

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF COMMERCIAL LICENSING
1511 PONTIAC AVENUE, BLDG. 69-1
CRANSTON, RHODE ISLAND 02920**

CONCISE EXPLANATORY STATEMENT

Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons

The Department of Business Regulation (“Department”) hereby adopts the proposed amendments to Commercial Licensing Regulation 11, entitled *Real Estate Brokers and Salespersons* (“Regulation”), and makes this statement in accordance with R.I. Gen. Laws §§ 42-35-2.3 and -3. The purposes of the amendments are to align the Department of Business Regulation’s current *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* with changes to Title 5, Chapter 20.6 and update existing rules and procedures for the licensure of real estate brokers and salespersons. A hearing on the Regulation was held on May 5, 2009. There are no amendments to the proposed Regulation as a result of the comments submitted to the Department at the hearing.

At the hearing on the Regulation, the Department received three (3) written submissions: (i) a letter from an attorney opposing Section 30(c) of the Regulation, which clarifies that attorneys are subject to the continuing education requirements of R.I. Gen. Laws § 5-20.5-1, *et seq.*; (ii) a letter from the Rhode Island Association of Realtors in support of the amendments to the Regulation; and (iii) and an email from Michael Jolin to the Rhode Island Bar Association explaining the rationale for requiring attorneys licensed as real estate brokers and salespersons to comply with continuing education pursuant to Section 30(c) of the Regulation.

The Department provides the following explanation on the rationale for adopting Section 30(c) in response to comments made at hearing. The Department has statutory authority pursuant to R.I. Gen. Laws § 5-20.5-4(d) to grant licenses to attorneys without examination upon a proper application and payment of the applicable fee. There is no express exemption or waiver from continuing education requirements for attorneys in R.I. Gen. Laws § 5-20.5-1, *et seq.* In addition, the provision exempting certain persons from obtaining a real estate license, R.I. Gen. Laws § 5-20.5-2(b)(1), relates to attorneys in certain situations insofar as they may be representing a client in an attorney-client relationship. The mere involvement of an attorney in a real estate transaction in “authorizing the final consummation and execution for the sale, purchase, leasing, or exchange of real estate” does not fall under R.I. Gen. Laws § 5-20.5-1 *et seq.* No mention is made in this section of exempting attorneys who seek licensure as a real estate brokers and/or salesperson from continuing education requirements. Given that R.I. Gen. Laws § 5-20.5-4(d) authorizes licensure as real estate brokers and salespersons, it follows that attorneys acting in the capacity as a *licensed* real estate broker or salesperson must

comply with all real estate statutes and regulations, including those pertaining to continuing education.

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

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