initial license application, but no later than 90 days after passing the license examination.
- C. If the Affidavit of Sponsorship Form (Part B) is not received within the prescribed 90 days, an inactive license shall be issued to the salesperson applicant who shall then be subject to the

Louisiana Real Estate License Law and the commission rules and regulations regarding inactive licensees. An active license shall not be issued until such time as the Transfer to Active Status Form prescribed by the commission is received.

- D. Applicants for a broker license who elect to be sponsored by an active licensed broker shall be exclusively affiliated as an associate broker of the sponsoring broker.
- E. Active licensed brokers who elect to sponsor an applicant for a real estate license shall be subject to the duties and penalties prescribed for sponsoring brokers in the Louisiana Real Estate License Law and commission rules and regulations and shall bear the responsibility for the license activity of any sponsored licensee, which shall also include ensuring timely license renewal prior to the practicing of real estate.

#### §305. Documentation

- A. All initial license applications for an individual real estate broker or salesperson license shall be submitted with the following documentation:
  - 1. proof of completion of the real estate instruction hours prescribed by R.S. 37:1437;
    - a. real estate pre-license instruction hours obtained in other jurisdictions may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;
    - b. real estate pre-license instruction hours obtained from nationally recognized institutes may be accepted for full or partial credit at the discretion of the commission and shall be based on the applicability of the subject matter to current pre-license education requirements;
    - c. every applicant for a Louisiana real estate license shall provide proof of at least 30 classroom hours of pre-license instruction that includes the Louisiana Real Estate License Law, rules and regulations of the commission, Louisiana Civil Law, as it relates to real estate, and any other instruction hours the commission deems necessary and appropriate;
  - 2. license history verification from each jurisdiction in which the applicant has held or currently holds a real estate license;
  - 3. verification of passing an equivalent real estate license examination, if the applicant is currently or was previously a resident licensee in another jurisdiction;
  - 4. copy of any trade name or trademark registration issued by the Secretary of State for use by the individual broker or salesperson applicant in real estate license activities.
  - 5. applicants for an initial individual real estate broker license shall provide proof that they have been licensed as an active real estate licensee for four years, with two of the four years occurring immediately preceding submission of a broker license application.
- A. Every application for a corporation, partnership or limited liability company broker license shall be submitted by the designated qualifying broker with the following documentation:

- B. copy of the resolution or other document executed by a principal of the corporation, partnership or limited liability company designating an individual real estate broker as the qualifying broker;
- C. copy of the registration certificate issued by the Secretary of State;
- D. copy of any trade name or trademark registration issued by the Secretary of State for use by the corporation, partnership or limited liability company in real estate license activities.

#### §307. Names on Licenses, Registrations and Certificates; Trade Names

- A. Licenses, registrations and certificates issued to individual real estate brokers, real estate salespersons, timeshare registrants, and real estate school instructors shall be issued in the legal name of the individual person.
- B. Licenses, registrations and certificates issued to a corporation, partnership or limited liability company for any purpose shall be issued in the identical name as registered with the Secretary of State. A license, registration or certificate shall not be issued to any corporation, partnership, or limited liability company not registered and in good standing with the Secretary of State.
- C. Names on licenses, registrations and certificates issued by the commission shall not include a trade name unless the trade name is registered with the Secretary of State and a copy of the registration is on file at the commission.
- D. The name of a licensee whose real estate license has been revoked by the commission shall not appear on any license in a manner that represents, suggests, or implies that the former licensee is licensed by the commission.
- E. Any name or trade name used by a licensee, registrant or certificate holder in any manner shall be a clearly identifiable entity that can be distinguished from that of another licensee, registrant or certificate holder.

### Chapter 5. Examinations

#### §501. Authorization

- A. The commission shall issue an examination authorization to each eligible applicant. The examination authorization shall be valid for one examination and shall expire 90 days after the date it is issued.
- B. It shall be the responsibility of each applicant that has received an examination authorization from the commission to contact the designated national testing service for an appointment to take the examination.
- C. An applicant whose examination authorization expires prior to the applicant taking the examination shall receive a new examination authorization upon submission of a written request and the processing fee prescribed in R.S. 37:1443.
- D. The commission shall provide each applicant with a license information bulletin that contains the examination procedures established by the commission and the designated testing service.

Failure to comply with the procedures contained in the license information bulletin may result in disqualification from the examination and the forfeiture of all fees.

#### §503. Disqualification of Applicants

- A. Any applicant who copies or communicates or attempts to copy or communicate examination content shall be considered in violation of examination security, which shall be grounds for denial of a license and the forfeiture of all fees.

#### §505. Prohibited Activities

- A. Licensees, certificate holders, registrants, school owners or school directors, and persons employed by or associated with a licensee, certificate holder, registrant, school owner or school director, shall not obtain or attempt to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service currently or previously contracted with the commission. Violations of this Section shall be cause for censure, suspension, or revocation of a license, certificate, or registration.

#### §507. Failure of Examination

- A. Any applicant who fails an examination may apply to retake the examination by submitting a copy of the fail notice and a new examination processing fee to the commission. After one year the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.
- B. An applicant who does not pass both portions of the examination shall be required to retake the failed portion only; however, the score on the passed portion shall remain valid for a period of one year, after which time the applicant shall be required to retake it.

### Chapter 7. Fees

#### §701. Duration of Fees

- A. Fees for licenses, certificates, and registrations shall cover a period of one calendar year and shall not be prorated.
- B. Except as otherwise provided in these rules and regulations all fees submitted to the commission are non-refundable.

#### §705. Returned Checks

- A. Payment of any fee with a check that is returned by a financial institution, wherein the reason for not paying the check is not a fault of the financial institution, shall be grounds for cancellation of the transaction for which the fee was submitted and/or the censure, suspension, or revocation of a license, registration or certificate.
- B. Persons issuing checks that are returned to the commission by a financial institution for any reason shall be notified by certified mail at the most current address of record. Within 10 days from the date of the notification, the person issuing the check shall remit a certified check,

cashier's check, or money order, to the commission in the amount of the returned check, plus the processing fee prescribed in R.S. 37:1443.

## Chapter 9. Renewal of Licenses, Registrations and Certificates

### §901. Timely Submission of License, Registration, or Certificate Renewal

- A. It shall be the responsibility of the individual licensee, registrant, or certificate holder to ensure that the renewal of an individual license, registration, or certificate has been fully completed and timely submitted to the commission with the required fees.
- B. The renewal license of a salesperson or associate broker shall not be issued before the license of the sponsoring broker is renewed.
- C. A licensee, registrant, or certificate holder who fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license, registration, or certificate until such time as the license, registration, or certificate is renewed.
- D. A licensee whose sponsoring broker fails to renew by December 31 is prohibited beginning January 1 from engaging in any activities requiring a license until such time as the sponsoring broker has renewed or the licensee transfers to a new sponsoring broker.

### §907. Education Hours Required for Renewal

- A. Each licensee shall complete 12 hours of approved course work prior to license renewal. Four of the 12 hours shall be completed in the annual mandatory topic designated by the commission.
- B. All initial licensees shall complete 45 post-license hours within 180 days of the initial license date. The hours shall satisfy eight of the 12 continuing education hours required for annual renewal. The remaining four hours shall be in the annual mandatory topic designated by the commission.
- C. Licensees shall not receive duplicate credit for attending the same continuing education course from the same vendor in the same year.
- D. Education that is not obtained through an approved real estate continuing education vendor shall be submitted to the commission prior to renewal for review and approval towards the annual continuing education requirement prescribed in R.S. 37:1437.C.6(a)(i).
- E. Course work completed by licensees through non-approved providers will be considered for credit by the commission on an individual basis.
- F. Licensees seeking approval for course work obtained through non-approved providers must apply directly to the Education Division for credit toward the license renewal requirement. Each submission shall include a cover letter that contains the licensee's complete name, mailing address, and telephone number, with the following documentation:
  - 1. certificate of completions;
  - 2. hours completed;

3. date of completion;
4. detailed course content information;
5. verification of successful completion of an examination on course content, if applicable.

## Chapter 15. Transfers and Terminations

### §1501. Forms

- A. A request to terminate sponsorship of a licensee or to transfer a licensee to a new broker shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443.

### §1503. Fee Exemptions

- A. A request for license transfer that is submitted within 60 days of any of the following circumstances shall be exempt from the transfer fee or delinquent renewal fee prescribed in R.S. 37:1443:
1. the sponsoring broker has died;
  2. the sponsoring broker has failed to renew his license;
  3. the license of the sponsoring broker has been suspended or revoked;
  4. the license of the sponsoring broker has been transferred to the inactive status;
  5. the sponsoring broker elects to discontinue the sponsorship of a licensee.

### §1505. Purchase or Acquisition of Agencies

- A. When a licensed agency purchases or otherwise acquires another licensed agency, the sponsoring or qualifying broker of the acquiring agency shall notify the commission in writing no later than the fifth working day following the date of acquisition.
- B. The notice shall specify the date of acquisition and shall request a transfer to the acquiring agency for all licensees sponsored by the acquired agency.
1. The sponsoring broker for the acquired agency shall return the licenses of all sponsored licensees to the commission no later than the fifth working day following the date of acquisition.
  2. The commission shall issue new licenses to the acquiring agency for each licensee sponsored by the acquired agency. The effective date of transfer to the acquiring agency shall be the date of acquisition specified in the notification.
- C. The notification of acquisition shall certify continuous errors and omissions insurance coverage for all licensees that are transferred to the acquiring agency. If the transfer of licensees necessitates payment to the commission for coverage under the commission group errors and

omission insurance policy, a listing of all licensees for which coverage is requested and all applicable fees shall accompany the notification.

- D. The sponsoring broker of the acquiring agency shall give written notice to all licensees transferred to the acquiring agency within five working days following the date of acquisition.
- E. Any licensee of the acquired agency who elects to transfer from the acquiring agency shall do so in accordance with the provisions of R.S. 37:1441.A and §1501.A of this Chapter.
- F. Any licensee of the acquired agency who is terminated by the acquiring agency shall be transferred in accordance with the provisions of R.S. 37:1441.A and §§1501.A and 1503.A.5 of this Chapter.
- G. The acquiring agency shall provide a written report to the commission on the status of all former licensees of the acquired agency within 15 days following the acquisition.
  - 1. The notification shall include a listing by category that identifies:
    - a. each licensee that requested the return of their license to the commission;
    - b. each licensee that is being terminated by the acquiring agency;
    - c. each licensee that will remain with the acquiring agency.
  - 2. The notification shall include the following documentation and fees:
    - a. the license of each licensee that will not remain with the acquiring agency;
    - b. copies of the written notification to and/or from each licensee as required by §1505.D of this Chapter;
    - c. payment of the transfer fee prescribed in R.S. 37:1443 for each licensee who was sponsored by the acquired agency and who will remain with the acquiring agency;
    - d. payment of the errors and omissions insurance fee prescribed in §1505.C of this Chapter, if applicable.

#### §1507. Change of Licensing Status

- A. A request to transfer a license from active to inactive status or from inactive to active status shall be submitted on forms prescribed by the commission and shall be accompanied by the fees prescribed in R.S. 37:1443, unless exempt as prescribed in §1503 of this Chapter.
- B. Corporate, partnership and limited liability company broker licenses shall remain in the active license status.
- C. An individual broker that elects to become exclusively affiliated with a sponsoring broker shall submit a request to transfer on forms prescribed by the commission, which shall be accompanied by the fees prescribed in R.S. 37:1443. Prior to submitting the request to

transfer, the individual broker shall notify any sponsored licensees of the intended transfer by certified mail and send the associate broker's license or salesperson's license, by hand delivery or by certified or registered mail, to the commission within five days of such notification.

- D. A licensee may transfer to inactive status without completing the applicable education requirement; however, the commission shall not transfer the licensee to active status until such time that the education requirement is complete.
- E. The post-license education hours may be used to satisfy the continuing education hours, or a portion of the continuing education hours required for active status as follows:
  - 1. one to five years of inactive status—45 hours of post-license education in lieu of the required continuing education. Any licensee remaining in the inactive status for more than one year shall also complete a four-hour continuing education course covering the Louisiana Real Estate License Law and/or commission rules and regulations within one year prior to the date of the transfer to active status;
  - 2. more than five years of inactive status—45 hours of post-license education and at least 35 hours of continuing education. Any licensee remaining in the inactive status for more than one year shall also complete a four-hour continuing education course covering the Louisiana Real Estate License Law and/or commission rules and regulations within one year prior to the date of the transfer to active status.

## Chapter 17. Termination Responsibilities

### §1701. Relinquishment of Business Related Property and Data

- A. A licensee whose business relationship with a sponsoring broker has been terminated for any reason shall immediately relinquish all business related property to the sponsoring broker, including:
  - 1. the keys to any and all properties listed with the broker;
  - 2. any documents that in any way pertain to real estate transactions wherein a broker or licensees sponsored by the broker has appeared in a licensing capacity. This does not preclude the licensee from retaining copies of such documents.
- B. A sponsoring broker who alleges the failure of a former sponsored licensee to comply with §1701.A of this Chapter shall submit a signed written report of such failure to the commission. The signed report shall constitute a written complaint filed with the commission and shall list the specific business related data and property that was not relinquished to the sponsoring broker. The sponsoring broker shall provide a copy of the report to the licensee.

### §1703. Financial Obligations; Commissions and Dues; Disputes

- A. The commission shall not intervene or become otherwise involved in employment disputes or disputes pertaining to financial obligations that are the result of a business relationship between a broker and a sponsored licensee or a timeshare developer and timeshare sales registrant, including the payment of commissions and dues to professional organizations. Such disputes shall be settled by the respective parties or by a court of competent jurisdiction.



- B. Employment disputes or disputes over financial obligations, commissions, or dues shall not be cause for the failure of a sponsoring broker to return a license or registration to the commission.

## Chapter 18. Broker Responsibilities

### §1801. Broker Supervision

- A. A broker must provide a sponsored licensee with written notice and acknowledgment of the activities that the broker authorizes the sponsored licensee to engage in under R.S. 37:1431(24).
- B. A broker who sponsors licensees or is a qualifying broker for a corporation shall have written policies and procedures to ensure the following:
1. each sponsored licensee maintains their license in the active status at all times while they are engaging in real estate activities as described in R.S. 37:1431(24).
  2. each sponsored licensee complies with the advertising and team rules;
  3. a method and process for the sponsored licensee to provide documents to the broker for compliance with record keeping.
- C. Listings and other agreements for real estate brokerage services must be solicited under the name of the broker corporation or supervising broker. These agreements shall be signed by the broker or by a sponsored licensee acting under written authority of the sponsoring broker.
- D. A broker must maintain the rental trust account, the sales escrow account, and the security deposits trust account with appropriate controls for deposits and disbursements of funds received on behalf of consumers; and
- E. When the broker is a business entity, the qualifying broker is the person responsible for the broker responsibilities under this Section.

### §1803. Record Keeping

- A. In a format that is readily available to the commission and for a period of no less than five years a broker must maintain at minimum the following records:
1. disclosures;
  2. listing agreements, buyer representation agreements, other written agreements that authorize licensees to advertise or represent property for sale or lease, other written agreements that authorize licensees to receive compensation;
  3. contracts and related addenda;
  4. receipts and disbursements of compensation for services as defined under R.S. 37:1431(24);
  5. property management agreements;

6. appraisal, broker price opinions, and comparative market analyses;
7. sponsorship agreements and termination paperwork; and
8. independent contract agreements between brokers and sponsored salespersons.

#### §1805. Compensation

- A. Licensees who are part of a group or team shall not receive compensation for acts or services subject to R.S. 37:1431(24) from anyone within their team.

### Chapter 19. Real Estate Teams and Groups

#### §1901. Definitions

- A. For the purpose of this Chapter, team or group shall mean a collective name used by two or more real estate licensees, who represent themselves to the public as a part of one entity that performs real estate license activities under the supervision of the same sponsoring broker.

#### §1903. Sponsorship

- A. Team or group members shall be sponsored by the same broker and, if applicable, shall conduct all real estate license activity from the office or branch office where their individual license is held.
- B. Licensees shall not form a team or group without written approval from the sponsoring broker.
- C. The sponsoring broker shall designate a member of each approved team or group as the contact member responsible for all communications between the broker and the team.

#### §1905. Team or Group Names

- A. Team or group names shall not contain terms that could lead the public to believe that the team or group is offering real estate brokerage services independent of the sponsoring broker. These terms shall include, but are not limited to:
  1. real estate;
  2. brokerage or real estate brokerage;
  3. realty;
  4. company.

#### §1907. Team or Group Leaders

- A. The sponsoring broker shall be responsible for all license activity of team or group members sponsored by the broker.

- B. The designated contact member of each team or group shall maintain a current list of all team or group members, which shall be provided to the sponsoring broker upon formation of the team or group and immediately upon any change thereafter.
- C. A current record of all team or group names, and the members thereof, shall be maintained by the sponsoring broker in a manner that can be made readily available to the LREC upon request, including record inspections.

#### §1909. Team Advertising

- A. A team or group name shall not be used in advertising without the written approval of the sponsoring broker.
- B. The term “team” or “group” may be used to advertise real estate license activities provided that:
  - 1. the use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person or entity is lawfully doing business;
  - 2. the team or group is composed of more than one licensee;
  - 3. the advertising complies with all other applicable provisions of this Chapter and LAC 46:LXVII.Chapter 25 of these rules and regulations.
- C. An unlicensed person shall not be named, acknowledged, referred to, or otherwise included in any team or group advertising.

#### §1911. Disputes

- A. The commission shall not intervene or become otherwise involved in team or group disputes, including those pertaining to financial obligations that are the result of a business relationship between a team or group, team or group member, branch manager, sponsoring broker, or any combination thereof, including the payment of commissions and dues to professional organizations. Such disputes shall be settled by the respective parties or by a court of competent jurisdiction.

### Chapter 21. Concurrent Licenses and Registrations

#### §2101. Broker or Salesperson License; Timeshare Interest Salesperson Registration

- A. A broker may be concurrently licensed as an individual and as the designated qualifying broker of one or more corporations, limited liability companies, and/or partnerships.
- B. Associate brokers and salespersons shall not be sponsored by more than one sponsoring broker.
- C. A real estate license and a timeshare interest salesperson registration shall not be issued concurrently to any person. A broker shall not concurrently conduct real estate activities as an individual real estate broker and as an associate broker exclusively affiliated with another real estate broker.

## Chapter 23. Branch Offices

### §2301. Branch Office License

- A. An office established by a broker or sponsored licensee for conducting any real estate license activity at a separate address from the registered address of the broker, wherein the name and telephone number of the broker or agency is advertised in any way, shall be considered a branch office and shall be licensed as such.
- B. An application for a branch office license shall be submitted on the forms prescribed by the commission and accompanied by the fees prescribed in R.S. 37:1443.
- C. Every branch office shall be under the direct supervision of a licensed individual broker who shall be designated in writing as the branch office manager. A copy of the designation shall be submitted to the commission within five days following the date of the original designation or any changes thereto. Nothing shall preclude a sponsoring broker from acting as the branch office manager for one or more branch offices.
- D. A broker designated as a branch office manager shall be subject to the duties and penalties prescribed for sponsoring brokers in R.S. 37:1430 et seq.; however, this shall not relieve the sponsoring broker of the ultimate responsibility for the branch office operation.

## Chapter 25. Advertising; Disclosures; Representations

### §2501. Disclosures and Representations

- A. Agreements between brokers to allow property data to be shared and disseminated to clients, customers, or prospective clients, including but not limited to web-based or email multiple listing service property data, IDX or VOW property data does not constitute advertising or advertisement as to the property data shared.
- B. All advertising for property listed by or services performed by a licensed individual real estate broker or a licensed corporation, limited liability company, or partnership, and any advertising for property listed by or services performed by a licensed individual real estate broker or a licensed corporation, limited liability company, or partnership by sponsored licensees or employees, shall be under the direct supervision of and approved by the licensed individual real estate broker or designated qualifying broker of the licensed corporation, limited liability company, or partnership.
- C. Any trade name used by a licensee, registrant or certificate holder in advertising shall be a trade name that is a clearly identifiable entity that will distinguish itself from other licensees, registrants or certificate holders.
- D. All advertising by a licensed salesperson, associate broker, individual real estate broker, or licensed corporation, limited liability company, or partnership shall include their business name, which for the purpose of these rules shall mean the name in which that salesperson, associate broker, individual real estate broker, or licensed corporation, limited liability company, or partnership is on record with the commission as doing business as a licensee of the commission or, in the case of a trade name, that which is registered with the Secretary of State and on record with the commission.

- E. A group or team name may be used in an advertisement only with the approval of the sponsoring broker. Any person listed as a group or team member in the advertisement must be a licensee sponsored by the sponsoring broker.
- F. In all advertising, the salesperson or associate broker must include the name and telephone number of the sponsoring broker. The broker's name and telephone number must be conspicuous, discernible and easily identifiable by the public.
- G. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:
  - 1. The salesperson's or associate broker's personal logo or insignia, which cannot be construed as that of a company name, and which must include the name and telephone number of the sponsoring broker;
  - 2. The salesperson's or associate broker's contact information;
  - 3. a group or team name, as long as the advertising complies with all other applicable provisions of this Chapter and LAC 46:LXVII.Chapter 19 of these rules and regulations; and
  - 4. a slogan that may not be construed as that of a company name.

#### §2503. Owner Authorization

- A. No broker or licensee sponsored by said broker shall in any way advertise property belonging to other persons as being for sale or rent or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or their authorized attorney in fact.
- B. Undivided real estate may be offered for sale or lease with the written consent of the owner of the property to be sold or leased as to his undivided portion of the property.

#### §2505. Accuracy in Advertising

- A. All advertising shall be an accurate representation of the property advertised. No broker or licensee sponsored by said broker shall use advertising which is misleading or inaccurate or in any way misrepresents any property, terms, value, policies, or services of the business conducted. The advertising shall not include any name or trade name of any franchiser or real estate organization or association of which the licensee is not a member or franchisee.

#### §2507. Advertisements of Residential Property

- A. All printed advertisements for the sale or lease of residential real estate shall indicate the month and year the advertisement is printed, published, or distributed. Advertisements printed or published in newspapers, real estate trade publications and commercial magazines and brochures bearing an issue or publication date will be considered in compliance with this Section.

## §2509. Advertisements by Franchise Organizations

- A. Any licensed broker or salesperson affiliated with a franchise organization must disclose to the public that the real estate brokerage firm is independently owned and operated in all advertising.

## §2511. Agent Owner-Licensed Agent

- A. A licensed broker or salesperson who offers property in which he or she owns any interest as being for sale or rent shall state in any advertising, and on any sign placed on the property, that he or she is a licensed real estate agent.
- B. Any licensed broker or salesperson that advertises, or offers to purchase or rent property for his or her own full or partial interest shall state in any advertisement that he or she is a licensed real estate agent.
- C. Including the term "licensed real estate agent" in any advertisement or on any sign shall be sufficient to satisfy this requirement.
- D. This Section is not applicable to the sale, rental, or acquisition of property by licensees under a contractual agreement with a licensed Louisiana real estate broker.

## §2515. Internet Advertising

- A. A real estate broker advertising or marketing on a site on the Internet must include the following data on each page of the site on which the advertisement appears:
1. the broker's name or trade name as registered with the commission;
  2. the city and state in which the broker's main office or branch office is located.
  3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.
- B. A real estate broker using any Internet electronic communication for advertising or marketing, including but not limited to, e-mail, email discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:
1. the broker's name or trade name as registered with the commission;
  2. the city and state in which the broker's main office or branch office is located.
  3. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.
- C. An associate broker or salesperson advertising or marketing on a site on the Internet must include the following data on each page of the site on which the licensee's advertisement or information appears:
1. the associate broker's or salesperson's name;
  2. the name or trade name of the licensed broker or agency listed on the license of the salesperson or associate broker;

3. the city and state in which the broker's main office or branch office is located.
  4. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.
- D. An associate broker or salesperson using any Internet electronic communication for advertising or marketing, included but not limited to, e-mail, email discussion groups, and bulletin boards, must include the following data on the first or last page of all communications:
1. the associate broker's or salesperson's name;
  2. the name or trade name of the licensed broker or agency listed on the license of the salesperson or associate broker;
  3. the city and state in which the broker's main office or branch office is located.
  4. the regulatory jurisdiction(s) in which the broker holds a real estate brokerage license.

## Chapter 26. Residential Property Management

### §2601. Definitions

Property Management – the marketing, leasing, or overall management of real property for others for a fee, commission, compensation, or other valuable consideration.

Property Manager – one who, for a fee, commission, or other valuable consideration, manages real estate, including the collection of rents, supervision of property maintenance, and accounting for fees received for another.

Residential Real Property – real property consisting of one or not more than four residential dwelling units, which are buildings or structures each of which are occupied or intended for occupancy as single-family residences.

### §2603. Management Authorization

- A. Licensees shall not engage in property management on behalf of another without written authorization from the property owner(s). Salespersons and associate brokers shall not conduct property management functions on behalf of another, except through their sponsoring broker.
- B. Written authorization to manage property must at minimum include the following:
1. the duties and responsibilities of the property manager;
  2. the authority and powers given by the property owner to the property manager;
  3. the period of the agreement; and
  4. the management fees charged to the property owner

## §2605. Trust Funds, Deposits, and Accounts for Property Management

- A. Licensees engaged in property management on behalf of another shall open and maintain accounts in accordance with Chapter 27 of the rules and regulations of the commission.
- B. All security deposit and rental trust funds shall not be withdrawn for any purpose except:
  - 1. upon the mutual written consent of all parties having an interest in the funds;
  - 2. upon court order;
  - 3. to deposit funds into the registry of the court in a concursus proceeding;
  - 4. to disburse funds upon a reasonable interpretation of the contract that authorizes the broker to hold such funds, provided that the disbursement is not made until 10 days after the broker has notified all parties and licensees in writing;
  - 5. to cover the payment of service charges on security deposit and rental trust accounts;
  - 6. upon approval by the commission in connection with the sale or acquisition of a licensed entity;
  - 7. to comply with the provision of 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.
- C. Deposits shall be disbursed within 30 days of an agreement between the principles in a real estate transaction.
- D. A licensee who receives funds on behalf of another for property management shall maintain a ledger for each property managed. This ledger must clearly document all funds received and disbursed to, and on behalf of, the property owner.
- E. A licensee who accepts cash payments on behalf of an owner must retain written receipts. These receipts must include at minimum the date, the amount, the property address, the reason for the payment, the tenants name, and the name and signature of the licensee or employee who received the funds on behalf of the brokerage.

## §2607. Property Management Records

- A. Licensees engaged in property management shall retain all of the following records, readily available and properly indexed, for a period of five years:
  - 1. Bank statements, deposit slips, management agreements, lease agreements, owner ledgers or statements, deposit slips, disbursement checks, invoices, cash receipts, and any other documents that pertain to the management of the property.
  - 2. Copies of all documents that pertain in any way to real estate transactions wherein the individual real estate broker or licensees sponsored by the individual real estate broker have appeared in a licensing capacity.



- B. The requirement regarding copies shall not be altered by the transfer of a broker to that of an associate broker, an unlicensed person, or an inactive licensee.

#### §2609. Exemptions

- A. The provisions of this section shall not apply to an unlicensed person, partnership, limited liability company, association or corporation, foreign or domestic, who performs acts of ownership regarding the property, either individually or through an employer or representative.

### Chapter 27. Escrow and Trust Accounts

#### §2701. Resident Broker Requirements

- A. A resident broker, including corporations, partnerships and limited liability companies, who accepts any funds on behalf of clients in a real estate sales transaction shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds received by a broker in connection with the sale of real estate shall be deposited in this account when there is a written contract to buy and sell real estate that has been fully executed and accepted by both buyer and seller.
- B. A resident broker, including corporations, partnerships and limited liability companies, engaged in the management of property owned by other persons shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana.

All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental payments from or on behalf of clients in connection with the management of properties owned by other persons shall be deposited into this account.

- C. A resident broker, including corporations, partnerships and limited liability companies, engaged in the collection of rental security or damage deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all funds collected as rental security or damage deposits from or on behalf of clients shall be deposited into this account.

#### §2703. Non-Resident Broker Requirements

- A. Non-resident brokers shall open and maintain sales escrow checking accounts, rental trust checking accounts, and security deposit checking accounts, as provided in §2701 of this Chapter; however, these accounts shall be opened and maintained in a Louisiana financial institution or a financial institution located in the resident state of the broker.

#### §2705. Change in License Status; Associate Broker and Inactive Broker Requirements

- A. Associate brokers are prohibited from opening and maintaining a sales escrow checking account, rental trust checking account, or security deposit trust checking account. All funds received by an associate broker in any real estate transaction shall be placed in the custody of the sponsoring broker.
- B. An associate broker previously licensed as an individual broker or an active broker transferring to inactive status:
  - 1. shall maintain all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts for the limited and specific purpose of completing pending transactions and disbursing all deposits contained therein;
  - 2. shall not deposit additional funds in sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts as of the effective date of affiliation with a sponsoring broker or transfer to inactive status

#### §2707. Branch Office Accounts

- A. A broker may open additional sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts to accommodate business transacted out of a branch office.

#### §2708. Signatory Rights on Checking Accounts

- A. An individual real estate broker shall be an authorized signatory on each sales escrow checking account, rental trust checking account, or security deposit trust checking account and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees and/or employees of the broker as signatories on the accounts shall not relieve the individual real estate broker of this responsibility.
- B. The qualifying broker of a licensed corporation, partnership or limited liability company shall be an authorized signatory on sales escrow checking accounts, rental trust checking accounts and security deposit trust checking accounts maintained by the licensed entity and shall be responsible for the proper maintenance and disbursement of any funds contained therein. The addition of sponsored licensees, principals and/or employees of the licensed entity as signatories on the accounts shall not relieve the qualifying broker of this responsibility.

#### §2709. Additional Accounts

- A. Where the interest of the principal parties to a transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker or non-resident broker may open an additional sales escrow checking account, rental trust checking account or security deposit trust checking account, as prescribed in §§2701 and 2703 of this Chapter, and shall deposit therein all funds received in trust on behalf of the parties to the transaction or series of transactions.

#### §2711. Non-Interest Bearing Checking Accounts

- A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

### §2713. Personal Funds in Escrow and Trust Checking Accounts

- A. A sum not to exceed \$2,500 may be kept in each sales escrow checking account, rental trust checking account, and security deposit trust checking account, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts, and shall not be used for any other purpose.
- B. A broker engaged in property management activities may keep funds in excess of \$2,500 in a rental trust checking account for the temporary, limited, and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

### §2715. Withdrawal

- A. Funds deposited into a sales escrow checking account, rental trust checking account, or security deposit trust checking account shall not be withdrawn for any purposes except:
  - 1. upon the mutual written consent of all parties having an interest in the funds;
  - 2. upon court order;
  - 3. to deposit funds into the registry of the court in a concursus proceeding;
  - 4. to disburse funds upon a reasonable interpretation of the contract that authorizes the broker to hold such funds, provided that the disbursement is not made until 10 days after the broker has notified all parties and licensees in writing;
  - 5. to return the funds to a buyer at the time of closing;
  - 6. to cover the payment of service charges on sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts;
  - 7. upon approval by the commission in connection with the sale or acquisition of a licensed entity;
  - 8. to comply with the provisions of R.S. 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.
- A. Deposits shall be disbursed within 30 days of an agreement between the principles in a real estate transaction.

### §2717. Deposits

- A. Funds received in a real estate sales, lease or management transaction shall be deposited in the appropriate sales escrow checking account, rental trust checking account or security deposit trust checking account of the listing or managing broker unless all parties having an interest in the funds have agreed otherwise in writing.

## §2719. Account Closing

- A. No sales escrow checking account, rental trust checking account, or security deposit trust checking account may be closed until such time as all deposits therein have been properly disbursed.
- B. Bankruptcy and/or the revocation, suspension, or lapse of a broker license for any reason shall not be cause to close or discontinue maintenance of any sales escrow checking account, rental trust checking account, or security deposit trust checking account.

## §2721. Transfer of Trust Funds on Sale or Acquisition of Agency

- A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring broker of the acquiring agency shall notify the commission in writing of the acquisition and the anticipated date of the transfer of trust funds. The notice shall specify the name of the acquired agency and account numbers of the sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.
- B. A letter requesting approval to transfer the funds shall be jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency and shall accompany the notification to the commission.
- C. The transfer of funds shall not occur without written approval from the commission, as prescribed in §2715.A.9 of this Chapter.
- D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring brokers of the acquired agency and the acquiring agency shall be forwarded to the commission certifying that all trust funds have been transferred. The letter shall include the following:
  - 1. certification that all sales escrow checking account, rental trust checking account, and security deposit trust checking account funds have been transferred to and received by the acquiring agency;
  - 2. certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;
  - 3. a listing of all sales escrow checking accounts, rental trust checking accounts, or security deposit trust checking accounts from which a transfer was made and the amount of funds transferred from each account;
  - 4. a listing of all sales escrow checking accounts, rental trust checking accounts, and security deposit trust checking accounts into which funds were deposited and the amount of funds deposited into each account.
- E. Within 10 days following the transfer of funds, the sponsoring broker of the acquired agency shall close the escrow accounts and trust accounts from which the funds were transferred and shall advise the commission in writing when such action has been completed.

## Chapter 29. Disbursement of Escrow Deposits

### §2901. Escrow Disputes

- A. When a dispute exists in a real estate transaction regarding the ownership or entitlement to funds held in a sales escrow checking account, the broker holding the funds shall send written notice to all parties and licensees involved in the transaction. Within 60 days of the scheduled closing date or knowledge that a dispute exists, whichever occurs first, the broker shall do one of the following:
1. disburse the funds upon the written and mutual consent of all of the parties involved;
  2. disburse the funds upon a reasonable interpretation of the contract that authorizes the broker to hold the funds. Disbursement may not occur until 10 days after the broker has sent written notice to all parties and licensees;
  3. place the funds into the registry of any court of competent jurisdiction and proper venue through a concursus proceeding;
  4. disburse the funds upon the order of a court of competent jurisdiction.
  5. disburse the funds in accordance with the Uniform Unclaimed Property Act of 1997 as set forth in R.S. 9:151 et seq.

## Chapter 31. Change of Address and/or Telephone Number §3101. Reporting Change of Address and/or Telephone Number

- A. The commission shall be notified in writing within 10 days of any change in the mailing address, physical address, and/or telephone number of a licensee's, certificate holder's, or registrant's business or residence.

## Chapter 35. Disclosure by Licensee

### §3501. Licensee as Principal in a Real Estate Transaction

- A. The license status of a principal in a real estate transaction, whether individually or through an entity in which an interest is held by the licensee, shall be disclosed in writing to all other principals in the real estate transaction prior to entering into negotiations concerning the execution of a real estate contract.

### §3503. Buyer Broker Compensation; Written Disclosure and Acknowledgment

- A. Buyer broker compensation shall not be included as part of closing costs paid by the seller, unless such compensation is disclosed in a written offer and accepted by the seller, which specifically states the amount of compensation being paid to the licensee.

## Chapter 36. Residential Property Disclosure

### §3601. Property Disclosure Document for Residential Real Estate

- A. In accordance with R.S. 9:3196 through 9:3200, unless exempted therein, the seller of residential real property shall complete a property disclosure document in a form prescribed by the Louisiana Real Estate commission or a form that contains at least the minimum language prescribed by the commission.

## Chapter 37. Agency Disclosure

### §3701. Agency Relationships in Real Estate Transactions

- A. Effective March 1, 1998, agency relations in real estate transactions will be governed by Chapter 4 of Code XV of Title 9 of the Louisiana Revised Statutes of 1950 comprised of R.S. 9:3891-3899.

### §3703. Agency Disclosure

- A. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.
- B. Licensees shall ensure that the pamphlets and forms are the most current versions prescribed by the commission and that reproductions of the pamphlet and form contain the identical language prescribed by the commission.
- C. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to prospective sellers/lessors and buyers/lessees at the time when substantive contact is made between the licensee and customer, i.e. any specific financial qualifications of the customer or the motives or objectives in which the customer may divulge any confidential, personal or financial information, which, if disclosed to the other party to the transaction, could harm the party's bargaining position, when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).
- D. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees at the time when substantive contact is made shall ensure that the recipient signs and dates the pamphlet or form. The licensee providing the pamphlet or form shall sign as a witness to the signature of the recipient, and the licensee shall retain the signed pamphlet or a copy of the form for a period of five years.
- E. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees by email or other form of electronic transmission shall ensure that the recipient acknowledges receipt of the pamphlet or form by a document verifying the time and date of receipt. The licensee providing the pamphlet or form shall retain the signed pamphlet or a copy of the form for a period of five years.
- F. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the agency disclosure informational pamphlet receipt or the agency disclosure form, or refuses to provide a document verifying receipt of the pamphlet or form, the licensee shall prepare written documentation that includes the nature of the proposed real estate transaction, the time and date the pamphlet or form was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the pamphlet or form, or providing a document verifying receipt of the pamphlet or form. This documentation shall be retained by the licensee for a period of five years.

### §3705. Dual Agency Disclosure

- A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.
- B. Licensees are responsible for ensuring that the form is the most current version prescribed by the commission and that reproductions of the form contain the identical language prescribed by the commission.
- C. Licensees shall ensure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent. A copy of this documentation shall be retained by the licensee for a period of five years.

### Chapter 38. Mold Disclosure

#### §3801. Mold Informational Pamphlets

- A. The United States Environmental Protection Agency (EPA) shall be the official source of any mold informational pamphlet approved by the Louisiana Real Estate Commission.
- B. A licensee who chooses to deliver mold information to a buyer shall be deemed in compliance with R.S. 37:1470.A(1) if the licensee performs at least one of the following:
  - 1. delivers "A Brief Guide to Mold, Moisture, and Your Home" (EPA 402-K-02-003), or any successor thereof, to a residential buyer; or
  - 2. delivers "Mold Remediation in Schools and Commercial Buildings" (EPA 402-K-01-001, March 2001), or any successor thereof, to a commercial buyer; or
  - 3. directs a buyer to the mold informational pamphlets maintained on the United States Environmental Protection Agency (EPA) website at <http://www.epa.gov/iaq/molds/index.html>, or any successor thereof.

### Chapter 39. Presentation of Offers and Counter Offers

#### §3900. Purchase Agreement Forms

- A. The purchase agreement form used by licensees representing the buyer or seller in a residential real estate transaction shall be the Residential Agreement to Buy or Sell, or any successor thereof, prescribed by the Louisiana Real Estate Commission.
- B. The Residential Agreement to Buy or Sell, or any successor thereof, shall be used in accordance with the provisions of R.S. 37:1449.1.
- C. The official source of the prescribed purchase agreement form shall be the Louisiana Real Estate Commission website.

#### §3901. Timely Presentation of Offers and Counter Offers

- A. All written offers and counter offers for the purchase of real estate shall be presented to all buyers and/or sellers for their consideration and decision immediately, without delay.

- B. The licensee who prepares an offer or counter offer in a real estate transaction shall ensure that the time of day and date the offer or counter offer was signed by the offering party are included in the document.
- C. The licensee who presents an offer or counter offer in a real estate transaction shall ensure that the time of day and date the offer or counter offer was accepted, rejected or countered are included in the document.

#### §3903. Negotiations in Exclusive Agency Contracts

- A. Negotiations concerning property listed exclusively with a broker shall be carried on with the listing broker or agent designated by the listing broker, not the owner, except with the expressed consent of the listing broker.
- B. Negotiations with a buyer who has entered into an exclusive buyer agent contract with a licensed broker shall be carried on with the licensed broker, or agent designated by the licensed broker, not the buyer, except with the express consent of the licensed broker.

#### §3905. Transactions

- A. Designated agents receiving written offers or counter offers in transactions shall annotate the offers or counter offers to indicate the time of day and date the offers or counter offers were received.
- B. It shall be the responsibility of each of the designated agents to make reasonable efforts to contact and notify the designated agent of the other party of the existence of an offer or counter offer.
  - 1. It shall be the responsibility of the designated agent who transmits or delivers the written offer or counter offer to document the date, time of day, place, and method of delivery.
  - 2. Such documentation as to the date, time of day, place and method of transmission or delivery of the written offer or counter offer may include, but will not be limited to, annotation by the delivering designated agent, a dated and timed facsimile transmission receipt or a dated and timed electronic mail receipt.
  - 3. Such documentation shall be retained pursuant to R.S. 37:1449.

#### §3907. Rejection of Offers and Counter Offers

- A. All written offers and counter offers presented to a seller and/or buyer and not accepted shall be clearly marked as rejected and signed by the seller and/or buyer. In any circumstance in which a seller and/or buyer refuses to sign a rejected offer or counter offer, the licensee making the presentation of the offer or counter offer shall annotate this fact indicating the time of day and date of the rejection of the offer or counter offer by the seller and/or buyer. A copy of the rejected offer or counter offer signed by the seller and/or buyer, or a copy of the rejected offer or counter offer bearing the annotation of the licensee, shall be provided to the buyer and/or seller, and the rejected offer or counter offer shall be returned to the prospective buyer and/or seller within five days after the signature or annotation is affixed to the document.



## §3909. Broker's Authority to Reject Offers or Counter Offers

- A. In the event the owner (seller) is not available and grants authority to the listing broker to reject an offer or counter offer, the listing broker or a licensee designated by the listing broker shall mark the offer or counter offer as rejected and sign the offer or counter offer as such in lieu of the owner (seller), but the listing broker or licensee designated by the listing broker shall nevertheless forward a copy of the rejected written offer or counter offer to the owner (seller) for his signature acknowledging the rejection of the offer or counter offer. The copy of the rejected offer or counter offer signed by the owner (seller) shall be retained in the files of the listing broker. In the case of a cooperative transaction, the cooperating listing broker shall provide a copy of the rejected offer or counter offer bearing the signature of the owner to the cooperating selling broker within five days after the signed rejection is received from the owner.

## Chapter 41. Investigations and Hearings

### §4101. Complaints

- A. Complaints alleging violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the commission shall bear the signature of the complainant or that of his or her legal representative before any action will be taken thereon by the commission.

### §4103. Addition of Respondents to Investigations

- A. If during the conduct of an investigation documented probable cause is established indicating that violations of the Louisiana Real Estate License Law and/or Rules and Regulations of the commission have been committed by licensees, timeshare registrants, or certificate holders other than the licensee, timeshare registrant, or certificate holder against whom the original complaint was made, the additional licensees or timeshare registrants may be added as respondents to the investigation in the absence of any written complaint alleging such violation.

### §4105. Executive Director May Authorize Investigations and Cease and Desist Orders

- A. Upon documented probable cause, the executive director of the Louisiana Real Estate Commission may issue written authorization to investigate apparent violations of the Louisiana Real Estate License Law and/or the Rules and Regulations of the commission.
- B. Upon documented probable cause that any or state law or commission regulation has been violated, the executive director of the Louisiana Real Estate Commission may issue a cease and desist order to any unlicensed entity, licensee, registrant, or certificate holder.
- C. Upon documented probable cause that any or state law or commission regulation has been violated, the executive director of the Louisiana Real Estate Commission may issue a cease and desist order to any licensee.

### §4107. Adjudicatory Proceedings

- A. When, as a result of an investigation, it appears that violations of the Louisiana Real Estate License Law may have been committed by a licensee, registrant or certificate holder, the violations may be adjudicated through informal or formal adjudicatory proceedings.

## 1. Informal Adjudicatory Proceedings

- a. The complaint may be concluded informally without a hearing by the commission on the recommendation of the hearing examiner and the concurrence of the executive director.
- b. A preliminary notice of adjudication will be issued to advise the respondent of the violation or violations alleged and to advise the respondent that the matter can be resolved informally should the respondent desire to admit to committing the act or acts specified and submits a written request that the matter be resolved informally.
- c. A hearing officer will be appointed by the executive director to conduct an informal hearing with the respondent.
- d. At the informal hearing, no evidence will be presented, no witnesses will be called, and no formal transcript of the proceedings will be prepared by the commission. Statements made during the informal proceedings may not be introduced at any subsequent formal adjudicatory proceedings without the written consent of all parties to the informal hearing.
- e. Following an admission by the respondent at the informal hearing that violations were committed as alleged, the hearing officer may enter into a recommended stipulations and consent order to include the imposition of any sanctions authorized by the Louisiana Real Estate License Law. In the written document the respondent must stipulate to having committed an act or acts in violation of the Louisiana Real Estate License Law or the Rules and Regulations of the commission, accept the sanctions recommended by the hearing officer, and waive any rights to request a rehearing, reopening, or reconsideration by the commission, and the right to judicial appeal of the consent order.
- f. If at the informal hearing the respondent does not admit to having committed the act or acts specified, does not accept the sanctions recommended by the hearing officer, or does not waive the specified appellate rights, the alleged violations shall be referred to a formal adjudicatory hearing.
- g. The executive director of the Louisiana Real Estate Commission may authorize a respondent to execute a Stipulations and Consent Order before a duly commissioned and qualified notary in lieu of participating in an informal hearing with a Hearing Officer in cases where the sanction for the alleged violation has been previously approved by the commission.
- h. If a respondent does execute a stipulations and consent order, the executive director shall submit the document to the commission at the next regular meeting for approval and authorization for the executive director to execute the consent order in the name of the commission.
- i. The actions of the commission relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is considered and at which authorization is granted to the executive director to execute the order in the name of the commission.

- j. Any consent order executed as a result of an informal hearing shall be effective on the date approved by the commission.
2. Formal Adjudicatory Proceedings
- a. All formal public adjudicatory hearings shall be conducted under the auspices of R.S. 37:1456 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.
  - b. The order issued by the commission pursuant to any formal public adjudicatory proceeding shall become effective on the eleventh day following the date the order is issued by the commission and entered into the record at the proceedings.
  - c. The date of entry is the date the order is issued by the commission and entered into the record at the formal adjudicatory proceedings.
  - d. If a request for rehearing, reopening, or reconsideration of the order of the commission is timely filed and denied by the commission, the order of the commission shall become final on mailing of the notice of the commission's final decision on the request.

#### §4109. Appellate Proceedings

##### A. Rehearings

- 1. An order of the commission shall be subject to rehearing, reopening or reconsideration by the commission on receipt of a written request from a respondent. An application for rehearing, reopening or reconsideration must be postmarked or received at the office of the commission within 10 days from the date of entry of the order rendered by the commission.
- 2. The request shall be reviewed by the commission attorney for compliance with the Administrative Procedure Act. A finding by the commission attorney that the request does not establish grounds for rehearing, reopening or reconsideration shall result in a denial of the request.

##### B. Judicial Review

- 1. Proceedings for judicial review of an order issued by the commission may be instituted by filing a petition for judicial review in the Nineteenth Judicial District Court in the parish of East Baton Rouge.
- 2. In the event a request for rehearing, reopening or reconsideration has been filed with the commission, the party making the request shall have 30 days from the final decision on the request within which to file a petition for judicial review.
- 3. If a request for rehearing, reopening or reconsideration is not filed with the commission, the Petition for Judicial Review must be filed in the Nineteenth Judicial District Court within 30 days after the mailing of the order of the commission.

## §4111. Stay of Enforcement

- A. The filing of a petition for judicial review by a respondent licensee does not itself stay enforcement of an order issued by the commission. A stay of enforcement will be granted only when directed by the court conducting a judicial review of adjudication.

## §4113. Costs of Adjudicatory Proceedings

- A. On a finding that a respondent has committed the violations as alleged in any formal or informal adjudicatory proceedings, the commission may assess the respondent the administrative costs of the proceeding, as determined by the commission. Payment of these costs shall be a condition of satisfying any order issued by the commission.

## Chapter 43. Licensee, Registrant, and Certificate Holder Responsibilities

### §4301. Knowledge of the Law

- A. It shall be the duty of all licensees, certificate holders, and registrants to have knowledge and be aware of all laws regulating the real estate industry in Louisiana including, but not limited to, these rules and regulations and the Louisiana Real Estate License Law as set forth in Chapter 17, Title 37 of the Louisiana Revised Statutes.

## Chapter 45. Franchise Operations

### §4501. Registration of Franchise Name

- A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation shall offer for sale, lease, rent, or use in any way, any franchise name to be publicly utilized or used by a licensed Louisiana real estate broker.
- B. Any name or trade name used by a franchisor or franchisee shall be a name or trade name that is a clearly identifiable entity that will distinguish it from other franchisors or franchisees.

### §4503. Registration of Franchise Operation

- A. Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, limited liability company, or corporation engaged in a franchise operation of real estate brokerage firms shall operate in Louisiana.

### §4505. Application for Registration

- A. Any person, partnership, limited liability company, or corporation which intends to operate or do business as a franchiser of real estate brokerage firms in Louisiana shall make application to the Louisiana Real Estate Commission for registration. Applications for registration shall contain the following information and supporting documents:
  1. name, address, and whether the applicant is a person, partnership, limited liability company, or corporation;

2. partnership and limited liability company—the names and addresses of all partners or principals;
  3. corporation—names and addresses of officers and members of the board of directors and the place of incorporation;
  4. partnership, limited liability company, or corporation—a certified copy of the articles of incorporation or the document establishing the partnership or limited liability company;
  5. a certified, audited financial statement disclosing the current financial condition of the applicant;
  6. a statement of the business activities of the applicant, including a description of the franchise agreement to be used in connection with the Louisiana real estate brokers, and a list of the states in which the franchiser is qualified to do and/or is doing business.
- B. Upon receipt of the application for registration, the commission may require such additional information as it deems necessary.

#### §4507. Agent for Service of Process

- A. If the applicant is not a resident of Louisiana, it shall appoint a licensed active Louisiana individual real estate broker to act as the applicant's agent for the service of all judicial process or legal notices directed to such applicant. Service upon the agent so designated shall be equivalent to personal service upon the applicant.

#### §4509. Annual Registration

- A. If the requirements set forth herein are met the commission shall register the franchiser for a period of one year. The franchiser shall then renew each year by furnishing the commission with all information as would modify or change the information previously submitted.

#### §4511. Renewal Requirements

- A. Each application for renewal by a franchiser shall be submitted on or before January 15 of each year and shall reflect the information required by the commission for the preceding year.
- B. Any application for renewal by the franchiser shall also include the name and address of any licensed Louisiana broker that is operating under a franchise agreement with the franchiser.

#### §4513. Penalty

- A. Any person, partnership, limited liability company, or corporation which operates in Louisiana as a franchiser of real estate brokerage firms, without the specific authority to do so as granted by the Louisiana Real Estate Commission, shall be subject to a penalty of the refusal by the commission to allow said person, partnership, limited liability company, or corporation to operate or do business in Louisiana for a period of at least one year.

#### §4515. Violations of Law

- A. The commission shall have the power to withdraw any registration and/or issue a cease and desist order, after a hearing, to any franchiser that is subject to these rules and regulations, upon determination that any federal or state law or commission regulation has been or will be violated.

#### Chapter 47. Waiver of Renewal Requirements §4701. Veteran Waiver

- A. Licensees who are inducted into military service or those licensees in the military who are transferred out of state shall, upon furnishing appropriate evidence of their honorable service, be entitled to renewal of their licenses, without penalty, provided application is filed within six months following discharge. The provisions of this Section shall extend to spouses of persons described hereinabove who were licensed at the time of such induction or transfer.

#### Chapter 49. Reciprocity

##### §4901. Licensing

- A. The commission may enter into a reciprocal agreement with the appropriate authority of any other state to permit any resident of that other state who is licensed there as a real estate broker or salesperson to obtain an equivalent Louisiana non-resident license and engage in the real estate business in Louisiana if that other state agrees to similarly grant a non-resident license to any Louisiana resident broker or salesperson and permit the licensee to engage in the real estate business in that other state.

##### §4903. Requirements for License

- A. Any person residing in and licensed as a real estate broker or salesperson in a state whose appropriate authority has entered into a reciprocal agreement with the commission shall be granted an equivalent non-resident license by the commission upon applying and complying with the following requirements:
1. providing the commission with sufficient proof of his licensing by his resident state;
  2. paying all fees prescribed for an equivalent Louisiana resident license;
  3. filing an irrevocable appointment of agent for service of process with the commission appointing the executive director as the licensee's agent for service of process in all matters arising out of or in conjunction with any real estate activities conducted by the licensee in Louisiana;
  4. corporation—procuring a certificate of authority to do business in Louisiana from the Louisiana Secretary of State and providing the commission with a copy; and
  5. partnership or limited liability company—procuring a certificate of registry as a foreign partnership from the Louisiana Secretary of State and providing the commission with a copy.
- B. A license applicant who has been a resident of Louisiana for not more than 90 days may be considered by the commission as a non-resident for purposes of this Section.

## §4905. Non-resident Licensee

- A. The non-resident licensee is bound, in all respects, by the provisions of the Louisiana Real Estate License Law (R.S. 37:1431 et seq.) and these regulations.

## Chapter 51. Out-of-State Broker Cooperation

### §5101. Broker Cooperation

- A. A Louisiana broker may cooperate with a licensed broker of another state in the sale, exchange, purchase, rental, leasing, or management of real property located in Louisiana within the limits provided in the Louisiana Real Estate License Law and rules and regulations of the commission under the following conditions.
1. The sale, exchange, purchase, rental, leasing, or management of Louisiana real property shall be handled under the direct supervision and control of the Louisiana broker who shall take full responsibility for all actions of the out-of-state broker. All advertising of any kind must contain the names of both the Louisiana licensed broker and the out-of-state broker. The out-of-state broker may place a sign on real property located in Louisiana with the written consent of the Louisiana licensed broker.
  2. Any funds collected on behalf of others shall be maintained in the Louisiana broker's sales escrow checking account, rental trust checking account or security deposit trust checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.
  3. In each instance herein where a Louisiana broker enters into a cooperating agreement with an out-of-state broker for the sale, exchange, purchase, rental, leasing, or management of Louisiana real property, the Louisiana broker must file one copy of a cooperating agreement with the Louisiana Real Estate Commission prior to the property being advertised, shown, or any contract taken. A written cooperating agreement must be filed for each separate transaction. This agreement must contain verbiage wherein both the Louisiana broker and the out-of-state broker agree to sign all written reports and contracts and comply with the Louisiana Real Estate License Law and rules and regulations of the commission in all respects.
  4. Any fee or commission received as a result of a cooperative transaction shall be paid to the Louisiana broker who will, in turn, compensate the out-of-state broker. The percentage of fees or commission to be received by the Louisiana broker and the out-of-state broker shall be negotiable between the two parties and shall be agreed upon, in writing, by the parties in their cooperative agreement.

### §5103. Referral Fees

- A. A licensed broker in this jurisdiction may divide or share a real estate commission with a licensed broker in another jurisdiction whenever the licensed broker in the other jurisdiction acts only as a referral agent who is not involved in the actual negotiations, execution of documents, collections of rent, management of property, or other real estate brokerage activity in a real estate transaction which involves more than the mere referral of a client or customer to the licensed broker of this jurisdiction.

## §5105. Jurisdiction over Out-of-State Activities

- A. The commission shall have the power to impose any sanction permitted by R.S. 37:1430 et seq., on any licensee of this jurisdiction who performs or attempts to perform any of the acts of a licensee on property located in another jurisdiction without first having been properly licensed in that jurisdiction or otherwise having fully complied with that jurisdiction's laws regarding real estate brokerage.
- B. It shall be the duty of every licensee, registrant, and certificate holder to notify the commission within 10 days by registered or certified mail or hand delivery of any sanction imposed on the licensee, registrant, or certificate holder by another jurisdiction.

## Chapter 53. Real Estate Schools

### §5301. Approval of schools

- A. This Chapter shall apply to real estate schools seeking approval to conduct a course of education in real estate pre-license subjects.

### §5303. Certifications; Applications and Procedures

- A. Any individual or entity desiring to conduct business in this state as a real estate school shall file an application for certification with the commission.
- B. The application shall be in such form and detail as prescribed by the commission and shall be accompanied by all documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.
- C. The commission shall approve or deny an application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.
- D. The commission may deny an application for certification as a real estate school for any of the following reasons.
  - 1. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.
  - 2. An application contains a false statement of material fact.
  - 3. A professional license or certification held by an applicant has been revoked.

### §5305. Surety Bonds

- A. Applicants for certification as a real estate school shall submit proof of a \$10,000 surety bond issued by an insurance company that is authorized to conduct business in Louisiana.
- B. Bonds shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of students who attend real estate courses offered by the real estate school.



- C. Bonds shall remain effective and in force throughout the certification period of the real estate school.
- D. Proof of bond renewal shall be provided to the commission annually.
- E. Failure to maintain a bond shall be cause for revocation or suspension of a certification.

§5307. Certificates of Authority; Initial and Renewal Certifications

- A. The certification to operate as a real estate school shall be issued in the form of a certificate of authority and shall include an assigned certification number that shall be included in all advertisements of approved courses and on all forms, documents, and reports filed with the commission.
- B. A certificate of authority shall not be issued or renewed for any real estate school applicant that holds a real estate broker license and whose school is designed, intended, and/or primarily used for instruction of the broker's future salesperson or broker affiliates.
- C. A certificate of authority for an initial application that is submitted and approved after October 31 may be issued effective January 1 of the following year.
- D. A certificate of authority shall be issued for a maximum period of one calendar year and shall expire annually on December 31 unless an application for renewal is submitted.
- E. Failure to renew a certificate of authority by December 31 shall result in the automatic suspension of all course approvals issued under the certificate of authority. The commission shall not accept any pre-license education courses for credit, if the courses were offered after the expiration of the certificate of authority.
- F. Applications for delinquent renewal of a certificate of authority shall not be accepted by the commission after January 31. Failure to renew an expired Certificate of Authority during the prescribed delinquent period of January 1 through January 31 shall result in the forfeiture of renewal rights. Any real estate school that becomes ineligible to renew a Certificate of Authority shall apply as an initial applicant.

§5309. Colleges and Universities, Vocational-Technical Schools, and School Boards

- A. All Louisiana state and private colleges and universities that offer a real estate course as part of a regular curriculum are exempt from obtaining a certificate of authority; however, if courses are offered through a continuing education division, the college or university shall be required to comply with the provisions of this Chapter. State vocational-technical schools and parish schools boards that provide courses in real estate shall be required to apply for a certificate of authority and shall meet the requirements of a real estate school.
- B. The designation of "college" or "university" shall not be used in any manner by a real estate school, unless the school has met the standards and qualifications of such, and is approved by the state agency having such jurisdiction.

§5311. Designated School Director; Duties

- A. All real estate schools shall designate a director, whose duty it shall be to ensure that the operations of the school, and all training locations, adhere to the requirements of the Louisiana Real Estate License Law and the rules and regulations of the commission, and who shall be held responsible to the commission for any violations thereof. The commission shall be notified in writing within 10 days if the designated director for a real estate school is changed.
- B. Directors shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the commission to all staff, instructors, and employees.

#### §5313. Facilities and Inspections

- A. Real estate schools shall provide adequate space, seating, equipment, and instructional material to accommodate the number of enrolled students.
- B. The commission may inspect any facility used by a real estate school at any time during regular business hours.
- C. Real estate schools shall be subject to periodic audits and review, as determined by the commission, to ensure that courses are conducted in accordance with the provisions set forth in this Chapter and R.S. 37:1460. This may include the observation and evaluation of classroom activities, course content, instructor proficiency, and/or the audit of reporting/attendance records.
- D. If the real estate school is found deficient in any part of this Section, the commission shall prepare a report specifying the areas of deficiency.
- E. Any real estate school that receives a report of deficiencies shall correct the deficiencies by the date designated by the commission and shall submit a report to the commission that outlines the corrective action.
- F. Failure to respond to a report of deficiencies, in accordance with the deadline designated by the commission, may result in payment of a fine or the suspension or revocation of the certificate of authority for any school found to be in violation of this requirement

#### §5315. Record Keeping

- A. Real estate schools shall maintain accurate and properly indexed records on all students for at least five years after course completion and shall produce those records for inspection upon request of the commission. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.
- B. Real estate schools shall maintain the following records on each student:
  - 1. complete name and address;
  - 2. total classroom hours taken and course title;
  - 3. dates of attendance;
  - 4. test scores or pass/fail indications;

5. method of completion;
  6. copy of student contract.
- C. Real estate schools shall provide any student who requests it with a duplicate copy of his/her course completion records. The real estate school shall determine any fee associated with providing the records.

#### §5317. Tuition, Fees, and Contracts

- A. Each real estate school shall enter into a written contract with each student that shall clearly set forth the tuition and fees charged by the school for a specific course of instruction and the school refund policy.
- B. A copy of the contract, signed by an authorized representative of the school, shall be provided to the student immediately after both parties sign the contract.
- C. Any additional fees charged for supplies, materials, or required books shall be clearly itemized in the school contract, and such supplies, materials, or books shall become the property of the student upon payment.

#### §5319. Pre-license Instructors; Initial and Renewal Applications; Guest Lecturers

- A. No person shall act as pre-license instructor at any real estate school, and no real estate school shall hire or otherwise permit any person to act as a pre-license instructor for the school, unless that person has been certified as such by the commission.
- B. The application to become certified as a pre-license instructor shall be in such form and detail as prescribed by the commission and shall be accompanied by all documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.
- C. Applicants for a pre-license instructor certification shall provide proof of instructor experience and shall have satisfied at least one of the following qualifications:
1. bachelor's degree with a major in real estate from an accredited college or university;
  2. bachelor's degree from an accredited college or university and at least two years experience in real estate brokerage;
  3. real estate broker license and a minimum of five years experience in the area of proposed instruction;
  4. juris Doctorate degree or the equivalent from an accredited law school and a minimum of three years experience in the area of proposed instruction;
  5. two years experience as a qualified instructor or professor in the business, finance or economics department of an accredited college or university;
  6. any qualifications determined by the commission to be the equivalent of at least one of the qualifications prescribed in Paragraphs 1-5 of this Section, or any combination thereof.

- D. Upon a determination by the commission that a pre-license real estate instructor applicant has met the minimum requirements, as prescribed in §5319.C.1-6, the applicant shall be required to pass the real estate pre-license instructor assessment examination specified by the commission. The application shall not be considered complete, and a certification number shall not be issued, until such time that the applicant submits the examination results to the commission.
- E. The commission shall approve or deny a pre-license instructor application within 45 calendar days after it is received. Incomplete applications, or a request for additional information, may be a cause for delay beyond 45 calendar days.
- F. The commission may deny an application for certification as a pre-license instructor if:
1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction;
  2. an application contains a false statement of material fact;
  3. a professional license or certification held by an applicant has been revoked;
  4. the applicant fails to meet the minimum requirements prescribed in Section 5319.C.1-6;
  5. the applicant fails to meet the qualifying score on the pre-license instructor assessment examination.
- G. A pre-license instructor certificate shall be issued for a maximum period of one calendar year and shall expire annually on December 31, unless an application for renewal is submitted.
1. Renewal of a pre-license instructor certificate shall require annual completion of 12 hours of approved continuing education during the current certification period. The 12 hours shall include four hours in the mandatory topic prescribed by the commission.
  2. Completed continuing education hours shall not include actual instruction hours.
- H. Failure to renew a pre-license instructor certificate by December 31 shall result in the following action:
1. Approval to provide real estate instruction shall be automatically suspended;
  2. The commission shall not accept any education courses for credit if the courses were instructed after the expiration of the pre-license instructor certificate;
  3. Delinquent applications for renewal of a pre-license instructor certificate shall not be accepted by the commission after January 31. Failure to renew during the prescribed delinquent period of January 1 through January 31 shall result in the forfeiture of renewal rights. Any pre-license instructor that becomes ineligible to renew shall be required to apply as an initial applicant.
- I. A guest lecturer shall meet at least one of the following qualifications:

1. a college or university professor in real estate, finance, economics, or a related field;
  2. a specialist with a degree or professional designation with expertise in the specific topic of instruction;
  3. a real estate licensee with at least five years experience in the area of proposed instruction.
- J. Guest lecturers shall not instruct any pre-license course pertaining to the Louisiana Real Estate License Law or the commission rules and regulations.
- K. Guest lecturers shall not provide more than two presentations of pre-license education for a certified real estate school in a calendar year.

#### §5321. Prohibitions

- A. It shall be prohibited for any real estate brokerage firm to operate a real estate school under the same legal entity as the real estate brokerage firm.
- B. Any activity that is designed to influence or solicit a pre-license education student to work under the sponsorship of any real estate broker shall be considered recruiting and is prohibited while on the premises of a real estate school.
- C. A real estate school shall not provide the name(s) of any licensee or student, whether potential or enrolled, to anyone other than the Louisiana Real Estate Commission.

#### §5323. Change of Address

- A. The commission shall be notified within 10 calendar days after any change in the business address or telephone number of any real estate school and the residence or business address or telephone number of any owner, director or instructor thereof.

#### §5325. School Advertising

- A. Advertising by real estate schools shall not be false or misleading.
- B. Advertisements shall state that the school is certified by the Louisiana Real Estate Commission and shall include the school certificate of authority number.
- C. The commission may require a real estate school to furnish proof of any advertising claims. The commission may order the retraction of advertising that violates the provisions of this Section. Such retractions shall be published in the same manner as the original claim and shall be paid for by the real estate school.
- D. Certified real estate schools shall not guarantee the passing of the state real estate licensing examination.

#### §5327. Investigations and Hearings

- A. The commission shall have the authority on its own motion, or following receipt of a complaint, to investigate any real estate school to determine compliance with the Louisiana Real Estate License Law and the rules and regulations of the commission.
- B. If an investigation by the commission determines that a violation has occurred, the commission shall follow the provisions of R.S. 37:1456 et seq.

#### §5329. Suspension or Revocation of a School Certificate of Authority or Pre-license Instructor Certification

- A. The commission shall have the authority to impose fines, suspend, or revoke a school certificate of authority or pre-license instructor certification for the following acts committed by a school owner, director, or pre-license instructor:
  - 1. violating any rule or regulation promulgated by the commission;
  - 2. obtaining or attempting to obtain by deceptive or fraudulent means any copyrighted test questions and/or confidential test material used by or belonging to any national testing service currently or previously contracted with the commission;
  - 3. having been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge;
  - 4. refusal to appear or testify under oath at any hearing held by the commission;
  - 5. falsely certifying hours of attendance for any student;
  - 6. having a salesperson, broker, or timeshare interest salesperson license suspended or revoked by the commission;
  - 7. recruiting students or knowingly allowing others to use classroom facilities to discuss sponsorship or potential licensees for any real estate brokerage firm;
  - 8. failure of a real estate school to enter into a written/electronic contract with any student;
  - 9. Failure of a real estate school director to inform pre-license instructors on changes to the Louisiana Real Estate License Law or commission rules and regulations.

#### §5331. Pre-license Education Courses Offered by Real Estate Schools

- A. Salesperson pre-license education courses offered by real estate schools shall be structured in the following manner:
  - 1. Real Estate 101—salesperson 90-hour course that shall include:
    - a. real estate principles and practices;
    - b. Louisiana real estate license law;
    - c. commission rules and regulations;

- d. law of agency, as contained in Title 9 of the Louisiana Revised Statutes;
  - e. civil law, as it pertains to real estate transactions.
- B. Broker pre-license education courses offered by real estate schools shall be structured in the following manner:
  - 1. Real Estate 201—90-hour course on basic real estate fundamentals;
  - 2. Real Estate 202—30-hour course that shall include, and be limited to, the following topics:
    - a. Louisiana real estate license law;
    - b. commission rules and regulations;
    - c. law of agency, as contained in Title 9 of the Louisiana Revised Statutes;
    - d. civil law, as it pertains to real estate transactions;
    - e. ethics and professionalism;
  - 3. Real Estate 203—mandatory 30-hour course on broker responsibilities.
- C. It shall be the responsibility of the real estate school to amend each course as necessary to provide for any applicable law or rule change that is enacted during the course approval period. A fee shall not be required when a real estate course is amended to accommodate law or rule changes.
- D. In addition to pre-licensing courses, any state certified real estate school may offer post-license and continuing education courses provided that the school applies for and receives approved continuing education vendor status. No additional initial or renewal fees will be required of the school; however, filing fees for each additional course approval request will be required as provided in R.S. 37:1443. A separate Louisiana Real Estate Commission vendor number will be assigned to the school upon compliance with post-license and/or continuing education vendor requirements.
- E. Real estate schools shall not issue pre-license education credit for attendance at post license education courses or continuing education courses.
- F. Real estate schools shall not incorporate post-license education with pre-license education instruction.
- G. Real estate schools shall not incorporate continuing education with pre-license education instruction.

#### §5333. Methods of Instruction; Classroom Training, Distance Education

- A. Classroom training that is led by an instructor and held in a physical location, or delivered via a network, may be used to present pre-license courses and shall be in such format and detail as prescribed by the commission.

- B. Distance education, for the purpose of this Chapter, shall mean any of the following methods of instruction:
1. interactive Internet-based instruction;
  2. combination courses.
- C. Combination courses, for the purpose of this Chapter, shall mean any distance education course that includes supplemental classroom instruction or assistance. Combination courses shall be registered with the commission as distance education and shall follow all guidelines established in this Chapter for the approval of distance education. Combination courses shall be clearly advertised as distance education. Classroom time for all instruction or assistance portions of a combination course shall be reported to the commission in accordance with §5337 of this Chapter.
- D. Real estate schools that offer distance education courses shall apply for course approval as follows.
1. Distance education courses shall be submitted to the commission for content approval prior to any course offering.
  2. Distance education courses that have been approved by the commission for course content shall be submitted to the Association of Real Estate License Law Officials (ARELLO) for certification of the delivery method prior to any course offering. Loss of ARELLO certification for courses approved under this Section shall automatically suspend commission approval of the course content.
  3. Colleges and university academic credit courses for distance learning shall not be required to be Association of Real Estate License Law Officials (ARELLO) approved if part of a college or university curriculum. Any other distance learning courses offered to the general public outside of a curriculum program shall be ARELLO approved.
- E. Final examinations for distance education courses shall consist of multiple choice questions with four possible answers (a, b, c and d) as follows:
1. a minimum of 20 questions for each two hours of continuing education credit; or
  2. a minimum of 150 questions for each post licensing final exam;
  3. the examination that a student submits for grading shall include a signed and dated statement that the student has personally completed the course and examination.
- F. Real estate schools shall certify students as successfully completing a course only if the student completes any written assignments and passes the required examination on course content.

#### §5335. Certificates of Completion

- A. Real estate schools shall issue certificates to students immediately upon completion of the course. Certificates shall contain the following information:



1. complete name of the real estate school and the certificate of authority number;
  2. name of the student;
  3. course title and level completed;
  4. number of credit hours completed;
  5. date of course completion;
  6. signature of authorized school representative;
  7. acknowledgment of student's successful completion of examination;
  8. indication of delivery method.
- B. Certificates of completion will not be accepted from any real estate school that is not in good standing with the commission on the date that the certificate is issued.
- C. In lieu of the required certificate of completion, the commission may accept college or university transcripts that reflect the completion of real estate related courses approved by the commission. Such transcripts shall be issued by the college or university registrar and shall include the course title and number, the date of completion, and the final grade.
- D. Colleges or universities that do not issue transcripts for courses completed through a division of continuing education shall provide a certificate of completion to students who successfully complete a course of study.

#### §5337. Course Reporting Schedules and Attendance

- A. Classroom course reporting schedule reports shall be submitted in such form and detail as prescribed by the commission no less than 10 days prior to the course.
- B. Attendance verification reports shall be submitted in such form and detail as prescribed by the commission within 30 days after completion of the course.

#### Chapter 55. Real Estate Vendors; Post-licensing and Continuing Education

##### §5501. Real estate Vendor Approval; Applications and Procedures

- A. This Chapter shall apply to real estate education vendors seeking approval to conduct a course of education in real estate post-license and/or continuing education subjects.
- B. Any individual or entity desiring to conduct business in this state as a real estate education vendor shall file an application for certification with the commission.
- C. The application shall be in such form and detail as prescribed by the commission and shall be accompanied by all documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.

- D. The commission shall approve or deny a real estate education vendor application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.
- E. The commission may deny an application for certification as a real estate education vendor for any of the following reasons.
  - 1. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.
  - 2. An application contains a false statement of material fact.
  - 3. A professional license or certification held by an applicant has been revoked.

#### §5503. Surety Bonds

- A. Applicants for certification as a real estate education vendor shall submit proof of a five thousand dollar (\$5,000) surety bond issued by an insurance company that is authorized to conduct business in Louisiana.
- B. Bonds shall be in favor of the state of Louisiana and conditioned for the protection of the contractual rights of students who attend real estate courses offered by the real estate education vendor.
- C. Bonds shall remain effective and in force throughout the certification period of the real estate education vendor
- D. Proof of bond renewal shall be provided to the commission annually.
- E. Failure to maintain a bond shall be cause for revocation or suspension of a certification.

#### §5505. Real Estate Vendor Certifications; Initial and Renewal Certificates

- A. The commission shall issue a real estate education vendor certificate to all applicants approved under this Chapter.
- B. The commission shall assign a certificate number that shall be included in all advertisements of approved courses and on all forms, documents, and reports filed with the commission.
- C. A vendor certification for an application that is submitted and approved after October 31 may be issued effective January 1 of the following year.
- D. A vendor certification shall be issued for a maximum period of one calendar year and shall expire annually on December 31 unless an application for renewal is submitted.
- E. Failure to renew a vendor certification by December 31 shall result in the automatic suspension of all course approvals issued under the certification, and the commission shall not accept any post-license education or continuing education courses for credit, if the courses were offered after the expiration of the certification.

- F. Applications for delinquent renewal of a vendor certification shall not be accepted by the commission after January 31. Failure to renew an expired vendor certification during the prescribed delinquent period of January 1 through January 31 shall result in the forfeiture of renewal rights. Any real estate vendor that becomes ineligible to renew a vendor certification shall apply as an initial applicant.

#### §5507. Designated Contact Person; Duties

- A. All real estate education vendors shall designate a contact person, whose duty it shall be to ensure that the operations of the vendor, and all training locations, adhere to the requirements of the Louisiana Real Estate License Law and the rules and regulations of the commission, and who shall be held responsible to the commission for any violations thereof.
- B. The commission shall be notified in writing within 10 days if the designated contact person for a real estate education vendor is changed.
- C. The designated contact person shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the commission to all staff, instructors, and employees.

#### §5509. Inspections and Monitoring of Approved Vendors and Courses

- A. Real estate education vendors shall provide adequate space, seating, equipment, and instructional material to accommodate the number of enrolled students.
- B. The commission may inspect any facility used by a real estate education vendor at any time during regular business hours.
- C. Real estate education vendors shall be subject to periodic audits and reviews, as determined by the commission, to ensure that courses are conducted in accordance with the provisions set forth in R.S. 37:1460 and this Chapter. This may include the observation and evaluation of classroom activities, course content, instructor proficiency, and/or the audit of reporting/attendance records.
- D. If the real estate education vendor is found deficient in any part of this Section, the commission shall prepare a report specifying the areas of deficiency.
- E. Any real estate education vendor that receives a report of deficiencies shall correct the deficiencies by the date designated by the commission and shall submit a signed, written report to the commission that outlines the corrective action.
- F. Failure to respond to a report of deficiencies, in accordance with the deadline designated by the commission, may result in payment of a fine, or the suspension or revocation of any certificate for a vendor found to be in violation of this requirement.

#### §5511. Record Keeping

- A. Real estate education vendors shall maintain accurate and properly indexed records on all students for at least five years after course completion and shall produce those records for inspection upon request of the commission. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

- B. Real estate education vendors shall maintain the following records on each student:
1. complete name, as licensed with the commission, and address;
  2. course title, as approved by the commission;
  3. credit hours received;
  4. dates of attendance;
  5. test scores or pass/fail indications.
- C. Real estate education vendors shall provide any student who requests it with a duplicate copy of his/her course completion records. The real estate education vendor shall determine any fee associated with providing the records.

#### §5513. Post-license and Continuing Education Instructors

- A. No person shall act as a post-license/continuing education instructor, and no real estate vendor shall hire or otherwise permit any person to act as a post-license/continuing education instructor, unless that person has been approved by the commission.
- B. The application to become approved as a real estate post-license/continuing education instructor shall be in such form and detail as prescribed by the commission and shall be accompanied by any documentation requested therein and the certification fee(s) prescribed in R.S. 37:1443.
1. Approval as a post-license/continuing education instructor shall be required per vendor course and shall not qualify an approved instructor to instruct any other post-license/continuing education courses.
  2. The expiration of an approved post-license/continuing education course shall result in the automatic expiration of all instructor approvals issued for that course.
- C. The commission shall approve or deny a post-license/continuing education instructor application within 45 calendar days after it is received. Incomplete applications, or a request from the commission for additional information, may be cause for delay beyond 45 calendar days.
- D. The commission may deny an application for approval as a post-license/continuing education instructor for any of the following reasons.
1. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction.
  2. An application contains a false statement of material fact.
  3. A professional license or certification held by an applicant has been revoked.

4. The applicant fails to meet the minimum requirements prescribed by the commission.

#### §5515. Supplemental Post-License/Continuing Education Instructors

- A. Real estate vendors may hire or otherwise permit a supplemental course instructor to participate with a primary instructor in the instruction of an approved post- license/continuing education course, provided the supplemental course instructor is named as such in the application for post-license/continuing education instructor submitted by the primary instructor.
- B. A supplemental course instructor shall work under the direct supervision of the approved primary course instructor and shall be limited to no more than 25 percent of the total course instruction. In instances where there is more than one supplemental course instructor, the supplemental course instructors shall be limited to a combined total of no more than 25 percent of the total course instruction.

#### §5517. Change of Address

- A. The commission shall be notified within 10 calendar days of any change in the business address or telephone number of any real estate education vendor and the residence or business address or telephone number of any owner, designated contact person, or instructor thereof.

#### §5519. Vendor Advertising

- A. Advertising by estate education vendors shall not be false or misleading.
- B. Advertisements shall state that the vendor is certified by the Louisiana Real Estate Commission and shall include the vendor certification number.
- C. The commission may require a real estate education vendor to furnish proof of any advertising claims. The commission may order the retraction of advertising that violates the provisions of this Section. Such retractions shall be published in the same manner as the original claim and shall be paid for by the real estate education vendor.

#### §5521. Investigations and Hearings

- A. The commission shall have the authority on its own motion, or following receipt of a complaint, to investigate any real estate education vendor to determine compliance with the Louisiana Real Estate License Law and the rules and regulations of the commission.
- B. If an investigation by the commission determines that a violation has occurred, the commission shall follow the provisions of R.S. 37:1456 and the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

#### §5523. Suspension or Revocation of a Vendor Certification or Post-License/Continuing Education Instructor Approval

- A. The commission may impose fines, and/or suspend or revoke a vendor certification and/or post-license/continuing education instructor approval for the following acts committed by a vendor, employee, or approved post-license/continuing education instructor:

1. violation of any rule or regulation promulgated by the commission;
  2. conviction of a felony or entering a plea of guilty or nolo contendere to a felony charge;
  3. refusal to appear or testify under oath at any hearing held by the commission;
  4. false certification of course attendance hours for any student;
  5. suspension or revocation of a salesperson, broker, or timeshare interest salesperson license by the commission;
  6. failure of a real estate vendor contact person to inform post-license/continuing education instructors on changes to the Louisiana Real Estate License Law or commission rules and regulations.
  7. using designated course instruction time to teach, promote, advance, encourage, or further personal opinion, information, data, statistics, facts, figures, material, news, reports, intelligence, or knowledge that is not included in the approved course curriculum.
- B. Suspension or revocation of a post-license/continuing education instructor approval shall include all courses for which the post-license/continuing education instructor approval has been granted.

#### §5525. Course Approval; Applications and Procedures

- A. Courses approved by the commission for instruction by real estate education vendors shall be classed in the following categories:
1. post-license education;
  2. continuing education.
- B. Real estate education vendors shall file a course approval application with the commission for each course that will be offered for credit toward renewal of a real estate license. Real estate vendors shall not advertise as approved by the commission, or otherwise schedule or offer a course, prior to receiving course approval from the commission.
- C. The course approval application shall be in such form and detail as prescribed by the commission and shall be accompanied by the processing fee prescribed in R.S. 37:1443.
- D. The commission shall approve or deny a course approval application within 45 calendar days after it is received. Incomplete applications or a request from the commission for additional information may be cause for delay beyond 45 calendar days.
- E. Each course approved by the commission shall remain active for three years and shall expire on December 31 of the third year unless a renewal application for course approval is filed with the commission. The commission shall not accept credit for a non-renewed course that is presented after the date of expiration.

- F. The commission shall assign a tracking number to each approved course that shall be used with the approved course title on all forms, documents, reports, and/or correspondence filed with the commission.
- G. Real estate education vendors shall not amend the title or outline of any approved course without first obtaining the written approval of the commission.
  - 1. All requests to amend a course shall be accompanied by the new course outline and the processing fee prescribed in R.S. 37:1443.
  - 2. It shall be the responsibility of the real estate education vendor to amend each course as necessary so as to provide for any applicable law or rule change that is enacted during the course approval period. A fee shall not be required when a real estate course is amended to accommodate law or rule changes.

#### §5527. Post License Education Courses

- A. Post-license education courses offered by real estate education vendors shall be developed in accordance with the content outline prescribed by the commission.
- B. Real estate education vendors shall not issue credit for any post-license education course unless the student has passed an examination on the course content. Post-license hours shall be secured through and reported by one approved vendor.
- C. Post-license education courses shall be open to all licensees regardless of broker affiliation.

#### §5529. Continuing Education Courses

- A. Real estate education vendors may offer continuing education course topics that include, but are not limited to, appraisal, finance, taxes, zoning, Louisiana Real Estate License Law/commission rules and regulations, environmental quality, property management, and federal laws affecting real estate such as HUD and fair housing regulations.
- B. Continuing education courses offered by real estate education vendors shall be a minimum of two hours. A classroom hour is defined as sixty minutes, of which fifty minutes are instruction. The prescribed number of classroom hours may include time devoted to examinations if a required part of the course. Time devoted to breakfasts, luncheons, dinners, or other refreshments shall not be counted as instruction time.
- C. Licensees shall not receive duplicate credit for attending the same continuing education course from the same vendor in the same year. It shall be the responsibility of the real estate education vendor to advise licensees that credit shall not be awarded for completing duplicate courses within the same license period.
- D. Course work completed by licensees through non-approved providers will be considered for credit by the commission on an individual basis. Licensees seeking approval for course work obtained through non-approved providers shall apply for such approval by submitting documentation of attendance, hours completed, date of attendance, and detailed course content information.
- E. Continuing education courses shall be open to all licensees regardless of broker affiliation.

### §5531. Mandatory Courses

- A. The commission shall mandate an annual four-hour continuing education course topic and curriculum that licensees shall complete during each license period as a requirement for license renewal.
- B. Real estate education vendors shall not offer the mandatory course for credit unless a course approval application has been approved by the commission.
- C. There shall be no substitute curriculum for the mandatory course, including any previously approved course that is similar in name and/or content, without prior commission approval.
- D. Any instructor used in the presentation of the mandatory course shall have first completed the annual Train the Trainer instructor workshop developed specifically for each mandatory course topic. Completion of a prior year train the trainer instructor workshop shall not be substituted for completion of the current year workshop.

### §5533. Methods of Instruction

- A. Live classroom training that is led by an instructor and held in a physical location, or delivered via a network, may be used to present post-license and continuing education courses and shall be in such format and detail as prescribed by the commission.
- B. Distance education, for the purpose of this Chapter, shall mean any of the following methods of instruction:
  - 1. interactive Internet-based instruction;
  - 2. correspondence courses.
- C. Correspondence courses, for the purpose of this Chapter shall be in such format and detail as prescribed by the commission for post- license or continuing education distance learning credit hours only. Passage of an examination on course content is a requirement for all correspondence courses.
- D. Real estate education vendors that offer distance education courses shall apply for course approval as follows.
  - 1. Distance education courses shall be submitted to the commission for content approval prior to any course offering.
  - 2. Distance education courses that have been approved by the commission for course content shall be submitted to the Association of Real Estate License Law Officials (ARELLO) for certification of the delivery method prior to any course offering. Loss of ARELLO certification for courses approved under this Section shall automatically suspend commission approval of the course content.
- E.
  - 1. Final examinations for distance education courses shall consist of multiple choice questions with four possible answers (a, b, c and d) as follows:



- a. a minimum of 20 questions for each two hours of continuing education credit; or
    - b. a minimum of 150 questions for each post- license final exam.
  2. The examination that a student submits for grading shall include a signed and dated statement that the student has personally completed the course and examination.
- F. All courses submitted for approval shall be in the exact format in which they will be sold to licensees for post- license or continuing education credit.
- G. Real estate education vendors shall not grade any written assignment or examination if it is presented for grading before the time frame for course completion has been reached.
- H. Real estate education vendors shall not grade any examination that does not contain the signed certification required in Paragraph E.2 of this Section.
- I. Real estate education vendors shall certify students as successfully completing a course only if the student completes any written assignments and passes the required examination on course content.

#### §5535. Certificates of Completion

- A. Real estate education vendors shall issue certificates containing the following information to students:
1. complete name of the real estate education vendor and the vendor certification number;
  2. name of the student as licensed with the commission;
  3. real estate license number;
  4. number of credit hours completed;
  5. course title as approved by the commission
  6. date of course completion;
  7. signature of authorized representative;
  8. indication of delivery method.

#### §5537. Course Reporting; Schedules and Attendance

- A. Real estate education vendors shall submit continuing education and post-license education course schedules and attendance verification reports to the commission.

- B. Course schedules shall be received by the commission at least 10 calendar days prior to the beginning of each month.
- C. Course schedules and attendance verification reports shall be submitted in such form and detail as prescribed by the commission.

#### §5539. Non-certified Real Estate Education Vendors

- A. Non-certified real estate education vendors may request commission approval to offer continuing education courses under the following conditions.
  - 1. Non-certified real estate education vendors shall comply with the course approval and course reporting procedures specified in Section 5537.A-C of this Chapter.
  - 2. No more than two course approvals may be granted to each non-certified real estate education vendor within a one-year period.
  - 3. Each course approval issued to a non-certified real estate education vendor shall be limited to a maximum of three presentations in locations that shall be specified in the request for approval. The commission shall not grant credit for any course presentation that exceeds the maximum specified in this Part.

### Chapter 57. Timeshares

#### §5701. Requirements for Processing

- A. Every applicant for initial registration as a timeshare developer or timeshare salesperson shall submit to the commission a fully completed application on a form provided by the commission accompanied by the prescribed fees.
- B. Every application for an initial timeshare salesperson registration shall contain the name of the developer for whom the applicant will be working following registration and shall be signed by a designated representative of that developer.
- C. Applicants for registration as timeshare developers shall submit the following to the commission at the time of filing for registration:
  - 1. sample copies of the conveyance and financing forms and, when applicable, copies of the public offering statement and a certified copy of the timeshare declaration;
  - 2. when applicable, an affidavit, signed by the chief executive officer or managing partner of the developer and by any natural person having an ownership interest exceeding 10 percent in either the developer or entities which control it, that states under penalty of perjury that the affiant has read the timeshare declaration and all attached documents, and that they are true and correct.

#### §5703. Receipt of Application

- A. Every application shall be received and approved by the commission prior to the date the applicant engages in the business of selling timeshare interests within this state.

#### §5705. Bonds

- A. At the time of initial application, each applicant for registration as a timeshare interest salesperson shall provide evidence of one bond issued in favor of the state by a surety company authorized to do business in this state in the amount of \$10,000 in accordance with R.S. 37:1437.1(E).
- B. A new bond or a renewal or continuation of the original bond shall be required for each registration period. If a continuous bond is filed, a new or renewal bond is not required as long as the continuous bond remains in force and effect.
- C. In the event a bond is revoked or canceled by the surety company, the timeshare registration of the named bondholder shall automatically be suspended until such time as a new bond is filed with the commission.

#### §5707. Fees

- A. Registration fees shall cover a period of one calendar year and shall not be prorated.

#### §5709. Automatic Suspension for Non-Renewal

- A. If a developer's timeshare registration is suspended or revoked, no sales of timeshare interests in that project may be conducted by that developer, by any timeshare sales registrant working for that developer, or by any licensed real estate broker or salesperson working with that developer.

#### §5711. Terminations

- A. A developer who wishes to terminate an association with a sales registrant shall return the registrant's sales registration certificate to the commission along with a properly executed transfer form as provided by the commission.
- B. A sales registrant who wishes to terminate an association with a developer shall request, in writing, that the developer return that registrant's sales registration certificate to the commission, and shall sign the appropriate transfer form as proof of the request.
- C. A sales registrant may transfer to another developer upon submission of a property executed transfer form signed by both the registrant and a designated representative of the developer. This transfer request shall be accompanied by a new bond and appropriate transfer fees.

#### §5715. Establishment of Escrow Account

- A. Where applicable, the developer of each timeshare plan that has timeshare property located in Louisiana, or who maintains a sales office in Louisiana for the sale of timeshare interests, shall establish interest bearing escrow accounts in the developer's name at a financial institution in the parish where the timeshare property or sales office is located, in accordance with R.S. 9:1131.16 and 17.

#### §5717. Affidavit of Authority

- A. Every developer of a timeshare plan shall submit to the commission notarized affidavits attesting to the existence, location and account number of the developer's escrow accounts. The affidavits shall authorize and empower the commission or its representatives to examine, inspect, and/or copy the developer's escrow accounts.

#### §5719. Escrow Account Closing

- A. Every developer shall notify the commission of his intention to close an escrow account at least 10 days prior to the intended closing date.

#### §5721. Maintaining an Escrow Account

- A. Upon revocation, suspension or lapse of registration, a developer shall nevertheless continue to maintain all escrow accounts until such time as all monies have been disbursed according to law.

#### §5723. Change of Address

- A. Every registrant shall report in writing any change in business or residence address or telephone number to the commission within 10 days of the change. Such notification shall be by hand delivery or certified mail.

#### §5725. Payment to Non-Registrants

- A. Timeshare registrants, in accordance with the provisions of R.S. 37:1446(A), shall not offer or pay a fee or any other compensation of any kind to any unregistered person for the purpose of obtaining any timeshare solicitations.

#### §5727. Developer Records

- A. Every developer shall retain, for at least five years, readily available and properly indexed copies of all documents which in any way pertain to the sale or solicitation of timeshare interests in which he has acted as a developer.