



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Business Regulation
**DIVISION OF COMMERCIAL LICENSING AND
RACING AND ATHLETICS**

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NOTICE – EFFECTIVE MAY 27, 2009

CHANGES IN COMMERCIAL LICENSING REGULATION 11, REAL ESTATE BROKERS AND SALESPERSONS

The Department has promulgated and approved, after public hearing, changes to Commercial Licensing Regulation 11, Real Estate Brokers and Salespersons. It is the responsibility of all real estate licensees to review the regulation in its entirety and comply with all applicable amendments. The following is a list of amendments that are highlighted for ease of application and reference:

- Classroom hours completed more than two (2) years from the date of the application will not be considered in meeting the 45-hour pre-licensing requirement for Salespersons.
- The 45-hour pre-licensing classroom hours used to qualify a salesperson for a license shall not be used to qualify for the ninety (90) hours required for a broker's license. In addition, classroom hours completed more than four (4) years from the date of the application will not be considered in meeting the 90-hour requirement. All applications received after July 1, 2009 will be subject to the new requirements.
- Individual licensees are required to have Errors and Omission Insurance in an amount for each claim of at least \$50,000 and in an aggregate amount of at least \$150,000. Principal broker's blanket policy shall reflect the above multiplied by the number of individual licensees employed or provide coverage of at least \$300,000 for each claim with an aggregate top limit of liability for all claims of at least \$1,000,000 during any one year. **Licensees shall have until August 15, 2009 to comply with this requirement. Licensees who do not comply by that date may be subject to administrative action.**

- All licensees, not specifically exempt from taking continuing education courses, must attend and successfully complete during the two years prior to renewal **twenty-four (24) clock hours** of real estate oriented educational sessions or courses of instruction. This requirement is in effect for May 1, 2010 renewals.
- Attorneys licensed by the Supreme Court who obtained a real estate salesperson or broker's license without examination shall comply with the continuing education requirement. Continuing legal education courses that substantially relate to the sale, purchase, or leasing of real estate may be used to satisfy the requirements of this section only upon prior approval of the course by the Department.
- A principal broker may pay commissions directly to a limited liability company or corporation that is wholly owned by a salesperson or associate broker who is affiliated with the principal broker.
- A licensee at the first point of personal contact, must disclose in writing whether they have a personal, familial or ownership interest in a business involving any real estate transaction if they wish to collect a commission.

Included with this Notice is a Summary of Non-Technical Amendments for Commercial Licensing Regulation 11 – Real Estate Brokers and Salesperson. This summary contains all the changes made to Regulation 11 including language, numbering, new sections and sections eliminated.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
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**SUMMARY OF NON-TECHNICAL AMENDMENTS FOR
COMMERCIAL LICENSING REGULATION 11 – REAL ESTATE BROKERS
AND SALESPERSONS**

I.

Given the comprehensive revision of this regulation, the summary is divided into three parts. Part I is this introduction and explanatory note. Part II is set up to reflect the revised format of the proposed amended regulation. The word “Section” replaces the word “Rule” to provide consistency with other regulations promulgated by the Department as well as to add clarity to this regulation. The new section is then briefly described with the substantive changes made or identified as a new rule. Part III presents the revisions made by using the format of the current regulation. With each rule there is an explanation of where it can be found under the proposed regulation. Mention is also made if the rule was eliminated.

II.

Section 1: This is a revised section that amalgamates the prior Section 1 on the authority to promulgate this regulation and the former Section 2 that describes the regulation’s purpose.

Section 2: This section now contains the definitions previously contained in Section 3. Certain definitions were added, updated, or eliminated for clarity purposes, ease of use, and alignment with the revisions made to this regulation and the recently amended Title 5, Chapter 20.6 of the Rhode Island General Laws.

Section 3: This section formerly contained the definitions that are now found in Section 2. This new section now clarifies a licensee’s responsibility to provide contact information to the Department timely whenever it changes.

Section 4: This section formerly contained the rule regarding severability, which is now located in Section 32. This section now clarifies that role and responsibilities of the principal broker.

Section 5: This section formerly contained the effective date information regarding this regulation. It now clarifies the role of a licensed salesperson.

Section 6: This section is a revised version of the former Rule 3 regarding examinations.

Section 7: This is a new section that clarifies the education requirements found in R.I. Gen. Laws § 5-20.5-4.

Section 8: This section houses the former Rule 17 on fees and also includes new language regarding checks written on accounts with insufficient funds.

Section 9: This section is a revised version of the former Rule 32 regarding license terms and clarifies the licensee's responsibilities regarding the renewal of his or her license.

Section 10: This section bifurcates and revises the former Rule 23 regarding the transfer of licenses when a licensee affiliates with a new brokerage.

Section 11: This section provides the portion of former Rule 23 regarding the dissolution of brokerages.

Section 12: This section emphasizes the applicability of Title 5, Chapter 20.5 to certain property management companies.

Section 13: This section is a new provision that requires that licensees provide the Department with notice whenever he or she is convicted of a crime or is formally disciplined by another government entity with respect to another occupational license.

Section 14: This section is the former Rule 21 regarding the prohibition of discriminatory practices in real estate transactions. It has been revised to align with the definition of protected classes found under Title 34, Chapter 37 of the Rhode Island General Laws.

Section 15: This is a new section that makes obvious the concept that an individual with an expired, suspended, or revoked license cannot engage in licensed activity. It also makes clear that a licensee cannot falsify the renewal application regarding the satisfaction of the continuing education requirement.

Section 16: This section is the former Rule 30 regarding the conduct of cases and is revised to better explain the contested case process found in the Department's *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings*.

Section 17: This section clarifies the former Rule 5 for the restoration of licenses.

Section 18: This section is a revision of the former Rule 6 regarding the commingling of client funds and parts of the former Rule 7 regarding escrow accounts.

Section 19: This section revises the portion of former Rule 7 regarding the release of deposits held by licensees.

Section 20: This section is an amalgamation and revision of the former Rule 10 regarding records and the former Rule 11 regarding the inspection of records.

Section 21: This section is the former Rule 8 regarding commissions and contains authorization for licensees to own their own limited liability companies and closely-held corporations for the purpose of receiving commissions from their affiliated principal brokers. It also provides rules regarding the need for transparency in a real estate transaction when a licensee is acting in a capacity other than as a representative for an unrelated third party.

Section 22: This section is the former Rule 20 regarding the general obligations of licensees and is revised to reflect the changes recently made to Title 5, Chapter 20.6 of the Rhode Island General Laws.

Section 23: This section is the former Rule 9 regarding advance fees and remains substantively unchanged.

Section 24: This section is the former Rule 12 regarding the prohibition of lending one's name as a principal broker for another person in an attempt to circumvent statutory requirements and remains substantively unchanged.

Section 25: This section is the former Rule 13 regarding advertising and contains minor revisions for clarification purposes.

Section 26: This section is the former Rule 14 regarding certain agreements in real estate transactions and contains minor revisions for clarification purposes.

Section 27: This section is the former Rule 26 regarding the requirement of a license under Title 5, Chapter 20.7 of the Rhode Island General Laws to perform appraisals and contains minor revisions for clarification purposes.

Section 28: This section is a substantial revision of the former Rule 33 and provides new rules regarding errors and omission insurance.

Section 29: This new section combines the rules found in the former Rule 29 regarding real estate schools and instructors with long-time departmental policy regarding the approval of such schools and instructors.

Section 30: This section is the former Rule 29 regarding continuing education and provides for additional hours to satisfy the continuing education requirements.

Section 31: This section is the former Rule 31 regarding subsequent changes in the statutory authority for real estate licensure and remains substantively unchanged.

Section 32: This is a new section that contains the rule on severability formerly found in Section 4. The rule remains unchanged.

Section 33: This is a new section that contains the effective date of the regulation formerly found in Section 5.

III.

Several rules have been changed or eliminated. Provided below is a list of the former rules found in this regulation that will explain where the old rule can be found above or if it was eliminated.

Rule 1: This rule regarding disciplinary action was eliminated as it reiterates R.I. Gen. Laws § 5-20.5-14(a)(15).

Rule 2: Certain parts of this rule regarding agencies have been rendered obsolete by the recently revised Title 5, Chapter 20.6 and the long-standing policy of the Department to license solely individuals. The section of rule regarding the responsibilities of principal brokers is now found under Section 4.

Rule 3: This rule regarding examinations is now found under Section 6.

Rule 4: This rule regarding re-examination is also found under Section 6.

Rule 5: This rule regarding license restoration contingent upon re-examination is also Section 6.

Rule 6: This rule regarding the commingling of funds is now found under Section 18.

Rule 7: Section 19 now houses this rule regarding obligations in accepting funds or deposits.

Rule 8: This rule regarding commissions is now found under Section 21.

Rule 9: This rule regarding advance fees is now found under Section 23.

Rule 10: Section 20 now contains this rule regarding records.

Rule 11: This rule regarding the inspection of records also found under Section 20.

Rule 12: This rule prohibiting the lending of one's name is found under Section 24.

Rule 13: Section 25 now contains this rule regarding advertising.

Rule 14: This rule regarding agreements is no found in Section 26.

Rule 15: This rule regarding offices has been eliminated because there have been no complaints filed in several years regarding offices and other existing rules cover this rule.

Rule 16: Similar to Rule 15 above, this rule regarding branch offices have been eliminated.

Rule 17: This rule regarding fees is now found under Section 8.

Rule 18: This rule regarding license sponsors has been eliminated given the requirements that already exist in R.I. Gen. Laws § 5-20.5-3(c).

Rule 19: This rule regarding dual activity as an insurance licensee is now found in Section 4.

Rule 20: Section 22 now houses this rule.

Rule 21: This rule regarding discriminatory practices is now found in Section 14.

Rule 22: This rule on the delegation of authority has been eliminated.

Rule 23: This rule is now found in Sections 10 and 11.

Rule 24: The temporary licenses rule has been eliminated.

Rule 25: This rule regarding rental referrals has been eliminated.

Rule 26: This rule prohibiting appraisals unless licensed is now found in Section 27.

Rule 27: This rule regarding the obligations of licensees in soliciting listings has been eliminated as it is covered under Title 5, Chapter 20.5.

Rule 28: This rule regarding the lead mitigation continuing education course has been eliminated as it is covered in R.I. Gen. Laws § 5-20.5-6(c).

Rule 29: This rule regarding continuing education is now found under Section 30 and contains additional hours required for renewal of a license.

Rule 30: This rule regarding the conduct of cases is now found in Section 16.

Rule 31: This rule regarding subsequent changes in the law pertaining to real estate licensure remains unchanged.

Rule 32: The rule regarding license terms is now found under Section 9.

Rule 33: Errors and omission insurance rule is now found under Section 28.

Rule 34: This rule regarding the agency law course has been eliminated.

The actions and information required by this regulation are hereby declared to be necessary and appropriate to the public interest.

A. Michael Marques, Director
Department of Business Regulation

Filed Date: March 30, 2009
SOS Ref. No.