

**Real Estate Commission
Meeting**

September 23, 2020

**Atwood Building
550 W 7th Avenue
Suite 1550
(ZOOM ONLY)**

Anchorage

Call to Order

Approval of Agenda

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT DIVISION OF
CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
Tentative Meeting Agenda

REAL ESTATE COMMISSION MEETING

September 23, 2020

Atwood Building 550 W. 7th Ave.

Suite 1550 (ZOOM ONLY)

Anchorage, AK

Email realestatecommission@alaska.gov for ZOOM information

Wednesday, September 23, 2020

- 9:00 a.m. 1. Call to Order McConnochie
- a) Roll Call
 - b) Approval of 9/23 Agenda
 - c) Statements of Conflicts of Interest
2. Public Comments (est. time only; 9:10 am)
3. Meeting Minutes
- a) June 17, 2020
4. Investigative Report
- a) Probation Report Gill
 - b) Statistical Report Miller
 - c) Fine Matrix – Status Update Whaley
 - d) CE Investigative Matters: 2020-000782 Zimmerman
5. Committee Reports
- a) Property Management Committee Nelson/Taggart
6. Old Business
- a) AREC Property Transfer Disclosure Form Pruhs
 - b) Proposed Regulation Revisions for Major Regulation Project to Bring Regulations into the 21st Century Consalo
7. New Business McConnochie
- a) Licensed/Unlicensed Assistants in Different Jurisdictions
 - b) Progress on 2020 Strategic Plan & New Items to Cover
8. Executive Administrator’s Report
- a) Education Statistics Harris
 - b) Licensing Statistics Consalo
 - c) RISC E&O Claims Report
 - d) Recovery Fund Report
9. Commission Member Comments and Questions
10. Adjournment

Please report any Ethics violations to Shyla Consalo or Nancy Harris.

Next Meeting: December 16, 2020

Statements of Conflict of Interest

Oral Comments & Public Comments

Approval of Meeting Minutes

1
2 STATE OF ALASKA
3 DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
4 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
5

6 REAL ESTATE COMMISSION
7 MEETING MINUTES
8

9 June 17, 2020
10

11 "These draft minutes were prepared by the staff of the Division of Corporations, Business
12 and Professional Licensing. They have not been reviewed or approved by the
13 Commission." By authority of AS 08.01.070(2), and in compliance with the provisions of
14 AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held March
15 24-25, 2020, at the State of Alaska Atwood Building, 550 W. 7th Avenue, AAC104 and Ste
16 1550, via ZOOM, Anchorage, Alaska.
17

18
19 **Wednesday, June 17, 2020**

20 **Agenda Item 1 - Call to Order**

21 Chairperson PeggyAnn McConnochie called the meeting to order at 9:03 a.m., at which
22 time a quorum was established.
23

24 **Roll Call – 1(a)**

25 **Members present via Zoom**

26 PeggyAnn McConnochie, Broker, 1st Judicial District, Chairperson
27 Margaret Nelson, Broker, Broker at Large, Vice Chairperson
28 Samuel Goldman, Broker, 3rd Judicial District
29 David Pruhs, Broker, 4th Judicial District
30 Cheryl Markwood, Broker, Broker at Large
31 Jaime Matthews, Public Member
32 Jesse Sumner, Public Member
33

34 **Staff Present:**

35 Shyla Consalo, Executive Administrator
36 Nancy Harris, Project Assistant
37 Sharon Walsh, Deputy Director of CBPL
38

39 **Staff Present via ZOOM:**

40 Autumn Roark, REC Investigator
41 Ryan Gill, Investigator – REC Probation Monitor
42 Amber Whaley, Senior Investigator
43 Rob Schmidt, Assistant Attorney General
44 Jun Maiquis, Regulation Specialist
45

46 **Guests Present via ZOOM:**

47 Errol Champion, Broker, Coldwell Banker Race Realty, Juneau
48 Gabe Stephan, Broker, Jack White Real Estate, Anchorage
49 Teresa Block, Salesperson, Jack White Real Estate, Anchorage
50 Anita Bates, Associate Broker, Berkshire Hathaway HomeServices Alaska Realty,
51 Anchorage
52 Kasia Giron, Associate Broker, Re/Max Dynamic Properties, Anchorage
53 Paddy Coan, Associate Broker, Keller Williams Realty – Alaska Group, Anchorage
54 Eric Bushnell, Broker, Lee Realty, Wasilla
55 Jerry Royse, Broker, Royse & Associates, Anchorage

56 Christine Nelson, Program Manager of Regulatory Services, Person VUE
57 Joel Norris, Business Development Manager, Person VUE
58 Renae Miller

59
60 Approval of Agenda – 1(b)

61 Commission Members reviewed the meeting agenda.

62

63 **On a motion duly made by Mr. Pruhs, seconded by Ms. Markwood, it was**

64

65 **RESOLVED to approve the meeting agenda for July 17, 2020 as**

66

67

68 Ms. McConnochie asked for an additional item to be added to the agenda. Temporary
69 license request for The Ron Moore Company, added as agenda item 7(d).

70

71 **All in favor; Motion passed.**

72

73 Statements of Conflicts of Interest – 1(c)

74 There were no conflicts of interests.

75

76

77 **Agenda Item 2 – Public Comments**

78 Eric Bushnell, Broker with Lee Realty, gave public comment on an issue his company has
79 experienced that might warrant the Commission to look at the statutes and the regulations
80 concerning the independent contractor status. Mr. Bushnell explained that his company
81 experienced an audit from workman's comp insurance for some of the buildings the
82 ownership owns, as well as their company. The workman's comp company decided he
83 and his licensees, anybody doing property management, and anybody doing leasing is an
84 employee not an independent contractor. So, they found against him in the audit, and hit
85 him with a pretty big bill. They have worked it down, so it's not \$17,000 anymore; however,
86 workman's comp insurance is not backing off on saying that any of the leasing they do, as
87 part of the company business, is considered employment - they are considered
88 employees, not contractors. One of the things they've said is: "well, your business address
89 is not different than your company's business address; therefore, you are one in the same
90 and you are an employee." Mr. Bushnell has contested this through the workman's comp
91 channels with his insurance company, and they have said: "Nope, sorry, we don't agree."
92 Mr. Bushnell is taking that to the next level and will be contesting it with the insurance
93 commission in state. Mr. Bushnell wanted to bring it to the Commission's notice because
94 the independent contractor code changed just a couple of years ago, and he's not sure if
95 the Commission's statutes are in-line with it. He's talked to a lot of other licensees and
96 brokers, and many of them say, well, that's why we don't do property management, but
97 others aren't having issues. He's not sure if it's just a matter of time or if he just got lucky
98 with the right auditor.

99

100 Ms. McConnochie asked if Mr. Bushnell talked to the Alaska Association of Realtors and
101 the National Association of Realtors as to what's going on with this particular issue. Ms.
102 McConnochie also wanted to clarify if this just applied to property management and
103 leasing. Mr. Bushnell confirmed he did, and they stated the statutes and/or regulations
104 only pertain to sales of property, and do not pertain to property management or leasing.
105 That is the stance that they have taken, and he has not been able to convince them
106 otherwise. Ms. McConnochie asked if he spoke with the Anchorage Board of Realtors. Mr.
107 Bushnell stated he has not; however, he's talked to different members of the Boards, and
108 none of them have ever been in this position or have run up against anything like this.

109 Most take a clear stance that they're independent contractors. One thing Mr. Bushnell
110 knows is that there are property management firms in the state that operate with their
111 licensees as employees; and there are real estate companies that do that, which is
112 perfectly legit. If they are run as employees, they must carry workman's comp. In this
113 case, workman's comp insurance is singaling them out and saying: "no, you're, actually all
114 employees if you're doing this type of work." That was the concern for him.

115
116 Ms. McConnochie stated she sits on the Legal Action Committee with the National
117 Association of Realtors, and this is something that has come to the Legal Action
118 Committee. Ms. McConnochie suggested Mr. Bushnell get with Errol Champion, who is
119 part of the key working group for legislative issues, and talk to him about how he can bring
120 this information to the National Association of Realtors.

121
122 Ms. McConnochie thanked Mr. Bushnell for bringing the information to the Commission's
123 attention and asked if there were any more public comments. No one came forward and
124 the public comment period was closed.

125
126

127 **Agenda Item 3 - Approval of Meeting Minutes**
128 **March 24-25, 2020 Meeting Minutes – 3(a)**

129

130 **On a motion duly made by Ms. Markwood, seconded by Mr. Pruhs, it was**

131

132 **RESOLVED to approve the March 24-25, 2020 meeting minutes.**

133

134 **All in favor; Motion passed.**

135

136 **April 20, 2020 Meeting Minutes – 3(b)**

137

138 **On a motion duly made by Ms. Matthews, seconded by Mr. Sumner, it was**

139

140 **RESOLVED to approve the April 20, 2020 meeting minutes.**

141

142 **All in favor; Motion passed.**

143

144

145 **Agenda Item 5 – Committee Reports**

146 **Property Management Committee – 5(a)**

147 Ms. Nelson recognized Ms. Cassandra Taggart as the Chair of the Property Management
148 Committee and stated Ms. Taggart could not be at the meeting, so she was going to give
149 the for her. Ms. Nelson stated the Property Management Committee is very active and
150 they're very lucky to have some great people on the Committee, including a couple of
151 Commission Members.

152

153 Clarity on best practices on security deposit and management of client accounts – the
154 Committee is looking at three different best practice documents for reporting contracts and
155 disclosure and security deposits, dues deposits, and trust accounts. Those are currently in
156 draft form. Advocacy for education of all property and association management – the
157 Commission has approved the property management classes submitted for consideration,
158 and the Committee is now waiting for this to be updated on the website. The Committee is
159 currently working on an audit of property management and association regulations and is
160 doing research on what other states are doing and working through. The next Committee

161 meetings are scheduled for August 20th, October 29th, and January 21st. Ms. McConnochie
162 thanked Ms. Nelson for the report, and the excellent job the Committee is doing.

163
164 Ms. Consalo commented that Mr. Goldman expressed an interest in being a part of this
165 Committee, and asked if one of the current Commission Members appointed to the
166 Committee would be willing to relinquish their spot, so he could participate. Mr. Pruhs
167 stated he would give up his spot. The Commission Members now appointed to the
168 Property Management Committee will be Ms. Nelson, Ms. Markwood, and Mr. Goldman.

169
170

171 **Agenda Item 6 – Old Business**

172 **AREC Property Transfer Disclosure Form – 6(a)**

173 Mr. Pruhs stated he's started reaching out to other brokers and individuals, and has plans
174 to meet with additional brokers, real estate association members, and past Commission
175 Members over the next several weeks. He expects to receive his first round of notes from
176 the individuals he's already met with, sometime this week. Mr. Pruhs explained that the
177 average licensee has only seen this document two or three times, and it can get a little
178 confusing. Mr. Pruhs indicated they were going to reformat a lot of the information on the
179 first page. Then they are also going to add specific items, such as where to go for the
180 1978 lead-based paint; information regarding the buyer's responsibility to go to the sexual
181 offender website; and other notifications that are currently spread throughout the
182 document will now be located on the first page. Once he's met with everyone, he will
183 connect with Ms. Consalo to send out the notes to the Commission Members for their
184 input. Once everyone's input is received, Mr. Pruhs will work with Ms. Consalo to put
185 together a draft for everyone to review. Mr. Pruhs hopes to have two or three drafts of the
186 new form for the Commission to review at the September meeting. Ms. McConnochie
187 thanked Mr. Pruhs for his work on this, and looks forward to seeing the drafts at the
188 September meeting.

189
190

191 **Agenda Item 7 – New Business**

192 **2020 Annual Report – 7(a)**

193 Ms. McConnochie thanked the Commission Members and staff for all the hard work they
194 did in their March and April meetings, as that paved the way for the Commission to put
195 together a fantastic report for the legislature. Ms. McConnochie stated she was very proud
196 of the Strategic Plan the Commission put together, and the objectives they are already
197 accomplishing. There were no questions about the 2020 Annual Report.

198
199

200 **Election Worker Recruitment Effort – 7(b)**

201 Ms. McConnochie stated Commission Members and staff received an email from Director,
202 Sarah Chambers, that discussed how the Lt. Governor is requesting assistance from the
203 different Boards and Commissions on providing information to their licensees about
204 assisting during elections, working at the polls, and potentially awarding education credits
205 for their efforts. Ms. McConnochie asked Commission Members to provide their thoughts
206 and feedback on this topic.

207
208

209 Ms. Consalo explained she spoke with the Lt. Governor's Chief of Staff regarding how to
210 move forward with awarding the proposed 1.5 credit hours for completing the poll worker
211 training and volunteering to be a poll worker, and he stated they were willing to do
212 whatever the Commission needed. Ms. Consalo explained there were two ways the
Commission could approach this, should they decide to award education credits for this
service – the Commission could propose an emergency regulation change so a regulation

213 is in place in time for the August primary; or they could propose a normal regulation
214 change and accept completion certificates retroactively.

215
216 Ms. Markwood commented she thought this was a neat idea, as they are struggling to find
217 poll workers throughout the State this year. However, as much as she would like to see
218 licensees help the State and be of service through working the elections, real estate
219 education is an important thing for licensees and the public. Licensees need to have the
220 education to do the job the public needs them to do, so receiving education credits for
221 something that isn't real estate related and has no bearing on the education part of their
222 training is a little concerning. Ms. Markwood personally works for a polling station, and
223 understands how vital and important it is to find individuals to work those hours; however,
224 it goes completely against what they do as education for the real estate.

225
226 Ms. Nelson commented that she agreed with Ms. Markwood. At first, she thought the idea
227 was very unique; but not having gone through the program, she's not sure it's really
228 providing any service to the consumers. The Commission is here to help protect the
229 consumers, and Ms. Nelson thinks awarding education credits for serving on an election
230 board probably isn't the best way to help consumers. It would be nice to know that
231 procedure and provides for a well-rounded education for those that want to do it – there
232 also may not be a lot of people that would take advantage of this opportunity, so it might
233 be beneficial to help.

234
235 Mr. Sumner commented that he doesn't see a reason not to do it. It's a one-time thing this
236 year. Like Ms. Nelson stated, he doesn't think there's going to be a huge number of
237 licensees doing this. He doesn't think it's really going to be harmful.

238
239 Ms. Matthews commented she felt similar. She doesn't see the benefit from the
240 Commission perspective, but she's not opposed. She doesn't see it as a negative at all,
241 but she doesn't know that it's appropriate for the Commission to decide.

242
243 Mr. Goldman commented that he's of the same opinion that it doesn't really help the
244 consumer by giving credit hours for this; however, he doesn't think an hour and a half is a
245 make it or break it situation. He does see the benefit of filling this need, so he is in favor of
246 awarding the education credits.

247
248 Mr. Pruhs commented he was not in favor of awarding education credits for this. Mr. Pruhs
249 asked if the Commission gave credit hours for this are other Boards going to do the same.
250 Ms. Consalo stated the Lt. Governor's Office is reaching out and asking the same of all the
251 Boards and Commissions – some will be in favor and some will not. Mr. Pruhs stated he
252 understood; however, giving credit hours for something that they don't do, is not a
253 precedent he wants to set. Mr. Pruhs suggested soliciting additional help through the
254 professional associations. Mr. Pruhs further stated he would like to help, but he is opposed
255 to the credit hour aspect.

256
257 Ms. McConnochie commented she felt caught in the middle. She agrees this would be
258 taking away education credits that are supposed to help licensees protect the consumer
259 better; however, she does understand the issue in obtaining election poll workers. Ms.
260 McConnochie asked what the Commission thought about sending a memo to the Alaska
261 Association of Realtors that stated this wasn't something the Commission necessarily felt
262 they could authorize for licensees regarding education credits, but it is a great opportunity
263 for their members to volunteer. Ms. Nelson commented that maybe the Commission could
264 also send out an announcement through their ListServ to encourage all licensees to help
265 in this effort. And that would be the Commission's contribution to call attention to the need

266 for poll workers and a promote the opportunity for licensees to help their communities. Ms.
267 McConnochie thanked Ms. Nelson for her suggestion. Everyone was in agreeance to send
268 the information out in the next couple of ListServ announcements, and Mr. Champion
269 would assist in taking this information to the Alaska Association of Realtors for their
270 consideration.

271

272 Proposed Regulation Revisions for Major Regulation Project – 7(c)

273 Ms. McConnochie stated that her and Ms. Nelson have been looking at the regulations to
274 see what needs to be changed to modernize them. She also thanked Ms. Consalo for
275 going through the suggestions that were made and noting what was and wasn't possible
276 from the State's perspective. Ms. McConnochie asked that all the Commission Members
277 take time to read the document and provide feedback and comments before the proposed
278 changes go out for public comment. Ms. McConnochie read through the entire document,
279 noting the proposed changes that were crossed out and in bolded, red font.

280

281 Ms. Nelson asked about how the Commission would know if a licensee was disciplined by
282 any other real estate organization. Ms. Nelson commented that she doesn't believe the
283 Commission has access to that information, so she's unsure of how the Commission
284 would track it. Ms. Consalo explained that Ms. Nelson was correct, in that disciplinary
285 action from a professional association is not public. The only time the Commission really
286 hears about those disciplinary sanctions is if they're referring it to the Commission for
287 statutory or regulatory violations as well. The only way the Commission is going to be able
288 to catch these are from their disclosures on their initial and renewal applications. When
289 licensees renew their instructor application, the Commission can have a similar question
290 added to that application like they have on the regular license applications, where it asks:
291 "Since your last application, have you been disciplined by any state, regulatory, or
292 professional association..." Really that's what is being suggested to add to the instructor
293 application, so there is a method of being able to screen for those things. Ms. Consalo
294 further stated this suggestion was created due to concerns expressed by various licensees
295 in the industry about this specific issue.

296

297 Mr. Pruhs asked how the Commission would describe discipline – would it be a
298 suspension, fine, or even something as common as a letter in a file. Ms. Consalo clarified
299 that it would be the same as what's in the initial license and renewal applications. For the
300 Commission, discipline would be any paperwork received by a licensee that does not say
301 "non-disciplinary" on it. Ms. Consalo stated she wasn't sure if the other agencies had non-
302 disciplinary measures to hold their members accountable; however, they do asses fines
303 and that would be considered disciplinary. Ms. Consalo also stated she believed the
304 question listed out what types of actions would be considered disciplinary. Mr. Pruhs
305 stated that as long as the discipline was defined, he was in support of the recommended
306 change.

307

308 The Commission took a short break while waiting for their Pearson VUE guests to call in.

309

310 Break at 10:00 a.m.

311 Reconvened at 10:10 a.m.

312

313

314 Agenda Item 4 – Pearson VUE Update Re: Re-Opening of Test Centers

315 Christine Nelson and Joel Norris from Pearson VUE briefed the Commission on the status
316 of the re-opening of test centers in Alaska. Ms. Nelson stated test centers have re-opened,
317 with the exception of a couple centers they are waiting to receive hours from. Most testing
318 sites are operating at 50% capacity to ensure social distancing. They also advised the

319 third-party sites to follow the same process, but those sites make their own business
320 decisions as to what they are going to do. There have been some challenges across the
321 United States in total with testing, being that the test centers are at a reduced capacity, but
322 people are scheduled and testing, and the sites are re-opened.

323
324 Ms. McConnochie commented that not all the test centers were open and listed Juneau
325 and Fairbanks as two that she knew were not testing yet. Ms. Nelson stated she checked
326 the system prior to the meeting, and it indicated Juneau and Bethel were now open. Ms.
327 Nelson explained availability changes constantly, so even what she checked in the
328 morning can be different in the afternoon. Test centers are trying to extend hours -
329 sometimes things will be full, then people will cancel and things are open again. So, it's
330 best if candidates go online to schedule because it gives them the best opportunity to see
331 that availability versus calling their call center. Their call center hold times are longer than
332 normal given what's been going on.

333
334 Mr. Norris explained the terms they use internally to talk about whether or not a site is
335 open may be different than how they're approaching the issue here on the call. When they
336 say a site is open, they're saying the site has indicated that it is open for availability,
337 meaning the site is itself not closed. So, the extent to which it's open and the number of
338 days in which it's open between now and the end of the month, the next 30 days after that,
339 and then through the end of August is a very fluid situation. So, when they say open, to
340 Pearson VUE, that means the site is opening its doors for test reservations period versus
341 sites that had previously been closed. Both in Alaska, as well as across the country, many
342 of the third-party sites are at academic institutions, which have not re-opened. So, those
343 sites would be labeled as closed because they haven't opened for hours of operation yet.
344 Sites that are considered open, however, may not be open immediately or even in the next
345 week or even the next two to three weeks with available hours.

346
347 Ms. McConnochie acknowledged that many of the third-party testing locations in Alaska
348 are happening on university campuses, and university campuses throughout the state are
349 not equally open. She asked what Pearson VUE has done to try and find alternate contract
350 sites to try and accommodate the people throughout Alaska who would like to take the
351 test, but are not able to because the university system in their location hasn't opened yet.
352 Ms. Nelson stated a good example would be Fairbanks. The site in Fairbanks gave them
353 information on when they would re-open, but they still have not submitted hours. So,
354 Pearson VUE authorized another site in Fairbanks, which is available for scheduling. And
355 right now, that site has availability in July, beginning the 14th. Pearson VUE's channel
356 team is continuing to reach out to see if there are additional options to add to those
357 locations, if they haven't received hours. Ms. Nelson further explained that due to the
358 capacity limitations, their teams are working on obtaining additional staffing to extend the
359 hours at the different testing sites, where they can.

360
361 Mr. Norris explained that one of the agenda items they had coming into this meeting was
362 also to explain the process to apply to become a test site. The information is available on
363 the Pearson VUE website, and if there are sites the Commission knows of that may be
364 eligible to offer testing, outside of the bureaucracy of the academic institutions, to
365 supplement the other third-party sites then absolutely send them the information to apply.
366 As long as these sites can meet the minimum hardware and software requirements
367 become a test site, and can serve as a test site on specific days of the week. Test site
368 applicants must submit pictures of what the environment looks like; have dedicated
369 seating for the test takers behind closed doors, to have that quiet space in which to test;
370 have a check-in area separately outside of the room; and have an active monitor who
371 proctors the examination. Any site that can fulfill those requirements, as they're outlined on

372 the Pearson VUE website, can apply to become a test site. The test site will enter into a
373 contract with Pearson VUE, and will be reimbursed for the exams they deliver. The test
374 site will manage their own hours of operation, which is the portion of the process Pearson
375 VUE doesn't control, but it is a process that about 3,000 locations across the country have
376 taken advantage of. If the sites are not directly affiliated with a real estate company, real
377 estate agency, or real estate school, this is the application process is cut and dry. If the
378 sites are affiliated with a real estate company, real estate agency, or real estate school
379 and has the facilities to become a test site, Pearson VUE would need to enter into an
380 arrangement with the State. Pearson VUE would have to secure the State's permission to
381 open that location.

382
383 Ms. McConnochie asked how long the application and approval process takes. Mr. Norris
384 explained there's a dedicated Pearson VUE team that manages those applications, as well
385 as the software installation and the training. Under the current circumstances, these teams
386 are getting bombarded with requests, so the turnaround time can range anywhere from
387 two to four weeks. This turnaround time depends on three things. When a facility applies to
388 become a test site, there are three objectives that simultaneously need to be met all at
389 once. First, the site needs to be outfitted so it fulfills the technical requirements as laid out
390 in Pearson VUE's specifications. Second, the contractual agreement terms often require
391 modifications and back and forth communication to work those out. Third, the staff will
392 need to be trained. They will take an online test at their location to fulfill that obligation.
393 The length of time it takes test sites to fulfill those requirements, typically ranges anywhere
394 from two to four weeks. Mr. Norris stated that he and Ms. Nelson would send Ms. Consalo
395 the information on the test site application process, so that it can be sent to the
396 Commission Members to aid in the recruitment of potential new test sites in Alaska. Ms.
397 McConnochie thanked Mr. Norris and Ms. Nelson for their help in making this happen.

398
399

400 **Agenda Item 7 – New Business**

401 **Temporary License Request – 7(d)**

402 Ms. Consalo explained that the broker for The Ron Moore Company passed away on June
403 2, 2020. Personal representative, Marsha Lindeman, was appointed by the courts, and
404 she sent the Commission a letter with all of the court documents stating she wanted to
405 appoint Associate Broker, Rhonda Harvey, to be the Broker-in-Charge while they close-up
406 everything within that business. Ms. Harvey is an associate broker employed by The Ron
407 Moore Company.

408

409 **On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was**

410

411 **RESOLVED to approve the appointment of Rhonda Harvey as Broker-**
412 **in-Charge of The Ron Moore Company in order to secure proper**
413 **administration in concluding the affairs of the decedent broker's real**
414 **estate business.**

415

416 **All in favor; Motion passed.**

417

418

419 **Agenda Item 9 – Investigative Report**

420 **Statistical Report – 9(a)**

421 Autumn Roark, REC Investigator, presented the investigation statistics for the reporting
422 period of March 10, 2020 through June 4, 2020. There are 36 open matters and 8 matters
423 were closed from the last report.

424

425 Probation Report – 9(b)

426 Ryan Gill, REC Probation Monitor, presented the probation report to the Commission.
427 There are 3 licensees on probation, and 1 licensee released from probation since the last
428 report. One licensee on probation has signed and submitted a Voluntary Surrender for the
429 Commission’s consideration. Everyone else on probation is in compliance.

430
431 Investigative Matters – 9(c)

432 **On a motion duly made by Ms. Nelson, seconded by Ms. Matthews, it was**

433
434 **RESOLVED to go into executive session in accordance with AS**
435 **44.62.310(c) for the purpose of discussing subjects that tend to**
436 **prejudice the reputation and character of any person.**

437
438 **All in favor; Motion passed.**

439
440 The Commission went into Executive Session at 11:00 a.m.

441
442 **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

443
444 **RESOLVED to come out of Executive Session.**

445
446 The Commission came out of Executive Session at 11:08 a.m.

447
448 **On a motion duly made by Ms. Markwood, seconded by Ms. Matthews, it was**

449
450 **RESOLVED to accept the Consent Agreement in case #2019-001043**
451 **and Imposition of Civil Fine in case #2020-000139, regarding licensee**
452 **Carrie Butler.**

453
454 **Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Ms. Matthews – yes, Mr.**
455 **Sumner – yes, Mr. Goldman – yes, and Ms. McConnochie – yes.**

456
457 **Motion passed.**

458
459 The Commission accepted the Consent Agreement in case #2019-00143 and the
460 Imposition of Civil Fine in case #2020-000139 for Carrie Butler.

461
462 **On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was**

463
464 **RESOLVED to move to accept the Voluntary Surrender in case**
465 **#s2019-000862 & 2020-000020, regarding licensee Stacy Hague.**

466
467 **Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Mr. Goldman – yes, Ms.**
468 **Matthews – yes, Mr. Sumner – yes, and Ms. McConnochie – yes.**

469
470 **Motion passed.**

471
472 The Commission accepted the Voluntary Surrender in case #s2019-000862 & 2020-
473 000020 for Stacy Hague.

474
475
476 **Agenda Item 6 – Old Business**
477 **Update from Assistant Attorney General Rob Schmidt – 6(b)**

478 Consumer Disclosure & Waiver of Right to be Represented Forms

479 Rob Schmidt, Assistant Attorney General, provided the Commission with his legal opinion
480 on three topics the Commission requested clarification. First, the Waiver of Right to be
481 Represented form and the question of if it is possible for a consumer to waive the right of
482 making a good faith and continuous effort to accomplish the consumer's real estate
483 objective. Mr. Schmidt opined that AS 08.88.620(5) & (6) both allow the consumer to
484 waive this right in writing; therefore, the draft waiver of right to be represented may include
485 the verbiage that was presented. Mr. Schmidt stated this was not a conclusion that the
486 proposed draft is a good idea or a bad idea, or the better policy or the worst policy; but as
487 a legal matter, the statutes do allow that right to be waived.

488
489 Ms. Nelson thanked Mr. Schmidt for his review, and helping provide the Commission with
490 the clarity they needed to be able to move forward.

491
492 Ms. Markwood thanked Mr. Schmidt for his review, and asked if the draft forms provided to
493 him met the Commission's statutory guidelines. Mr. Schmidt acknowledge they did.

494
495 Mr. Schmidt proceeded to discuss the second topic, the Consumer Disclosure form and
496 the question of if the form meets the Commission's statutory requirements. Mr. Schmidt
497 opined that the draft form did satisfy the statutory requirements, but stated it would be up
498 to the Commission to determine if that was the preferred form.

499
500 Ms. Consalo stated she had a question because when she was looking through the
501 statutes regarding the Consumer Disclosure, AS 08.88.615(7) states: "before the licensee
502 provides specific assistance to the person, obtaining from the person a document signed
503 by the person that discloses the licensee's relationship with the person." Ms. Consalo
504 asked how the new form accomplished that. Mr. Schmidt thanked Ms. Consalo for pointing
505 that information out, and stated the new form would need to include an acknowledgement
506 designating the type of relationship being created.

507
508 Ms. Nelson commented that there's been a lot of debate and discussion on this topic;
509 however, real estate licensees have said to the Commission that they really want to see a
510 short and simpler form. Mr. Sumner previously pointed out builders use a similar format,
511 where they do acknowledge the relationship here.

512
513 Mr. Sumner commented that he didn't know that the relationship would need to be
514 identified in the consumer disclosures, and this form was just providing the appropriate
515 disclosure as required by statute. He didn't feel the relationship necessarily had to be
516 created in this document.

517
518 Ms. Nelson further commented that when licensees go into contract with a consumer,
519 there are check boxes where the relationship is further defined in the contract. This
520 disclosure states very clearly across the top that it is not a contract, but licensees do
521 specifically identify their relationship in the contracts.

522
523 Mr. Schmidt stated that when looking at the statute, the first word is "before" the licensee
524 provides specific assistance. Clearly, the statute is contemplating before you are providing
525 a specific assistance, a document would need to be signed that discloses the relationship
526 with the person. The second is that the statute says signs a document. It does not have to
527 be this document, it could be another document, but by the same token, licensees are
528 trying to make their constituents life easier by providing them a form that covers as much
529 ground as possible. So, there does need to be a signed document before specific
530 assistance is provided. Mr. Schmidt acknowledged the concerns expressed regarding

531 individuals not wanting to sign anything that defines a potential contractual relationship
532 upon first meeting, and is sympathetic to the notion that people don't want to sign anything
533 upon first meeting; however, the disclosure is not a contract and it does not obligate the
534 individual to buy anything, to work exclusively with any one person, or any other sort of
535 limiting language. At the end of the day, the statute says that before providing specific
536 assistance, a document must be signed by the person disclosing the nature of the
537 relationship.

538
539 Ms. McConnochie asked Mr. Schmidt if he would be able to define what specific
540 assistance is, so everyone is more aware of when specific assistance would start. Mr.
541 Schmidt stated he did not want to comment that on the record; however, he would rather
542 express his opinion in writing to better suit the public verses speaking extemporaneously.

543
544 Ms. Markwood commented that the consumer disclosure requirement has become
545 confusing on the property management side of things, especially with offices who have
546 implemented certain mandates or protocols due to COVID-19. Ms. McConnochie agreed
547 and acknowledged she feels there needs to be a different consumer disclosure for
548 property management.

549
550 Mr. Sumner asked if it could be stated somewhere on the consumer disclosure "I
551 understand I am receiving specific assistance unless otherwise agreed." Mr. Schmidt
552 confirmed that an individual signing a document with that type of statement would seem to
553 satisfy the statute; however, there would need to be a distinction on the type of
554 relationship, whether that is with or without representation.

555
556 Ms. Markwood asked if Mr. Schmidt had the current Consumer Disclosure and the draft
557 Consumer Disclosure, which he would prefer being used for the consumer. Mr. Schmidt
558 stated he would use the current Consumer Disclosure.

559
560 After further discussion amongst the Commission Members, it was agreed the
561 Commission would continue to use the current forms.

562
563 **On a motion duly made by Ms. Markwood, seconded by Mr. Sumner, it was**

564
565 **RESOLVED to keep the current Consumer Disclosure and Waiver of**
566 **Right to be Represented forms as is, and take these items off the**
567 **Commission agenda.**

568
569 **All in favor; Motion passed.**

570
571 Recovering Recovery Fund Money from Non-Licensed Individuals

572 Mr. Schmidt proceeded to discuss the third topic, recouping Recovery Fund money from
573 former licensees. Mr. Schmidt opined that, at a bare minimum, the Commission would
574 have a right of recruitment as a matter of common law. Money that is paid on somebody
575 else's behalf, the Commission would have the right of recoupment against the person
576 whose behalf the money was paid. As a practical matter, it would come down to whether
577 or not the former licensee has assets or an insurance policy in place to fund that recovery;
578 however, there would be, at a very minimum of the common law, right of recovery to
579 recoup the money spent on behalf of another person.

580
581 Ms. Consalo asked if that would require the Commission to go through civil proceedings to
582 recoup money through that method. Mr. Schmidt confirmed it would. Ms. McConnochie
583 asked if the money the Commission would have to pay for a civil lawsuit would necessarily

584 cover the money the Commission lost. Mr. Schmidt acknowledge that is frequently the
585 issue. Mr. Schmidt commented that in other professions, bonds are required to cover
586 these sorts of issues; however, that is going down a path the Commission may or may not
587 want to explore.

588
589 Ms. Nelson asked Mr. Schmidt if it would be advisable to change the statute to allow for
590 the Commission to recoup Recovery Fund money from a former licensee. Mr. Schmidt
591 opined this is a case where the Commission is well-served to pick their battles, and if they
592 were going to look at changing the statutes, things like defining duties and what forms
593 would need to be signed at the beginning of a relationship, may be something to highlight
594 to the legislature; however, given there is already a common law right of recruitment, it
595 may be somewhat of a lower priority.

596
597 Ms. McConnochie thanked and expressed appreciation to Mr. Schmidt for his comments
598 on the three topics requested and the thoughtfulness in his responses.

599
600

601 **Agenda Item 11 – Executive Administrator’s Report**

602 **Education Statistics – 11(a)**

603 Ms. Harris presented the education report for June 17, 2020. She reported that as of June
604 9, 2020, there were 12 pre-licensing courses; 4 broker upgrade courses; 281 elective
605 courses; 22 designated courses; and 70 post-licensing courses approved, with a total of
606 389 courses approved. Ms. Harris stated after the instructor renewal period, there were 57
607 approved instructors. There were 149 approved instructors in the last report, and currently
608 57 have renewed.

609

610 Ms. Nelson commented that it’s amazing there are this many instructors, and expressed
611 appreciation and thanks to the instructors and the staff for the job well-done in keeping up
612 with the requirements and data tracking.

613

614 **Licensing Statistics – 10(b)**

615 Ms. Consalo presented the licensing report for June 17, 2020. She explained the previous
616 reports were being presented a little differently, and the numbers that were run reflected
617 numbers for the previous quarter. In order to keep the information as current as possible,
618 Ms. Consalo explained the reports are now being run from the last date the information
619 was pulled through the next date the information is pulled for the next meeting. Ms.
620 Consalo reported that as of June 9, 2020, there were 2,604 active licensees; 6 inactive
621 licensees; 385 lapsed licenses with only 1 of those for non-compliance of PLE; there were
622 175 transfers; 97 licensees who completed their PLE requirements; 6 license upgrades
623 from salesperson to associate broker; 7 license upgrades from salesperson to broker; 3
624 licensees on probation; 1 license was surrendered; and 1 license was revoked.

625

626 Ms. Consalo then presented the report for RISC E&O claims for their first quarter (Jan –
627 Mar). Total closed claims were \$3,000, and the total open claims were \$2,000, for a total
628 of \$5,000 in claims for the first quarter.

629

630 Ms. Markwood asked if there was only one claim for the \$3,000 negligence of hiring a
631 contractor, or if there were any further specifics on that claim. Ms. Consalo stated that
632 specifics about the claims are not provided; however, it is presumed there was only one
633 claim stemming from that, as there was only one claim number associated with the claim.

634

635 **Recovery Fund Balance Report – 10(c)**

636 The Commission reviewed the Recovery Fund Balance Report as presented.

637 Ms. Consalo presented the Recovery Fund report for the third quarter, ending March 31,
638 2020. The Commission received a total of \$138,460 for renewals/license fees processed
639 between January and March, leaving the current total fund balance at \$405,348. The
640 projected balance for the end of the fiscal year is \$381,655 with an average 2-year
641 licensing cycle fund balance of \$329,665.

642
643 Status of Change Re: Wet Signature to Digital – 10(d)

644 Ms. Consalo reported the change has been very well received in the industry. There has
645 been a lot of utilization of the digital signature allowance, and it has made things easier
646 and more efficient when having to obtain certain documents from licensees.

647
648
649 **Agenda Item 10 – Regulation Revisions Proposed for Adoption**

650 Emergency Regulation to be Made Permanent, 12 AAC 64.063(h) – 10(a)

651 Ms. McConnochie invited Jun Maiquis, Regulation Specialist, to provide background
652 information on the emergency regulation change that is proposed to be made permanent.
653 Mr. Maiquis stated there were two public comments on the change, which were just
654 clarifying questions. Mr. Maiquis explained the emergency regulation will expire August 18,
655 2020 unless the Commission decides to make the regulation change permanent.

656
657 Ms. Consalo clarified that this regulation change would only go into effect if the Governor
658 declared an emergency, and making this regulation permanent would prevent the
659 Commission from having to do another emergency regulation project to address this issue
660 in the event of any future declared emergencies.

661
662 **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

663
664 **RESOLVED to adopt, as public noticed, the emergency regulation to**
665 **be permanent.**

666
667 **Roll call vote: Ms. Nelson-yes, Ms. Markwood-yes, Mr. Goldman-yes, Ms.**
668 **Matthews-yes, Mr. Sumner-yes, Ms. McConnochie-yes.**

669
670 **Motion passed.**

671
672 Regulation Revisions, 12 AAC 64.440(f) – 10(b)

673 Ms. McConnochie invited Mr. Maiquis to provide background information on the regulation
674 change. Mr. Maiquis stated there was no public comment on this regulation change.

675
676 **On a motion duly made by Ms. Nelson, seconded by Ms. Matthews, it was**

677
678 **RESOLVED to adopt, as public noticed, the regulation change.**

679
680 **Roll call vote: Ms. Nelson-yes, Ms. Markwood-yes, Mr. Goldman-yes, Ms.**
681 **Matthews-yes, Mr. Sumner-yes, Ms. McConnochie-yes.**

682
683 **Motion passed.**

684
685 Regulation Revisions, 12 AAC 64.059(b)(1)(E) & (d)(1)(E) – 10(c)

686 Ms. McConnochie invited Mr. Maiquis to provide background information on the regulation
687 change. Mr. Maiquis stated there was one public comment indicating a preference to keep
688 the notary requirement on the applications.

689

690 **On a motion duly made by Ms. Nelson, seconded by Ms. Matthews, it was**

691

692 **RESOLVED to adopt, as public noticed, the regulation change.**

693

694 **Roll call vote: Ms. Nelson-yes, Ms. Markwood-yes, Mr. Goldman-yes, Ms.**

695 **Matthews-yes, Mr. Sumner-yes, Ms. McConnochie-yes.**

696

697 **Motion passed.**

698

699 Lunch Break at 12:02 p.m.

700 Reconvened at 1:02 p.m.

701

702

703 **Agenda Item 8 – Division Update**

704 REC Revenues and Expenditures Report – 8(a)

705 Sharon Walsh, Deputy Director of the Division of Corporations, Business, and Professional
706 Licensing, presented the Division Update.

707

708 Ms. Walsh presented the report for the third quarter, ending March 31, 2020. She stated
709 the current revenue was \$556,316. Expenditures totals were as follows: There was non-
710 investigative expenditures of \$96,358 and investigative expenditures of \$73,372, for a total
711 of \$169,730 in direct expenditures. There were indirect expenditures of \$141,395 (this
712 includes internal administration, department, and statewide costs), leaving the total
713 expenditures at \$311,125. There was a total surplus of \$1,027,346.

714

715

716 **Agenda Item 9 – Investigative Report**

717 Fine Matrix Status – 9(d)

718 Amber Whaley, Senior Investigator for Non-Healthcare Boards, explained the goal for the
719 fine matrix is to update it, so the Commission can start using it as a tool when reviewing
720 cases and trying to find consistent disciplinary sanctions. Ms. Whaley expressed that she's
721 aware the matrix has been a topic in the past, and agrees it would be helpful to update the
722 matrix so it can be used as a guide when reviewing cases in the future. Ms. Whaley
723 explained that in order for investigations to update the matrix, they are going to need to
724 pull current statistics for case precedents, so they can take a look at the most recent,
725 trending violations and apply them to the document. As far as the status on pulling those
726 case precedents, the Board is aware they lost their previous investigator and they do have
727 a new investigator; however, she is currently very busy. So, they haven't had time to pull
728 those statistics needed to really update the matrix. Ms. Whaley stated she is hoping to get
729 this task hammered out in the next month or two. She doesn't think they need to start from
730 scratch on it, but it could certainly use some updating. Once the information is updated, it
731 would be presented to the Commission for review. Upon review & approval by the
732 Commission, the matrix would then go to law for final review and approval before it can be
733 implemented. Ms. Whaley further stated she would not recommend using the current
734 matrix provided to her since the information is very dated. Ms. Whaley indicated she would
735 have an update for the Commission by the next meeting in September.

736

737 Assistance with Strategic Plan Objective #1 – 9(d)

738 Objective #1 states: "With the agreement of the appropriate departments, upload
739 informational videos done by appropriate personnel on: 1) how to file a complaint against a
740 licensee and its process; and 2) if a complaint is filed against a license what the process is
741 for that license. Additionally, provide best practices white papers on various topics as
742 deemed appropriate on the website as approved by the Commission."

743 Ms. Whaley explained the goal is to take what Ms. Consalo was providing to the public as
744 training about the investigative process, specific to the Real Estate Commission, and post
745 it online so anybody who has questions or wants further explanation about what
746 investigations does, can easily access that. Once they get the video properly vetted and
747 reviewed, it can be posted on the Commission website so anyone can view the
748 information. Ms. Whaley expressed this was an exciting project, and she's happy to be a
749 part of it.

750
751

752 **Agenda Item 12 – Commission Member Comments and Questions**

753 Mr. Sumner stated it was good seeing everyone again and will see everyone in
754 September.

755

756 Mr. Pruhs concurred with Mr. Sumner.

757

758 Ms. Markwood stated it was a great meeting, and thanked everyone for their hard work
759 and it's a pleasure to serve on the Commission with everyone.

760

761 Ms. Nelson stated it was great to see everybody, and she's glad everyone's doing well,
762 even though they're in the midst of very interesting times. She wanted to thank Ms.
763 McConnochie and the staff for the great work they've done - it really shows in the Board
764 packet.

765

766 Ms. Matthews stated she echoed the comments of the other Commission Members, and
767 appreciates all the updates and time spent on the meetings. She expressed appreciation
768 to Ms. McConnochie for running a very efficient meeting.

769

770 Ms. McConnochie stated one of the things she and Ms. Nelson agreed to do was to look at
771 teams and team advertising. She hasn't completed it, but she'd like everyone to put it in
772 their memory bank, so it can be discussed more at the September meeting. She found it
773 very difficult to find a lot of definitions for what other licensing commissions are doing
774 regarding licensed assistants and licensed team members. On the other hand, there's a lot
775 of information out there dealing with what unlicensed activity is and how to prevent it. Most
776 of the information is in the form of brochures and pamphlets being published to make sure
777 people understand how to advertise properly. Ms. McConnochie thanked all the
778 Commission Members for their input and hard work. She also thanked the staff for helping
779 the Commission through the virtual meetings, and getting things done at an efficient rate
780 with as much ease as one can have. She hopes to see everyone in September.

781

782

783 **Agenda Item 13 – Adjournment**

784 **On a motion duly made by Ms. Markwood, seconded by Mr. Sumner, it was**

785

786 **RESOLVED to adjourn.**

787

788 **All in favor; Motion passed.**

789

790 Meeting adjourned at 1:30 p.m.

791

792 The next meeting will be held September 23, 2020 in Anchorage.

793

794

795

Real Estate Commission
Meeting Minutes
June 17, 2020
Page 16 of 16

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Prepared and submitted by:
Real Estate Commission Staff

Approved:

PeggyAnn McConnochie
REC Chairperson
Alaska Real Estate Commission

Investigative Report



PROBATION REPORT

DATE: September 8, 2020
TO: Alaska Real Estate Commission
THRU: Amber Whaley, Senior Investigator
FROM: Ryan Gill, Investigator/Probation Monitor
SUBJECT: Probation Report for the September 23, 2020 Commission Meeting

The following is a complete list of individuals on probation for this Commission. There are currently **three (3)** individuals being monitored on probation. Since the last probation report, **two (2)** probation cases were terminated. All individuals are in compliance with their agreements.

<u><i>NAME</i></u>	<u><i>CASE NUMBER</i></u>	<u><i>PROBATION START</i></u>	<u><i>PROBATION END</i></u>
Finis Shelden	2016-001317	11/08/2017	11/08/2020
Frank Zellers	2019-000873	07/24/2019	01/24/2021
Carrie Butler	2020-000644	06/17/2020	06/17/2021

PROBATIONS TERMINATED

<u><i>NAME</i></u>	<u><i>CASE NUMBER</i></u>	<u><i>PROBATION START</i></u>	<u><i>PROBATION END</i></u>
Katherine Uei	2019-000368	03/27/2019	03/27/2020 (Complete)
Stacy Hague	2019-000862	07/24/2019	07/24/2020 (Surrender)

END OF REPORT



MEMORANDUM

DATE: September 09, 2020
TO: Real Estate Commission
THRU: Greg Francois, Chief Investigator
FROM: Autumn Miller, Investigator
RE: Investigative Report for the September 23, 2020 Meeting

The following information was compiled as an investigative report to the Board for the period of June 05, 2020 thru September 09, 2020; this report includes cases, complaints, and intake matters handled since the last report.

Matters opened by the Paralegal in Juneau, regarding continuing education audits and license action resulting from those matters are not covered in this report.

OPEN - 33

<u>Case Number</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Status Date</u>
REAL ESTATE ASSOCIATE BROKER			
2020-000806	Violation of licensing regulation	Intake	08/25/20
2020-000548	Fraud or misrepresentation	Complaint	07/08/20
2020-000703	Misrepresentation	Complaint	07/30/20
REAL ESTATE BROKER			
2020-000819	Breach of fiduciary duty	Intake	08/31/20
2019-001070	Fraud or misrepresentation	Complaint	11/05/19
2020-000140	License application problem	Complaint	02/04/20
2020-000230	Fraud or misrepresentation	Complaint	04/22/20
2020-000406	Financial scam	Complaint	07/15/20

2020-000722	Violation of licensing regulation	Complaint	08/27/20
2016-000807	Fraud or misrepresentation	Monitor	
2016-000949	Fraud or misrepresentation	Monitor	
2017-000602	Fraud or misrepresentation	Monitor	
2020-000224	Criminal action - no conviction	Monitor	
2018-001411	Violation of licensing regulation	Investigation	02/21/19
2019-000210	Supervision	Investigation	01/09/20
2020-000078	Supervision	Investigation	06/11/20
2020-000118	Falsified application	Investigation	03/09/20

REAL ESTATE SALESPERSON

2020-000568	Fraud or misrepresentation	Intake	06/23/20
2019-001263	Unlicensed practice or activity	Complaint	11/25/19
2020-000132	Fraud or misrepresentation	Complaint	02/13/20
2020-000363	Fraud or misrepresentation	Complaint	04/22/20
2020-000440	Fraud or misrepresentation	Complaint	05/07/20
2020-000534	Fraud or misrepresentation	Complaint	07/23/20
2020-000545	Advertising	Complaint	07/08/20
2019-001288	Criminal action - no conviction	Monitor	
2018-001085	Fraud or misrepresentation	Investigation	06/25/19
2019-000209	Violation of licensing regulation	Investigation	01/09/20
2019-000403	Fraud or misrepresentation	Investigation	06/25/19
2019-000421	Fraud or misrepresentation	Investigation	06/25/19
2020-000015	Fraud or misrepresentation	Investigation	06/15/20
2020-000077	Fraud or misrepresentation	Investigation	06/11/20
2020-000110	Advertising	Investigation	05/06/20
2020-000164	Falsified application	Investigation	03/11/20

Closed - 22

<u>Case #</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Closed</u>	<u>Closure</u>
REAL ESTATE ASSOCIATE BROKER				
2020-000514	Breach of fiduciary duty	Closed-Intake	07/07/20	Incomplete Complaint
2020-000511	Violation of licensing regulation	Closed-Complaint	08/04/20	No Action - Lack of Jurisdiction

REAL ESTATE BROKER

2020-000429	Fraud or misrepresentation	Closed-Intake	06/08/20	Incomplete Complaint
2020-000439	Financial scam	Closed-Intake	06/08/20	Incomplete Complaint
2020-000535	Fraud or misrepresentation	Closed-Intake	07/08/20	Incomplete Complaint
2020-000268	Violation of licensing regulation	Closed-Complaint	06/08/20	Incomplete Complaint
2020-000449	Violation of agreement	Closed-Complaint	08/04/20	No Action - Lack of Jurisdiction
2020-000512	Violation of licensing regulation	Closed-Complaint	08/04/20	No Action - Lack of Jurisdiction
REAL ESTATE SALESPERSON				
2020-000426	Violation of licensing regulation	Closed-Intake	06/08/20	Incomplete Complaint
2020-000551	Violation of licensing regulation	Closed-Intake	07/22/20	Incomplete Complaint
2020-000641	Fraud or misrepresentation	Closed-Intake	08/19/20	No Action - Lack of Jurisdiction
2020-000669	Unlicensed practice or activity	Closed-Intake	07/14/20	Other (See Abstract)
2020-000672	Violation of licensing regulation	Closed-Intake	08/18/20	Incomplete Complaint
2020-000679	Violation of licensing regulation	Closed-Intake	08/18/20	Incomplete Complaint
2020-000723	Violation of licensing regulation	Closed-Intake	09/01/20	Incomplete Complaint
2020-000456	Fraud or misrepresentation	Closed-Complaint	08/21/20	No Action - Lack of Jurisdiction
2020-000510	Violation of licensing regulation	Closed-Complaint	08/04/20	No Action - Lack of Jurisdiction
2019-000211	Unlicensed practice or activity	Closed-Investigation	07/13/20	Cease and Desist Order
2019-001043	Advertising	Closed-Investigation	07/29/20	License Action
2020-000020	Trust account	Closed-Investigation	07/29/20	License Action
2020-000139	Falsified application	Closed-Investigation	08/05/20	License Action
2020-000400	Advertising	Closed-Investigation	06/10/20	Advisement Letter

END OF REPORT

Investigative Matters (Executive Session)

Committee Reports

MEMORANDUM

Date: August 20, 2020
To: Alaska Real Estate Commission
From: Cassandra Taggart, Chair, Property Management Committee
RE: Best Practice – Property Management Reporting

The Property Management Committee is requesting the Alaska Real Estate Commission to review and approve the Best Practice – Property Management Reporting listed below. Once approved, the Property Management Committee is requesting submitting this best practice document to the list serve and add this to the Best Practices list on the AREC – Property Management Resources section of the public website.

This best practice document is regarding generally accepted practices in the property management industry around the topic of Property Management Reporting for any or all parties involved in property management contracts.

The Property Management Committee completed a brainstorming activity to work on the AREC approved Goal # 1 – Clarity and best practices on security deposits and management of client accounts.

It was determined that there are several different types of management of properties causing a wide variety of different reports and a disconnect between parties on what is expected in the transaction. As a result, it is recommended to document some generally accepted practices to strengthen the defined duties and relationships between licensees and the public.

BEST PRACTICE

Date: August 20, 2020

Adopted: (AREC/Date Complete when passed by AREC)

Title: Best Practice - Property Management - Reporting Information

To: Alaska Real Estate License Practicing Property Management for Commercial, Residential, or Association Management, and Alaska Real Estate Trainers

From: Alaska Real Estate Commission & Property Management Committee

Regulation Reference:

- 12 AAC 64.117 – Broker’s Written Policy
- 12 AAC 64.125 – Supervision
- 12 AAC 64.220 – Record of Trust Account Transactions
- 12 AAC 64.250 – Prohibited Trust Account Activity
- 12 AAC 64.570 – Property Management of Real Property

Statute Reference:

- Sec. 08.88.341 – Listings or management contracts
- Sec. 08.88.351 – Accounts; records of transactions
- Sec. 08.88.361 – When commission is earned
- Sec. 08.88.405 – Preparation of documents
- Sec. 08.88.615(a)(3) – Duties owed by licensee in all licensee relationships - presentation
- Sec. 08.88.900 – Exceptions

Purpose: To provide guidance to assist any and all parties in property management transactions regarding what is generally accepted practices for reporting information.

Disclosure: All parties in a property management transaction should familiarize themselves with the latest Alaska Real Estate Commission Statutes and Regulations prior to taking on any action affecting your or another person's rights or understanding of these best practices documents. This publication is not the law.

Statement

1. Broker Policy Handbook:

- a. In addition to 12 AAC 64.220, Broker should define what reports are required to be maintained, available for the Broker, and when it should be provided to the Broker.
 - i. *This should include during different stages of a transaction or licensee relationship with the Brokers, such as when the licensee is actively managing a transaction, has separated from the brokerage, and/or when licensee is terminating a management transaction.*
- b. Should define what specific reports are needed/required for the different types of property management services.
 - i. *Examples: Furnished Short-Term, Multi-Family, Residential, Commercial, Homeowner Association, Limited Agreements, and/or various other contracts for management transactions.*
- c. Encourages a policy and review process for reporting of trust account reconciliations and bank accounts.
- d. Encourages a policy on what, how, and when, a licensee will provide property and financial data to the client for review and record keeping.
 - i. *Example: Whether it is a physical handout, via electronic means, or a website to log in and view there should be something provided to the client on what reports the client should be expecting, the frequency of when they will be receiving the reports and how they will be receiving said reports.*
- e. Recommend a policy on how a party that is not on the contract can make a request for property management reporting information and what information should be provided by a reasonable deadline.
 - i. *Example: Certified Public Accountant, child of a client, board member of the corporation, lawyer of a client, another real estate licensee working for the client, a homeowner that is a member of the association.*
- f. Define how and what insurances coverage are reported to the brokerage.
 - i. *Examples: How often the Broker/licensee will provide proof of coverage. Or how landlords/tenants report coverage and what type of coverages.*

- g. Encourages a policy and review process for licensees that utilize third-parties' vendors to ensure compliance with brokerages requirements.
 - i. *Example: The vendor, such as a third-party bookkeeper or maintenance technician, still has proper insurance, bond, tax documents, and license to handle the financials and this is reviewed yearly by January 30.*

2. Management & Leasing Contract:

- a. Encourages a clarification on how often to report property and financial data. It is considered best practice for a Broker and/or Property Manager to provide financial data to the customer no less than every thirty (30) days.
- b. Encourages a clarification on how the parties intend to deliver the designated property and financial data to the customer(s).
- c. Encourages a clarification on what the Broker and/or Property Manager intends to report to the customer(s).
 - i. *See list of financial reports below as a guide.*
- d. Encourages a clarification on what financial data will or will not be provided by the Broker and/or Property Manager regarding income and/or expenses related to the real property.
 - i. *Including but not limited to utility bills, HOA costs, third party billings, customer provided invoices, rental income, marketing, leasing, reserve management, investment accounts, commissions to Broker/Property Manager, storage, parking, fines, and coin machines.*
- e. Clarity around what type of insurance is needed and how it is reported.
- f. Data to be provided at termination of a management contract.
 - i. *A "no later than" date on when the customer will be receiving any of the following but not limited to:*
 - 1. *Final financial documents and funds, tenant information/documents (if applicable), contracts, property records, physical access materials, paid/unpaid invoices, passwords/login Information.*
- g. Data that is considered "private information" in relation to Federal Privacy Act and Federal Credit Reporting should have a policy on the how information will be transferred, and if information will or will not be transferred to the landlord, the next landlord, management companies, or any other third-party.
- h. Data to be released/provided at termination of a lease contract.
 - i. *A "no later than" date on when the customer will be receiving any of the following but not limited to:*
 - 1. *Security Deposit Transmittal*
 - 2. *Financial Supporting Documents*

3. Types of Reports/Data:

- a. The intent is to define the information to be shared, not necessarily the name of the report.
- b. Balance Sheet – Ledgers, trust accounts, and other related accounts where the Broker and/or Property Manager is reconciling the financials on behalf of the customer, a report should be provided that discloses the amount in the account(s) and time frame associated for when the report is generated.
- c. Income/Expense Sheet – Ledgers, trust accounts, and other related accounts where the Broker and/or Property Manager is reconciling the financials on behalf of the customer, a report should be provided that discloses any income and/or expenses in those account(s) during the reported period and any income and/or expenses posted in the future of the reported period.
- d. Unoccupied/Occupied Data – Commonly known as Rent Roll or Homeowner Directory, real estate that the Broker and/or Property Manager has under a management contract(s), a reporting sheet that discloses total occupancy, status of occupancy, potential/actual revenue, and/or uncollected balances; whichever is relevant.

4. Definitions

- a. Customer – Including but not limited to the following: a landlord, tenant, entity, vendor, homeowner, government, HOA association/board
- b. Data – Any information that is relevant to that party with the contract.

Old Business



State of Alaska Residential Real Property Transfer Disclosure Statement

Prepared in compliance with Alaska Statute (AS) 34.70.010 - 34.70.200

General Information

AS 34.70.010 requires that before the Transferee/Buyer (hereafter referred to as **Buyer**) of an interest in residential real property makes a written offer, the Transferor/Seller (hereafter referred to as **Seller**) must deliver a completed written disclosure form. This disclosure statement is in compliance with AS 34.70.010. It concerns the residential real property* located in the _____ Recording District, _____ Judicial District, State of Alaska.

Legal Description: _____

Property Address/City/Other: _____

* Residential real property means any single family dwelling, or two single family dwelling units under one roof, or any individual unit in a multi-unit structure or common interest ownership community whose primary purpose is to provide housing. AS 34.70.200(2) and (3).

AS 34.70.020 provides that if a disclosure statement or material amendment is delivered to the transferee after the transferee has made a written offer, the transferee may terminate the offer by delivering a written notice of termination to the transferor or the transferor's licensee within three days after the disclosure statement or amendment is delivered in person or within six days after the disclosure statement or amendment is delivered by deposit in the mail.

AS 34.70.040(b) provides that if an item that must be completed in the disclosure statement is unknown or is unavailable to the Seller, and if the Seller or Seller's agent has made a reasonable effort to ascertain the information, the Seller may make an approximation based on the best information available to the Seller or Seller's agent. It must be reasonable, clearly labeled as an approximation, and not used to avoid the disclosure requirements of AS 34.70.010 – AS 34.70.200.

All disclosures made in this statement are required to be made in good faith (AS 34.70.060). The Seller is required to disclose defects or other conditions in the real property or the real property interest being transferred. To comply, disclosure need not include a search of the public records, nor does it require a professional inspection of the property.

If the information supplied in this disclosure statement becomes inaccurate as a result of an act or agreement after the disclosure statement is delivered to the Buyer, the Seller is required to deliver an amendment to the disclosure statement to the Buyer. An addendum/amendment form for that purpose may be attached to this disclosure statement.

Upon delivery to a buyer, any inspection/reports generated by a purchase agreement of this property automatically becomes an addendum/amendment to the property disclosure.

Exemption for First Sale: Under AS 34.70.120, the first transfer of an interest in residential real property that has never been occupied is exempt from the requirement for the Seller to complete the Disclosure Statement.

Waiver by Agreement: Under AS 34.70.110, completion of this disclosure statement may be waived when transferring an interest in residential real property if the Seller and Buyer agree in writing. Signing this waiver does not affect other obligations for disclosure.

Violation or Failure to Comply: A person who negligently violates or fails to perform a duty required by AS 34.70.010 - AS 34.70.200 is liable to the Buyer for actual damages suffered by the Buyer as a result of the violation or failure. If the person willfully violates or fails to perform a duty required by AS 34.70.010 -AS 34.70.200, the Seller is liable to the Buyer for up to three times the actual damages. In addition to the damages, a court may also award the Buyer costs and attorney fees to the extent allowed under the rules of court.

Seller's Information Regarding Property

Property Type (check one):

- Single Family Zero Lot Line/Town House Condominium Townhome/PUD
 Duplex (Including Single Family with an Apartment)
 Other (please specify) _____

Do you currently occupy the property? Yes No If Yes, how long? _____

If not a current occupant, have you ever occupied the property? Yes No If so, when? _____

Year Property Built: _____. If property was built prior to 1978, or if Seller has any knowledge of lead-based paint, Seller must complete Disclosure of Information and Acknowledgment of Lead-based Paint and/or Lead-based Paint Hazards in accordance with Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (also known as Title X) and provide Buyer with the "Protect Your Family From Lead in Your Home" pamphlet. The pamphlet can be found on the Internet at <http://www.epa.gov/lead/leadprot.htm>.

Construction Overview: Wood Frame Manufactured Modular Other: _____

Foundation: Masonry Block Poured Concrete Piling Treated Wood Other: _____

Name of original builder (if known): _____

Property Features:

Check all items that are **built-in** and will remain with the property. **Also . . .**

Circle those checked items that have known defects or malfunctions. **Also . . .**

Describe the defect or malfunction on the Addendum/Amendment(s) To The Disclosure Statement.

- | | | |
|--|---|---|
| <input type="checkbox"/> Cooktop | <input type="checkbox"/> Wood Stove(s) # of _____ | <input type="checkbox"/> T.V. Antenna |
| <input type="checkbox"/> Oven(s) # of _____ | <input type="checkbox"/> Jetted Tub | <input type="checkbox"/> Satellite Dish |
| <input type="checkbox"/> Rods & Blinds | <input type="checkbox"/> Hot Tub <input type="checkbox"/> Cover | <input type="checkbox"/> Window Screens |
| <input type="checkbox"/> Microwave(s) # of _____ | <input type="checkbox"/> Steam Shower Room | <input type="checkbox"/> Security System |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Water Softener | <input type="checkbox"/> Smoke Detector(s) # of _____ |
| <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Water Filtering System | <input type="checkbox"/> CO Detectors # of _____ |
| <input type="checkbox"/> Garbage Disposal | <input type="checkbox"/> Greenhouse <input type="checkbox"/> Attached <input type="checkbox"/> Detached | <input type="checkbox"/> Fire Alarms |
| <input type="checkbox"/> Instant Hot Water Dispenser | <input type="checkbox"/> Ventilating System | <input type="checkbox"/> Auto Garage Door Opener(s)
of Opener(s) _____ |
| <input type="checkbox"/> Central Vacuum Installed | <input type="checkbox"/> Heating System | <input type="checkbox"/> Built-In Refrigerator |
| <input type="checkbox"/> Intercom | <input type="checkbox"/> Storage Shed(s) # of _____ | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Paddle Fan(s) # of _____ | <input type="checkbox"/> Built-In Barbecue | |

Comments: _____

Structural Components:

Check only those items that have known defects, malfunctions, or have had major repairs performed within the last five years.

Also . . . Describe the defect, malfunction, or repair on the Addendum/Amendment(s) To The Disclosure Statement.

- | | | | | |
|---|---|---|--|---|
| <input type="checkbox"/> Fences/Gates | <input type="checkbox"/> Rain Gutters | <input type="checkbox"/> Insulation | <input type="checkbox"/> Electrical Systems | <input type="checkbox"/> Electronic Air Cleaner |
| <input type="checkbox"/> Driveways | <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Woodstove(s)
of _____ | <input type="checkbox"/> Sewage Systems | <input type="checkbox"/> Heat Recovery |
| <input type="checkbox"/> Private Walkways | <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Fireplace(s)
of _____ | <input type="checkbox"/> Water Supply | <input type="checkbox"/> Ventilator System |
| <input type="checkbox"/> Retaining Walls | <input type="checkbox"/> Floors | <input type="checkbox"/> Gas Starter | <input type="checkbox"/> Garage | <input type="checkbox"/> Swimming Pool |
| <input type="checkbox"/> Foundation | <input type="checkbox"/> Ceilings | <input type="checkbox"/> Chimneys | <input type="checkbox"/> Garage Floor Drain | <input type="checkbox"/> Mechanical |
| <input type="checkbox"/> Crawl Space | <input type="checkbox"/> Doors | <input type="checkbox"/> Plumbing Systems | <input type="checkbox"/> Carport | <input type="checkbox"/> Filtration |
| <input type="checkbox"/> Roof | <input type="checkbox"/> Windows | <input type="checkbox"/> Heating Systems | <input type="checkbox"/> Washer/Dryer Hook-ups | <input type="checkbox"/> Pool Cover |
| <input type="checkbox"/> Patio/Decking | <input type="checkbox"/> Skylights | <input type="checkbox"/> Solar Panels | <input type="checkbox"/> Humidifier | <input type="checkbox"/> Hot Water Heater |
| <input type="checkbox"/> Slabs | <input type="checkbox"/> Venting | <input type="checkbox"/> Wind Generators | <input type="checkbox"/> Air Conditioner | |

Other items not covered above? _____

Comments: _____

_____/_____/_____
Seller's Initials Date Property Address Buyer's Initials Date

Documentation: Check the documents for the subject property that the seller has available for review:

- | | | |
|--|---|--|
| <input type="checkbox"/> Engineer/Property/Home Inspection Report(s) | <input type="checkbox"/> Written Agreements with Adjacent Property Owners | <input type="checkbox"/> Party Wall Agreement |
| <input type="checkbox"/> Title Information | <input type="checkbox"/> Energy Rating Certificate or PUR-101 | <input type="checkbox"/> Lease/Rental Agreement |
| <input type="checkbox"/> As-Built Survey | <input type="checkbox"/> Resale Certificate | <input type="checkbox"/> Soils Test |
| <input type="checkbox"/> Certificate of Occupancy or PUR-102 | <input type="checkbox"/> Water Rights Certificate | <input type="checkbox"/> Well Log and Water Tests |
| <input type="checkbox"/> Deed Restrictions | <input type="checkbox"/> Subdivision Covenants/Restrictions | <input type="checkbox"/> Hazardous Materials Test(s) |
| <input type="checkbox"/> Other _____ | | <input type="checkbox"/> Other _____ |

Additional Information:

Supply information for the following items:

Yes **No**

To the best of your knowledge, has the property been inspected by an engineer/home inspector in the last 5 years?.....

➤ **Drainage:**

- ◆ Are you aware of ever having any water in the crawl space, basement, or lower level?.....
 If Yes, how has the problem been resolved?
 Sump Pump(s) Curtain Drain Rain Gutter/Extension Other _____
 When was problem resolved? _____
 Location of each sump pump: _____
- ♥ To where does the water drain after it leaves the sump pump? _____
 If gutters, where do downspouts discharge? _____
- ◆ Is there a floor drain in the structure, including garage?.....
 If Yes, where is it located and where does it drain to? _____

➤ **Roof or Other Leakage:**

- Type: Asphalt/Composition Shingle Cedar Shake Built-up Metal Other _____
 Age: _____ years. Location of attic access? _____
- ◆ Are you aware of any ice damming on the roof?
 If Yes, provide location. _____
 - ◆ Are you aware of any water leaking into the home? i.e., windows, lights, fireplace, etc.
 If Yes, provide location. _____

➤ **Fireplace and/or Woodstove:** Date chimney(s) last cleaned? _____ Who cleaned? _____

➤ **Heating System(s):**

- Mark all types that apply: Hot Water Baseboard Forced Air Radiant Heat Electrical Heat
 Wood Stove Other _____
- Age: _____ years. Last Cleaned: _____ Last Inspected: _____
- Source: Natural Gas Electric Propane Tank leased or owned? _____ Wood Coal
 Oil with _____ gallon storage which is Buried Above Ground Other _____
 Age of Tank? _____ years.

➤ **Hot Water Heater:**

Age: _____ years. Capacity: _____ gallons. Type: Gas Electric Other _____

➤ **Water Supply:**

Type: Public Private Community Cistern/Water Tank If Cistern/Water Tank: _____ Size
 Other _____

If Private: Well Depth: _____ feet. Flow Rate: _____ gallons per minute. Date Tested: _____.

- ◆ Have you had any problems with your water supply?.....
- ◆ Has the water supply been tested in the past 12 months?.....
 If Yes, attach all documentation from all tests.
- ◆ Are you aware of any contaminants in your water supply, to include but not limited to E-coli, nitrates, heavy metals, arsenic or other contaminants?
- ◆ Has the well failed while you have owned the property?.....
- ◆ Have you ever had a well pump problem or failure?.....
- ◆ Do you supply water to, or receive water from others?.....
 If Yes, is there a recorded agreement?.....
- ♥ Do you have a water rights certificate for this property?.....

_____/_____/_____
 Seller's Initials Date Property Address Buyer's Initials _____/_____/_____

Additional Information (Continued):

➤ **Sewer System:** Yes No
 Type: Public Private Community Other _____
 ♦ Does your sewer system have a lift station/lift pump?
 If Private: Septic Tank Holding Tank Other: _____
 Drainfield System: Bed Trench Mound Pit Crib Other _____
 Innovative Sewer System: Intermittent Sand Filter Biocycle Recirculating Upflow Filter
 Secondary sewer treatment plant Other _____

♦ Has the sewer system failed while you owned the property?
 If Yes, explain: _____
 Age of sewer system: _____ Location: _____
 ♦ Have you had any work maintenance or inspections done on the sewer system during your ownership?
 If Yes, explain: _____
 Approval/Certification source (and date if known): _____
 ♦ Are you aware of any abandoned sewer systems, leachfields, cribs, etc. on the property?

➤ **Freeze-ups:**
 ♦ Have you had any frozen water lines, sewer lines, drains, or heating systems?
 If yes, please explain. _____
 ♦ Are there any heat tapes, heat lamps, or other freeze prevention devices?
 Location, and explain use. _____

➤ **Average Annual Utility Costs:**

Gas	\$ _____	Company/Source: _____
Electric	\$ _____	Company/Source: _____
Oil	\$ _____/Gallons: _____	Company/Source: _____
Propane	\$ _____	Company/Source: _____
Wood	\$ _____	Company/Source: _____
Coal	\$ _____	Company/Source: _____
Water	\$ _____	Company/Source: _____
Sewer	\$ _____	Company/Source: _____
Refuse	\$ _____	Company/Source: _____
Other	\$ _____	Company/Source: _____

To the best of your knowledge, are you aware of any of the following conditions with respect to the subject property? If answer is "Yes," indicate the relevant item number and explain the condition on the Addendum/Amendment(s) to the Disclosure Statement.

➤ **Title:** Yes No

- Do you know of any existing, pending, or potential legal action(s) concerning the property?
- Do you know of any street or utility improvements planned that will affect the property?
- Road maintenance provided by? _____
- Is the property currently rented or leased?
 If Yes, expiration date: _____/_____/_____
- Is there a homeowner's association (HOA) for the property?
 If Yes, HOA name: _____ HOA Telephone: _____
 Mandatory Voluntary Inactive Monthly Dues Amount: \$ _____ per _____
 Are there any levied or pending assessments?
 Who is responsible for issuing the resale certificate?
 Name: _____ Telephone: _____

➤ **Setbacks/Restrictions:**

- Have you been notified of any proposed zoning changes for the property?
- Are you aware of features of the property shared in common with adjoining property owners, such as walls, fences, and driveways, whose use or responsibility for maintenance may affect the property?
- Are there subdivision conditions, covenants, or restrictions?
- Are you aware of any violations of building codes, zoning, setback requirements, subdivision covenants, borough, or city restrictions on this property?
- Are you aware of any nonconforming uses of this property?

Additional Information (Continued):

- | | <u>Yes</u> | <u>No</u> |
|---|--------------------------|--------------------------|
| 11. Are you aware of any deed, or other private restrictions on the use of the property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Are you aware of any variances being applied for, or granted, on this property? | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Are you aware of any easements on the property? | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Encroachments: | | |
| 14. Does anything on your property encroach (extend) onto your neighbor's property? | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. Does anything on your neighbor's property encroach onto your property? | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Environmental Concerns: | | |
| 16. Are you aware of any substances, materials, or products that may be an environmental hazard such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, contaminated soil, water or by-products from the production of methamphetamines on the subject property? | <input type="checkbox"/> | <input type="checkbox"/> |
| 16a. Are you aware of any mildew or mold issues affecting this property? | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. Are you aware of any underground storage tanks on this property, other than previously referenced fuel or septic tanks? Number of tanks: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. Are you aware if the property is in an avalanche zone/mudslide area?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. Are you aware if the property has flooded? | <input type="checkbox"/> | <input type="checkbox"/> |
| Flood zone designation: _____ | | |
| 20. Are you aware of any erosion/erosion zone or accretion affecting this property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. Are you aware of any damage to the property or any of the structures from flood, landslide, avalanche, high winds, fire, earthquake, or other natural causes? | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. Have you ever filed an insurance claim for any environmental damage to the property? | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. Are you aware of a waste disposal site or a gravel pit within a one-mile radius of the property? | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Soil Stability: | | |
| 24. Are you aware of any debris burial or filling on any portion of the property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. Are you aware of any permafrost or other soil problems which have caused settling, slippage, sliding, or heaving that affect the improvements of the property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. Are you aware of any drainage, or grading problems that affect this property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Construction, Improvements/Remodel: | | |
| 27. Have you remodeled, made any room additions, structural modifications, or improvements?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| If Yes, please describe. Was the work performed with necessary permits in compliance with building codes? | <input type="checkbox"/> | <input type="checkbox"/> |
| Was a final inspection performed, if applicable?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. Has a fire ever occurred in the structure?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Pest Control or Wood Destroying Organisms: | | |
| 29. Are you aware of any termites, ants, insects, squirrels, vermin, rodents, etc. in the structure? | <input type="checkbox"/> | <input type="checkbox"/> |
| a. If Yes, what type? _____ | | |
| b. If Yes, where? _____ | | |
| 30. Has there been damage in the past resulting from termites, ants, insects, squirrels, rodents, etc. in the structure?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| a. If Yes, when? _____ | | |
| b. If Yes, what type? _____ | | |
| c. If Yes, where? _____ | | |
| d. If Yes, describe what was done to resolve the problem: _____ | | |
| ➤ Other: | | |
| 31. Are you aware of any murder or suicide having occurred on the property within the preceding 3 years?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. Are you aware of any human burial sites on the property?..... | <input type="checkbox"/> | <input type="checkbox"/> |

Additional Information (Continued):

Yes **No**

33. Noise

a. Are you aware of any noise sources that may affect the property, including airplanes, trains, dogs, traffic, race tracks, neighbors, etc?

b. If Yes, explain: _____

34. Pets

a. Have there been any pets/animals in the house?

b. If Yes, what kind? _____

I / We have completed this disclosure statement according to AS 34.70.010 - AS 34.70.200 and these instructions, and the statements are made in good faith and are true and correct to the best of my/our knowledge as of the date signed. I/We authorize any licensees involved or participating in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated transfer of the property or interest in the property.

Seller: _____

Date: _____

Seller: _____

Date: _____

Buyer's Notice and Receipt of Copy

Transferee (Buyer) Awareness Notice: Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether a person who has been convicted of a sex offense resides in the vicinity of the property that is the subject of the Transferee's (Buyer's) potential real estate transaction. This information is available at the following locations: Alaska State Trooper Posts, Municipal Police Departments, and on the State of Alaska, Department of Public Safety Internet site: www.dps.state.ak.us.

Transferee (Buyer) Awareness Notice: Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether, in the vicinity of the property that is the subject of the transferee's potential real estate transaction, there is an agricultural facility or agricultural operation that might produce odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts as a result of lawful agricultural operations.

The Buyer is urged to inspect the property carefully and to have the property inspected by an expert. Buyer understands that there are aspects of the property of which the Seller may not have knowledge and that this disclosure statement does not encompass those aspects. Buyer also acknowledges that he/she has read and received a signed copy of this statement from the Seller or any licensee involved or participating in this transaction.

Buyer: _____

Date: _____

Buyer: _____

Date: _____

_____/_____/_____
Seller's Initials Date

Property Address

_____/_____/_____
Buyer's Initials Date



State of Alaska Residential Real Property Transfer Disclosure Statement

Exemption For First Sale

Prepared in compliance with Alaska Statute (AS) 34.70.010 - 34.70.200

Legal Description: _____

Property Address/City: _____

Under AS 34.70.120, the first transfer of an interest in residential real property that has never been occupied is exempt from the requirement for the Seller to complete the Disclosure Statement.

Buyer may wish to obtain inspections of the property and seek other professional advice.



Transferee (Buyer) Awareness Notice: Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether a person who has been convicted of a sex offense resides in the vicinity of the property that is the subject of the Transferee's (Buyer's) potential real estate transaction. This information is available at the following locations: Alaska State Trooper Posts, Municipal Police Departments, and on the State of Alaska, Department of Public Safety Internet site: www.dps.state.ak.us.



Transferee (Buyer) Awareness Notice: Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether, in the vicinity of the property that is the subject of the transferee's potential real estate transaction, there is an agricultural facility or agricultural operation that might produce odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts as a result of lawful agricultural operations.



I certify that this is the first transfer of an interest in the property identified above and that the property has not been occupied before this transfer of interest.

Seller: _____

Date: _____

Seller: _____

Date: _____

Buyer: _____

Date: _____

Buyer: _____

Date: _____

_____/_____/_____
Seller's Initials Date

Property Address

_____/_____/_____
Buyer's Initials Date



State of Alaska Residential Real Property Transfer Disclosure Statement

Waiver By Agreement

AS 34.70.110

Prepared in compliance with Alaska Statute (AS) 34.70.010 - 34.70.200

Legal Description: _____

Property Address/City: _____

Under AS 34.70.110, completion of this disclosure statement may be waived when transferring an interest in residential real property if the Seller and Buyer agree in writing.

Parties may wish to obtain professional advice and/or inspection of the property.

It is recommended that the buyer read the complete State of Alaska Residential Real Property Transfer Disclosure Statement.

★ ★ ★ ★ ★ ★ ★ ★

Transferee (Buyer) Awareness Notice: Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether a person who has been convicted of a sex offense resides in the vicinity of the property that is the subject of the Transferee's (Buyer's) potential real estate transaction. This information is available at the following locations: Alaska State Trooper Posts, Municipal Police Departments, and on the State of Alaska, Department of Public Safety Internet site: www.dps.state.ak.us.

★ ★ ★ ★ ★ ★ ★ ★

Transferee (Buyer) Awareness Notice: Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether, in the vicinity of the property that is the subject of the transferee's potential real estate transaction, there is an agricultural facility or agricultural operation that might produce odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts as a result of lawful agricultural operations.

★ ★ ★ ★ ★ ★ ★ ★

By law, completion of this disclosure statement may be waived when transferring an interest in residential real property if the Transferor (Seller) and the Transferee (Buyer) agree in writing. If both parties agree to waive the requirement to complete this disclosure statement, please sign below.

Signing this waiver does not affect other obligations for disclosure.

Seller: _____

Date: _____

Seller: _____

Date: _____

Buyer: _____

Date: _____

Buyer: _____

Date: _____

_____/_____/_____
Seller's Initials Date

Property Address

_____/_____/_____
Buyer's Initials Date

12 AAC 64.010. EXAMINATION. (a) A person may apply for the real estate salesperson or broker examination ~~with the commission. If a testing service is authorized by the commission under AS 08.88.191, a person may also apply for the examination~~ **with the commission approved** testing service.

(b) Deadlines for registration for the examination ~~will be published with the registration information or will be available from the commission. Deadlines for registration will not be less than three days before the examination~~ **are set by the commission approved testing service.**

(c) Registration fees for the ~~written~~ examination are not refundable.

(d) An applicant for licensure shall pass ~~an written~~ examination, approved by the commission, before applying for a license as a real estate broker, associate real estate broker, or real estate salesperson. The ~~written~~ examination consists of a general part and a state part. An applicant must sit for both parts of the ~~written~~ examination during the same examination session.

Editor's note: Information regarding the examination described in 12 AAC 64.010 may be obtained by ~~writing or calling~~ contacting the commission at Real Estate Commission, 550 W. 7th Avenue, Suite 1500, Anchorage, Alaska, 99501-3567, Phone: (907) 269-8162, Fax: (907) 269-81956, **at their website:**

<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/RealEstateCommission.aspx>, or **from** the testing service at **Pearson Vue** Promissor, 3 Bala Plaza West, Suite 300, Bala Cynwyd, Pennsylvania 19004, Phone: (800) 274-5992, Fax: (888) 204-6291. **Pearson VUE, 5601 Green Valley Drive, Bloomington, MN 55437-1099, Phone: (800) 274-5992, or their website: , <https://home.pearsonvue.com/>.**

12 AAC 64.040. ADMISSION TO EXAMINATION. (a) Before the scheduled examination date, an applicant who has registered to sit for the examination will be sent ~~an admission ticket from the commission that specifies the time and place of the examination. If a testing service is authorized by the commission under AS 08.88.191, the applicant will be sent~~ a confirmation notice or receive a confirmation number by ~~telephone~~ **email** from the testing service that specifies the time and place of the examination.

(b) An applicant who has not **pre-**registered for the examination by the deadline described in 12 AAC 64.010(b) ~~will~~ **may** not be admitted to the examination **at the sole discretion of the testing service.**

12 AAC 64.059. REVIEW OF LICENSE APPLICATIONS.

(d) The following checklist is established by the commission for reviewing an application for an associate broker license; an associate broker license will be issued to an applicant who

(1) submits a completed form for application, including

(B) the applicant's date of birth that shows the applicant is at least ~~21~~ **22**

years old;

(5) submits a statement, signed by the brokers who employed the applicant, verifying that the applicant has at least ~~24~~ **36** months of active and continuous experience as a real estate licensee within the ~~36~~ **60** months before the date of application for an associate broker license; and

12 AAC 64.060. APPLICATIONS FOR LICENSURE.

(f) ~~If a licensee who holds an associate broker license limited to practice community association management becomes an owner of a community association management company,~~

~~or is hired by a corporation, partnership, limited partnership, or limited liability company to be a broker of a community association management office, the licensee shall return the associate broker license to the commission. After receiving the associate broker license, the commission will issue a broker license to the licensee limited to practice community association management.~~

~~(g) A licensee who holds a broker or associate broker license limited to practice community association management may obtain a broker or associate broker license that is not limited as described in (f) of this section, by complying with the requirements of AS 08.88.171 and this chapter.~~

12 AAC 64.061. LICENSE BY ENDORSEMENT.

(1) broker license or associate broker license must submit an affidavit that states that the applicant has, within those six months

(C) been an actively licensed broker or associate broker under another broker; the commission may

(i) determine that the applicant must provide additional information regarding the applicant's active status by furnishing a report of listings and sales, **or property management activity**, accomplished by the applicant during two or more years within the last three years of licensure immediately preceding application in order to verify that the applicant meets the requirements of this subparagraph; the report must be certified as correct by the broker with whom the applicant has been associated; if due to conditions outside of the control of the applicant, a broker is not reasonably available to certify the report, an applicant may request and receive approval from the commission for an alternative manner to provide verification that the report is correct. **This report may be provided electronically or by US mail;**

12 AAC 64.071. LICENSE RENEWAL. (a) Except as provided in (g) of this section, all licenses lapse January 31 of every even-numbered year unless renewed under this section and in accordance with AS 08.88.091, 08.88.171, and, 08.88.251. A renewal reminder document will be provided **by the commission, either electronically or by US mail,** to each licensee with a current expiration date, at least 60 days before the renewal date.

12 AAC 64.075. EMPLOYMENT AND TRANSFER. (a) An individual may not be involved in activities requiring licensure under AS 08.88 until the individual's employing broker signs and delivers to the commission, **either electronically or by US mail,** a notice of employment of the individual and the individual's license certificate is delivered to the broker by the licensee or the commission.

(b) When a licensee requests a license transfer from one broker to another, the terminating broker shall sign and date the front of the license certificate, provide a copy to the licensee, and submit the original to the commission, **either electronically or by US mail,** within five days from the date of the licensee's request for a license transfer. The licensee shall provide the new employing broker with a copy of the signed license certificate and provide the commission with a completed application for license transfer and the fees established in 12 AAC 02.360. The commission will mail an amended license certificate directly to the new employing broker.

(e) Failure of the licensee to notify the commission of a transfer or status change within 15 days after ~~written~~ of the commission's receipt, **either electronically or by US mail,** of notice from the licensee's terminating broker, interrupts the licensee's period of active and continuous experience.

12 AAC 64.077. BROKER AUTHORIZATION OF LICENSE APPLICATIONS. (a) Except as provided in (c) of this section, only the registered broker of an office may employ or terminate a licensed associate broker or salesperson.

(b) An applicant applying to work in a branch office shall submit to the commission **the Employing Broker Information form of the** application signed by the registered broker and the associate broker in charge of the branch office. **This form may be signed digitally or non-digitally, and may be submitted either electronically or by US mail.**

(c) When the registered broker of an office notifies the commission office in advance of an absence from the office, the broker or an associate broker designated by the registered broker to supervise transactions or licensees during the broker of record's absence may sign, **either digitally or non-digitally**, for the broker of record on a license application.

12 AAC 64.130. GROUNDS FOR REVOCATION OR SUSPENSION.

(13) failing to submit to the seller or the seller's ~~agent~~ **licensee** all written bona fide offers received before the seller accepts another offer in writing and the broker has knowledge of the acceptance;

12 AAC 64.135. INSPECTIONS OR AUDITS OF RECORDS AND ACCOUNTS. (a) The commission will, in its discretion, and the commission's designee may, inspect a broker's transaction records; the inspection must be conducted between 8:00 a.m. and 5:00 p.m., Monday through Friday, unless otherwise agreed, and the broker must be given at least 72 hours' advance notice of the inspection. The broker shall make available to the commission or its designee all requested transaction records including, but not limited to, earnest money agreements, listing agreements, trust account records, disbursement records, broker or ~~agent~~ **licensee** communications regarding transactions, and closing statements for all principals to transactions.

12 AAC 64.410. MINIMUM CLASSROOM AND VIRTUAL COURSE REQUIREMENTS. (a) Except as provided in (f) and (g) of this section, only real estate education courses certified by the commission, or the commission's designee, meet the requirements of AS 08.88.091 and 08.88.095. To be certified a course whether delivered **in a classroom or virtually** must meet the following minimum requirements:

(6) students must be required to adhere to a strict attendance policy, whether in a **classroom or attending virtually**, in order to receive credit for the course;

(7) **students taking a course virtually must be present using a device with video and audio capabilities;**

(8) students must complete a course and instructor evaluation on a form ~~required by the commission; the commission will provide a master copy of the form to each course sponsor~~ **that meets or exceeds the basic evaluation provided by the commission;**

(8 9) a certificate of completion shall be given to each student who attends and participates in the course and completes the evaluation, showing the

(A) name of student;

(B) city where course was held;

(C) course title and course approval number;

(D) date the course was delivered;

(E) number of contact hours awarded;

(F) signature of the course instructor or sponsor; and

(G) name of the course instructor.

(d) The commission will maintain a list, updated quarterly, of approved courses that are open to any licensee. The commission will make the list available at the division's office in Anchorage, ~~in~~ **through** the commission newsletter **List Serv**, ~~through a publicly accessible electronic medium~~ **the commission's website**, and by other appropriate methods.

(e) ~~A~~ **Any** course outline submitted to the commission in compliance with 12 AAC 64.420(a)(3)(D) is the property of the author or course sponsor.

(g) Courses in the subject areas identified in 12 AAC 64.500 offered by an accredited college or university will be recognized for credit. To determine the number of credit hours to be granted, the licensee must

(1) submit a syllabus of the course, **either electronically, through a link, or by US mail**; and

(2) arrange for and ensure the submission of an official transcript directly from the college or university where the course was offered, **either electronically or by US mail**.

12 AAC 64.430. CORRESPONDENCE COURSES. (a) To obtain certification of a correspondence course a sponsor must

(2) submit a copy of the complete course materials that will be provided to participants, including any published texts ~~and audiocassette or videotapes~~ **videos**; and

(3) submit ~~the written~~ **a copy of the** instructions for completing each lesson, **either electronically or by US mail**.

(b) All courses taken by correspondence must include an **unanswered** examination, or a project activity, to be turned into the instructor for grading **upon completion of the course**. The **examination or** project activity must be submitted along with the course material to the commission for prior approval, **either electronically or by US mail**.

12 AAC 64.440. INSTRUCTOR APPROVAL.

(f) The applicant must have not been disciplined within the last five (5) years by any real regulating authority or professional real estate association.

(g) An instructor approval expires on April 1 of years ending in 0 and 5. An initial instructor approval issued under (b) of this section from January 1 through March 31 of a year ending in 0 or 5 will expire on April 1 of the next year that ends in a 0 or 5. An applicant for renewal of an instructor approval must submit to the department

(1) a completed application for renewal on a form provided by the department;

(2) the instructor approval recertification fee specified in 12 AAC 02.360; and

(3) evidence of completion during the biennial licensing period for real estate licensee's immediately preceding the date of application, or the current biennial licensing period if in progress at the date of application, of

(A) at least two hours of continuing education in each topic area for which the instructor is applying for recertification;

(B) teaching a course in the topic area for which the instructor is applying for recertification; or

(C) practical experience in the topic.

(g h) Repealed 06/22/2008.

(h i) An applicant for initial instructor approval that wishes to substitute completion of an instructor workshop in (d) of this section for teaching experience or training required in (c) of this section, must apply for instructor approval not later than six months after completing an approved instructor workshop.

Editor's note: Information on workshops described in 12 AAC 64.440 may be obtained from the applicable organizations ~~at the following addresses:~~ Association of Real Estate License Law Officials (ARELLO), ~~P.O. Box 129, Centerville, UT 84014-0129;~~ National Association of Realtors (NAR), ~~430 North Michigan Ave., Chicago, IL 60611;~~ Real Estate Educator's Association (REEA), ~~10565 Lee Highway, Suite 104, Fairfax, VA 22030-3135;~~ International Right of Way Association (IRWA), ~~13650 South Gramercy Place, Gardena, CA 90249;~~ Community Association Institute (CAI), ~~1630 Duke Street, Alexandria, VA 22314.~~

12 AAC 64.990. DEFINITIONS

(b) In this chapter, unless the context requires otherwise,

(10) "virtual course" means a course that is approved for credit by the commission and is provided in an interactive on-line, real-time learning environment where the majority of the curriculum is delivered using the internet; and in which students are separated by location from their instructor of record, yet have the ability to participate through chats and audio.

New Business

STATE	LAWS ON UNLICENSED ASST	LAWS ON LICENSED ASST (ASSISTANTS AND/OR TEAMS)	ADDITIONAL PUBLISHED SUGGESTIONS
Louisiana	Ministerial acts only	All licensees governed by same rules	No
Maryland	Ministerial acts only	All licensees governed by same rules	No
Montana	none	All licensees governed by same rules	No
Nebraska	Working on legislation to define what they can and cannot do	All licensees governed by same rules	No
Oregon	Ministerial acts only	"Law is silent on assistants as well as teams." However, must be supervised by principal broker, have a contract and clearly advertise they work for the principal brokerage	Sort of
South Carolina	Ministerial acts only (similar to Alaska, lists what you can and cannot do)	All licensees governed by same rules	No
Texas	Ministerial acts only	All licensees governed by same rules	No
Vermont	Ministerial acts only	All licensees governed by same rules	No
Washington	Ministerial acts only	All licensees governed by same rules	Yes

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

State	Citation	Legal/Regulatory or Other Action	
AL	Ala. Code § 34-27-2; 34-27-30; and Ala. Real Estate Commission Rule 790-X-1-.04	Statute; and AL Real Estate Commission Rule	<p>Alabama law states that unlicensed persons in Alabama may only perform general clerical or administrative duties for the licensed broker. The following is a partial list of some common activities which may be performed without a license:</p> <ol style="list-style-type: none"> 1. Answer the telephone, forward calls, take messages, and make appointments for licensees 2. Send listing information to a multiple listing service, filling out the necessary forms. 3. Deliver information and forms to a mortgage company and closing attorney or agent as part of the preparation for closing. 4. Make and deliver copies of any public record. 5. Get keys from a client/owner and have keys made. 6. Write and place advertising in newspaper and other forms of publication. 7. Receive and deposit funds to be held in trust for others including earnest money, security deposits, and rental payments. 8. Type forms. 9. Perform company bookkeeping. 10. Place signs on property. 11. Arrange for and oversee repairs. 12. Make rental collection calls to tenants. 13. Answer questions about a property as long as the answers are available in some pre-printed form. 14. Give a key to a prospect. <p>An unlicensed person may not:</p> <ol style="list-style-type: none"> 1. Prepare or discuss a listing or property management agreement with an owner. 2. Show any property or be at an open house for any purpose. 3. Drive or accompany a prospect to a property. 4. Negotiate or discuss the terms of a sale or rental. 5. Procure or assist in procuring of prospects for the purpose of the sale, exchange, lease, or rental of real estate. 6. Prepare or have a prospect sign an offer to purchase or lease. 7. Present an offer to an owner.
AK	AK ST 08.88, 08.88.161, .165, .900; and Alaska Administrative Code 12 AAC 64.095	Statute; and State Admin. Code	<p>A real estate licensee may employ an unlicensed person to perform administrative, bookkeeping, clerical, and maintenance tasks related to real estate for which a real estate license is not required under AS 08.88 and this chapter, including:</p> <ol style="list-style-type: none"> 1. to answer the phone, take messages, and forward calls to the licensee; 2. to schedule appointments for the licensee; activities allowed under this paragraph do not include telephonic solicitation, or soliciting business on behalf of the licensee; 3. to obtain public information from a courthouse, municipality, or other source of public information;

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 4. to place or remove signs on property; 5. to input data for listings and changes to a multiple listing service as approved by the licensee; 6. to have keys made for property listed by the licensee; 7. to unlock a property so that it may be viewed or shown by a licensee, remain during the viewing or showing, and relock the property; 8. to draft advertising copy, promotional materials, and correspondence for approval by the licensee; 9. to place advertising; 10. to act as a courier; 11. to fill in contract forms with business and factual information as directed by the licensee; 12. to witness signatures; 13. to assemble file documents; 14. to follow up on a transaction after a contract has been signed by arranging access to property for an appraiser, contractor, inspector, or other service provider as needed; 15. to record and deposit trust funds, including transaction deposits, security deposits, and rents; 16. to compute commission checks; 17. to monitor licenses and personnel files; 18. to perform office filing; 19. to order items needed for routine repair; 20. to perform or supervise maintenance, repair, or building trades work, and answer questions about that work; and 21. to provide security services. <p>A real estate licensee may not employ an unlicensed person to perform any of the activities in AS 08.88.161, including one or more of the following:</p> <ol style="list-style-type: none"> 1. hosting an open house, kiosk, or home show booth; 2. assist in or direct the procuring of prospective buyers and sellers of real estate; 3. communicate with prospective buyers and sellers of real estate; 4. assist in the negotiation of a transaction that results or is calculated to result in the sale, exchange, rent, lease, auction, or purchase of real estate, 5. showing a property; 6. explaining or interpreting: <ol style="list-style-type: none"> a. a contract of purchase and sale; or b. a listing contract or property management contract, or any other form of service agreement. 7. hold out to the public as being engaged in the business of doing any of the activities listed, or attempt or offer to do any of the things listed in this section.
AZ	A.R.S. § 32-2101, 2121, 2122; and AZ Dept. of Real Estate's	Statute and advisory policy statement (Revised in 2005)	<p>This law states that unlicensed assistants in Arizona may only perform the following:</p> <ol style="list-style-type: none"> 1. Perform telephone duties, including calls to:

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

	<p>Substantive Policy Statement No. 2005.04 (advisory only)</p>		<ul style="list-style-type: none"> a. Collect general demographic information; b. Solicit interest in engaging the services of a licensee or brokerage; c. Set or confirm appointments (with no other discussion) for: <ul style="list-style-type: none"> i. A licensee to list or show property; ii. A buyer with a loan officer; iii. A property inspector to inspect a home; iv. A repair/maintenance person to perform repairs/maintenance; and/or v. An appraiser to appraise property. d. Mortgage and/or title companies to track the status of a file, check daily interest rates and points, whether buyer has been qualified, confirm closing appointment for licensee. <ol style="list-style-type: none"> 2. Assist a licensee at an open house; 3. Unlock a home for a licensee so that licensee can show a buyer the property or preview the property (no discussion about the property); 4. Deliver documents, as a mail or delivery service only. <p>Activities an unlicensed assistant in the broker's employ may not perform:</p> <ol style="list-style-type: none"> 1. Hold / host an open house without an agent being present; 2. Perform a walk-through inspection; 3. Answer questions relating to a transaction document; 4. Give instructions to inspectors, appraisers or maintenance / repair people, which are part of a licensee's regular duties and have a direct relationship to the (potential) transaction.
<p>AR</p>	<p>A.C.A. § 17-42-104, 311</p>	<p>Statute</p>	<p>Arkansas law states that unlicensed assistants may be employed only at a salaried or hourly rate for or on behalf of a licensed principal broker.</p> <p>Unlicensed assistants may perform only one (1) or more of the following functions:</p> <ol style="list-style-type: none"> 1. Delivering a lease application, lease, or an amendment to a lease application or least to any person; 2. Receiving a lease application, lease, or an amendment to a lease application for delivery to the principal broker, real estate firm, or owner; 3. Receiving a security deposit, rental payment, or any related payment for delivery to and made payable to the principal broker, real estate firm, or owner; 4. Acting under the direct written instructions of the principal broker, real estate firm, or owner: <ul style="list-style-type: none"> a. Showing a rental unit to any person; or

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ul style="list-style-type: none"> b. Assisting in the execution of a preprinted lease or rental agreement containing terms established by the principal broker, real estate firm, or owner; or 5. Conveying information prepared by the principal broker, real estate firm, or owner about a lease application, lease, the status of a security deposit, or the payment of rent to or from any person 6. Unlicensed personnel may not engage in or offer to perform any practice, act, or operation performed by principal brokers.
CA	N/A	Guidelines (formal action)	<p>The California Department of Real Estate (DRE) promulgated guidelines on what unlicensed assistants may and may not do. The guidelines provide a safe harbor such that voluntary compliance will not subject licensees to DRE challenge. (Winter 1993 bulletin)</p> <p>Under the guidelines, unlicensed assistants may not do the following:</p> <ul style="list-style-type: none"> 1. Show or exhibit property 2. Discuss terms or conditions of a possible sale 3. Discuss other features of the property such as location, neighborhood, schools 4. Engage in other conduct which "is used, designed, or structured for solicitation purposes..." 5. Attempt to induce the prospective client to use the services of the broker regarding a specific property, transaction, or products during cold calls 6. Give any Multiple Listing Service (MLS) information to the public 7. Provide information about a property unless obtained from a data sheet prepared by a licensee or a principal and that fact is revealed to the person requesting the information 8. Discuss the content, relevance, importance, or significance of the documents or instruments being prepared, delivered, or signed with a principal or service provider
CO	N/A	Position (formal action)	<p>The Colorado Real Estate Commission has published a "Position Statement" on the use of personal assistants directed generally at the issues of those activities requiring a license and the supervisory responsibilities of the employing broker for the activities of real estate assistants. (Revised on Oct. 2012)</p> <p>According to the position, unlicensed assistants may not do the following:</p> <ul style="list-style-type: none"> 1. Negotiate, list, or sell real property 2. Prepare legal documents such as listing and sales contracts 3. Offer opinions, advice, or interpretations 4. Disseminate or distribute information on listed properties other than that prepared by the employing broker or salesperson
CT	N/A	Policy (formal)	<p>The Connecticut Real Estate Commission has issued a formal policy on the use of unlicensed personnel by licensees. (published in Oct. 2014)</p> <p>According to the policy, unlicensed assistants may not perform the following activities:</p>

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 1. Host open houses, kiosks, home show booths or fairs, or hand out materials at such functions. 2. Show property. 3. Answer any questions from consumers on listing, title, financing, closing, etc. 4. Contact cooperative brokers, whether in person or otherwise, regarding any negotiations or open transactions. 5. Discuss or explain a contract, offer to purchase, agreement, listing, or other real estate document with anyone outside the firm. 6. Be paid on the basis of commission, or any amount based on listings, sales, etc. 7. Negotiate or agree to any commission, commission split or referral fee on behalf of a licensee. 8. Place calls that would require a license such as cold calls, solicit listings, contacting expired listings or for sale by owners, or extending invitations to open houses. 9. Attend inspections or pre-closing walk-through unless accompanied by licensee. 10. The unlicensed assistant is not a decision maker; rather, shall take all direction from supervising licensee.
D.C.	D.C. Code § 47-2853.181	Statute	<p>According to these regulations, an assistant can:</p> <ol style="list-style-type: none"> 1. Undertake office tasks, such as: phone call making, answering, forwarding and message taking, e-mail sending and reading, scheduling meetings and showing tours, typing documents, keeping track of transactions and loan commitments, etc. 2. Ordering key duplicates and any services of maintenance or repair the licensee considers necessary for the properties you are handling. 3. Ensuring the smooth exchange of documents between the licensee and potential clients. 4. Helping the licensee organize and host open house presentations. 5. Come up with proposals and ideas for advertising materials, preparing them after approval and distribute them. <p>An unlicensed real estate assistant in Washington, D.C. cannot:</p> <ol style="list-style-type: none"> 1. Show potential buyers around the property. 2. Talk about the property or the sales or rent terms with potential buyers, the only information he or she can provide being that already published or approved by the licensee. 3. Express opinions or advise potential clients how to proceed in their negotiations with the licensee or negotiate the terms with potential clients on behalf of the licensee. 4. Receive commissions on the transactions closed by the licensee.
DE	Del. Code Regs. Title10, §528 - XIII	Rule	It states that only a licensee may host an open house or otherwise show a property listed with a broker for sale, lease, or exchange.

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			Such licensee may be assisted by an unlicensed person provided a licensee is on site.
FL	N/A	FREC Policy (formal action)	<p>The Florida Real Estate Commission has developed a policy on the kinds of activities that are permissible for an unlicensed assistant to perform. (Revised on Sept. 2009)</p> <p>Permissible Activities of an Unlicensed Assistant:</p> <ol style="list-style-type: none"> 1. Fill out and submit listings and changes to any multiple listing service 2. Follow-up on loan commitments after a contract has been negotiated and generally secure the status reports on the loan progress 3. Assemble documents for closing 4. Secure documents (public information) from courthouse, utility district, etc. 5. Have keys made for company listings, order surveys, termite inspections, home inspections and home warranties with the licensed employer's approval 6. Write ads for approval of the licensee and the supervising broker, and place advertising (newspaper ads, update web sites, etc); prepare flyers and promotional information for approval by licensee and the supervising broker 7. Receive, record and deposit earnest money, security deposits and advance rents 8. Only type the contract forms for approval by licensee and supervising broker 9. Compute commission checks 10. Place signs on property 11. Order items of repair as directed by licensee 12. Prepare flyers and promotional information for approval by licensee and supervising broker 13. Act as a courier service to deliver documents, pick-up keys 14. Place routine telephone calls on late rent payments 15. Schedule appointments for licensee to show a listed property 16. Be at an open house for: <ul style="list-style-type: none"> • Security purposes • Hand out materials (brochures) 17. Answer questions concerning a listing from which the answer must be obtained from the licensed employer-approved printed information and is objective in nature (not subjective comments) 18. Gather information for a Comparative Market Analysis 19. Gather information for an appraisal 20. Hand out objective, written information on a listing or rental <p>Unlicensed assistants may not:</p> <ol style="list-style-type: none"> 1. Auction or attempt to auction real property of another for compensation;

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 2. Advertise or attempt to advertise real property of another for compensation; 3. Undertake to list or sell one or more timeshare periods per year on behalf of another individual or entity for compensation.
GA	Ga. Comp. R. & Regs. r. 520-1-.07	Rule	<p>The Georgia Real Estate Commission has identified the following tasks that unlicensed support personnel may perform:</p> <ol style="list-style-type: none"> 1. Answer the phone, forward calls to the licensee; 2. Submit data in listings to a MLS; 3. Follow up on loan commitments after the negotiation of the contract; 4. Gather the necessary documents for a closing; 5. Secure public information documents from a courthouse or other public sources; 6. Have keys made for listings; 7. Install or remove lock boxes from listings; 8. Create ads and promotional materials that are to be approved by the licensee; 9. Place ads in newspapers, magazines and other publications as instructed by the real estate agent; 10. Receive, record and make deposits – security deposits, earnest money, advance rents; 11. Fill in contract forms following the instructions of the licensee; 12. Monitor license reports and personnel files; 13. Compute commission checks; 14. Place and remove signs on/from properties; 15. Order routine repair works as instructed by the agents; 16. Pick up and deliver documents and keys; 17. Schedule appointments on behalf of the licensee; 18. Schedule inspections on properties; 19. Schedule the dates for the mortgage application, the walkthrough before closing and the closing; 20. Schedule an open house; 21. Attend an open house with the purpose of offering security services; 22. Perform maintenance works on properties. <p>The Commission has identified the following tasks as some of the activities that unlicensed support personnel shall not perform:</p> <ol style="list-style-type: none"> 1. Make cold calls or otherwise contact the public for the purpose of securing prospects for listings, leasing, sales, exchanges, or property management of real estate 2. Host open houses, kiosks, home show booths, or fairs 3. Prepare promotional materials/advertisements without the review and approval of an affiliated licensee and firm 4. Show real estate

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 5. Answer any questions on title, financing, or closings (other than the time and place) 6. Answer any questions regarding a listing except for information on price and amenities expressly authorized in writing by the licensee; 7. Discuss the attributes or amenities of real estate, under any circumstances, with a prospective purchaser or lessee 8. Collect or hold deposit monies, rent, other monies or anything of value received from the owner of real estate or from a prospective purchaser or lessee.
HI	N/A	Guidelines (informal action)	<p>The Hawaii Real Estate Commission published an article in February 2006 setting forth its position on the permissible and impermissible activities of unlicensed assistants.</p> <p>According to the Commission, an unlicensed assistant may not do the following:</p> <ol style="list-style-type: none"> 1. Show properties to potential clients or tenants 2. Engage in any real estate negotiations with clients 3. Answer questions or provide information beyond what may be written in fact sheets approved by the principal broker regarding specific properties 4. Sign any real estate transaction documents 5. Manage properties for more than a single owner
ID	N/A	Published Guidelines	<p>The Idaho Real Estate Commission published guidelines on the use of unlicensed assistants and office staff in July 2015. The guidelines state that foremost to the use of personal assistants is careful restriction of their activities so as to avoid illegal brokerage practice. The license law of Idaho prohibits unlicensed persons from negotiating, listing or selling real property. Other prohibited activities are:</p> <ol style="list-style-type: none"> 1. Independently drafting legal documents such as listing and sales contracts 2. Offering opinions, advice or interpretations on the real property 3. Distributing information on listed properties other than that prepared by the employing broker 4. Showings of real property to potential buyers <p>Activities that unlicensed assistants may perform are:</p> <ol style="list-style-type: none"> 1. Clerical duties which may include the gathering of information for a listing 2. Providing access to a property other than showings to potential buyers 3. Hand out preprinted, objective information, so long as no negotiating, offering, selling, or contracting is involved

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 4. Deliver paperwork to other brokers, sellers, or purchasers, if such paperwork has already been reviewed by the broker 5. Prepare market analyses for sellers or buyers on behalf of a broker, but with disclosure of the name of the preparer given
IL	68 Ill. Adm. Code 1450.740; (Real Estate License Act of 2000) 225 Illinois Comp. Stat. 454/ 5-20	Rule	<p>The Illinois Department of Financial and Professional Regulation enacted 68 Ill. Adm. Code 1450. 740 to clarify permissible and impermissible activities of real estate assistants under the Real Estate License Act of 2000. Under the IL rule, an unlicensed assistant may not do the following:</p> <ol style="list-style-type: none"> 1. Host open houses, kiosks, or home show booths or fairs 2. Show property 3. Interpret information on listings, titles, financing, contracts, closings, or other information relating to a transaction 4. Explain or interpret a contract, listing, lease agreement, or other real estate document with anyone outside the licensee’s firm 5. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee 6. Perform any other activity for which a license is required under the act
IN	876 Indiana Admin. Code § 8-1-7; Indiana Code §§ 25-34.1-3-2	Rule	<p>The Indiana Real Estate Commission states that licensees may not allow an unlicensed assistant to perform any act that would require licensure under the Indiana law. The rule outlines that unlicensed assistants may not do the following:</p> <ol style="list-style-type: none"> 1. Prepare promotional materials or advertisements without the review and approval of a supervising licensee 2. Show real property 3. Answer questions about listings other than those concerning list price, address, or geographic directions 4. Discuss or explain a contract, listing, lease, agreement, or other real estate document with any broker or salesperson outside the licensee’s firm or with any potential client or customer 5. Conduct open houses 6. Conduct telemarketing or telephone canvassing to schedule appointments in order to seek listings 7. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee
IA	Iowa Admin. Code 193E-7.13	Rule	<p>This rule identifies certain tasks that unlicensed support personnel under the direct supervision of a licensee may not perform. The Prohibited activities include, but are not limited to, the following:</p>

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 1. Making cold calls by telephone or in person or otherwise contacting the public for the purpose of securing prospects for listings, leasing, sale, exchanges, or property management; 2. Independently hosting open houses, kiosks, home show booths, or fairs attended by the public; 3. Preparing promotion materials or advertisements without the review and approval of licensee and supervising broker; 4. Showing property independently; 5. Answering any questions on title, financing, or closings (other than time and place); 6. Answering any questions regarding a listing except for information on price and amenities expressly provided in writing by the licensee; 7. Discussing or explaining a contract, listing, lease, agreement, or other real estate document with anyone outside the firm; 8. Negotiating or agreeing to any commission, commission split, management fee, or referral fee on behalf of a licensee; 9. Discussing with the owner of real property the terms and conditions of the real property offered for sale or lease; 10. Collecting or holding deposit moneys, rent, other moneys or anything of value received from the owner of real property or from a prospective buyer or tenant; 11. Providing owners of real property or prospective buyers or tenants with any advice, recommendations or suggestions as to the sale, purchase, exchange, rental, or leasing of real property that is listed, to be listed, or currently available for sale or lease; or 12. Holding one's self out in any manner, orally or in writing, as being licensed or affiliated with a particular firm or real estate broker as a licensee.
KS	Kan.Stat. Ann.§58-3062	Statute	<p>The Kansas Real Estate Commission published an article in its quarterly newsletter that provides guidance about what unlicensed personal assistants may and may not do. The article indicates that it was adapted from similar articles published by the Missouri and North Carolina real estate commissions. (Revised on Nov. 2011)</p> <p>Unlicensed assistants in Kansas may not do the following:</p> <ol style="list-style-type: none"> 1. Answer questions concerning properties listed with the firm, except to confirm that the property is listed and to identify the listing broker or salesperson 2. Show property and discuss anything related to the property or related to its purchase 3. Discuss or explain a contract, listing, lease agreement, or other real estate document with anyone outside the firm

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<p>4. Negotiate or agree to any commission, commission split, or referral fee on behalf of a licensee</p>
KY	201 KAR 11:440	Rule	<p>The Kentucky Real Estate Commission has regulations providing guidance on the permissible and impermissible activities of unlicensed personnel such as real estate assistants.</p> <p>Personal assistants, office workers, or clerical workers may not do the following:</p> <ol style="list-style-type: none"> 1. Negotiate terms of a real estate transaction or real estate brokerage agreement 2. Complete offers or contracts relative to a real estate transaction 3. Disclose information that is available to a real estate licensee but is not available to the general public 4. Attend a real estate closing 5. Access information which requires membership in an industry trade group when the supervising licensee is not a member of the industry trade group 6. Write or place advertisements without review by a license 7. Express material opinions on any aspect of a real estate transaction to anyone other than the supervising licensee 8. Interpret real estate contractual terminology for others 9. Shows real estate to buyers without the licensee broker present
LA	N/A	Article	<p>The Louisiana Real Estate Commission has published an article providing guidance on the permissible and impermissible activities of unlicensed personnel such as real estate assistants. (Published on Mar. 2009)</p> <p>Under the article, personal assistants may not do the following:</p> <ol style="list-style-type: none"> 1. Host open houses 2. Prepare promotional materials or ads without the review and approval of licensee and supervising broker 3. Show property listed for sale 4. Answer any questions on listings 5. Discuss or explain a contract, listing, or other real estate document with anyone outside the firm 6. Work as a licensee/secretary in one firm and do real estate-related activities with that firm, while licensed with another firm 7. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc. 8. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

MD	N/A	MREC Guidelines	<p>The Maryland Real Estate Commission issued guidelines on the permissible and impermissible activities of unlicensed assistants.</p> <ol style="list-style-type: none"> 1. An unlicensed personal assistant may perform the following activities: 2. Answer the telephone and forward calls to a licensee 3. Submit listings and changes to a Multiple Listing Service (MLS) 4. Follow up on loan commitments after a contract has been negotiated 5. Assemble documents for closing 6. Secure documents (public information) from courthouse, public utilities, etc. 7. Have keys made for company listings 8. Write and place ads for approval of licensee and supervising broker 9. Type contract forms at the direction of and for approval by licensee and supervising broker 10. Compute commission checks 11. Place signs on property 12. Arrange the date and time of home, termite, and well/septic inspection, mortgage application, pre-settlement walk-through and settlement 13. Prepare flyers and promotional information for approval by licensee and supervising broker 14. Act as courier service to deliver documents, pick up keys, etc. 15. Schedule an open house 16. Schedule appointments for licensee to show listed property 17. Accompany a licensee to an open house or showing for security purposes or to hand out preprinted materials <p>An unlicensed personal assistant may not perform any of the following acts or provide any of the following services:</p> <ol style="list-style-type: none"> 1. Prepare promotional material or ads without the review and approval of the licensee and supervising broker 2. Show property 3. Answer any questions on listings, title, financing, closing, etc. 4. Discuss or explain a contract, listing, lease, agreement, or other real estate document with anyone outside the brokerage 5. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc. 6. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee 7. Discuss the attributes or amenities of a property, under any circumstances, with a prospective purchaser or lessee
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**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 8. Discuss, with the owner of real property, the terms and conditions of the real property offered for sale or lease 9. Collect, receive, or hold deposit monies, rent, or other monies or anything of value received from the owner of the real property or from a prospective purchaser or lessee 10. Provide owners of real property or prospective purchasers or lessees with any advice, recommendations, or suggestions as to the sale, purchase, exchange, or leasing of real property to be listed or presently available for sale or lease 11. Hold himself or herself out in any manner, orally or in writing, as being licensed or affiliated with a particular company or real estate broker as a licensee
MA	N/A	Guidelines	<p>The Massachusetts Division of Consumer Affairs and Business Regulation put forth guidelines on the use of unlicensed assistants by real estate brokers/salespersons. The Division advises that unlicensed assistants should avoid activities that will bring them into direct contact with clients and customers.</p> <p>Impermissible tasks by unlicensed assistants include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Do listing presentations 2. Write contracts, or purchase offers 3. Show houses 4. Call for feedback from co-brokers after showing 5. Service listing 6. Preview houses for prospective buyers 7. Contact buyers and sellers in follow-up function 8. Attend closings or property walk-throughs 9. Conduct Open Houses 10. Attend or Conduct Broker Open Houses
MI	N/A	Guidelines (formal action)	<p>The Michigan Bureau of Professional Regulation (BOPR) explored the issues and options for resolution and to consider possible changes in the administrative rules. MAR has also published two articles (one of which was approved by the Licensing Administrator for real estate) on the subject of "Do's and Don'ts for unlicensed assistants." (Updated on May 2012)</p> <p>According to the BOPR, unlicensed assistants may not do the following:</p> <ol style="list-style-type: none"> 1. Independently show property to prospects 2. Solicit listings or other business through use of a telephone 3. Hold open houses for REALTORS® 4. Answer any questions relating to title insurance, financing, or closing 5. Provide information to the public in addition to any information set forth in printed and prepared written promotional material that has been distributed to the public

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 6. Have their names printed on cards or otherwise hold themselves out as agents for a REALTOR® 7. An amendment to the license law also prohibits sharing or paying a fee, commission, or valuable consideration to a person not licensed.
MN	Minn. Stat. § 82.73	Regulation and Article	<p>The Minnesota Association of REALTORS® is engaged in ongoing correspondence and communication with the Minnesota Department of Commerce and several other state agencies regarding the nature of the relationship between real estate brokers, salespeople, and licensed real estate assistants. The Real Estate Commission has also published an article on the permissible activities of unlicensed assistants, although the Minnesota licensing statute narrowly restricts the activities of unlicensed persons.</p> <p>An article by the Commission states that unlicensed assistants:</p> <ol style="list-style-type: none"> 1. May assist in hosting an open house, but may not answer any questions concerning the property, the price, or terms 2. May be hired for cold calling or surveying but must abide by the following: <ul style="list-style-type: none"> – disclosing that they are calling on behalf of salespersons or brokers, but that they are not themselves licensed; also must identify broker with whom affiliated – restricting their inquiry to whether the person would be interested in having a licensee contact them about their real estate needs; emphasis must be on contact with licensee, not property needs – not discussing price, terms, financing, etc. – being compensated on an hourly, flat fee or salary basis 3. May not disclose any information regarding a listed property except to state the address of the property and whether it is available for sale or lease
MS	N/A	Guidelines	<p>The Mississippi Real Estate Commission published a guideline of activities that may not be conducted by an unlicensed assistant to a licensee.</p> <p>Unlicensed Assistants may not:</p> <ol style="list-style-type: none"> 1. Independently show properties that are for rent or sale. 2. Host an open house, kiosk, home show booth, fair, or hand out materials at such functions UNLESS a licensee is present at all times. 3. Preview, inspect, or determine (measure) the square footage of any property unless accompanied by a licensee. 4. Prepare promotional materials or advertising without the review and approval of a licensee and the principal broker. 5. Negotiate, discuss or explain a contract, listing, lease or any other real estate document with anyone outside the brokerage firm.

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 6. Answer questions concerning properties listed with the firm, EXCEPT to confirm that a property is listed, to identify the listing broker or sales agent, and to provide such information as would normally appear in a simple, classified newspaper advertisement (location and/or address). 7. Negotiate the amount of rent, security deposit, or other lease provisions in connection with rental property. 8. Open properties for viewing by prospective purchasers, appraisers, home inspectors, or other professionals. 9. Attend pre-closing walk-through or real estate closings unless accompanied by a licensee. 10. Place calls that would require a license such as cold calling, soliciting listings, contacting sellers, buyers or tenants in person or by phone, contacting expired listings, placing marketing calls, or extending open house invitations. 11. Represent themselves as being a licensee or as being engaged in the business of buying, selling, exchanging, renting, leasing, managing, auctioning, or dealing with options on any real estate or the improvement thereon for others.
MO	M.R.S. § 339.010; 20 CSR 2250-8.010	Rule	<p>The Missouri Real Estate Commission issued a rule setting forth its position on the permissible and impermissible activities of unlicensed assistants. (June 2011)</p> <p>According to the Commission, an unlicensed assistant may not do the following:</p> <ol style="list-style-type: none"> 1. Host open houses, kiosks, home show booths or fairs, or hand out materials 2. Prepare promotional materials or ads without the review and approval of licensee and supervising broker 3. Show property 4. Answer any questions on listings, title, financing, closing, etc. 5. Discuss or explain a contract, listing, lease, agreement, or other real estate document with anyone outside the firm 6. Work as a licensee/secretary in one firm and do real estate-related activities with that firm, while licensed with another firm 7. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc. 8. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee
MT	N/A	Guidelines (formal action)	<p>The Montana Board of Realty Regulation has created a list of activities that cannot be conducted by an unlicensed personal assistant. The list is not exhaustive and is intended to be a guideline only.</p> <p>The guidelines state that unlicensed assistants may not do the following:</p> <ol style="list-style-type: none"> 1. Show properties, either rentals or sales 2. Preview home unless accompanied by licensee

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 3. Place calls that would require a license, such as cold calling, soliciting listings, contacting sellers/buyers or tenants in person or by phone, contacting expired listings, placing marketing calls, or extending open house invitation 4. Inspect and measure home unless accompanied by licensee 5. Open property for appraisers, inspectors, etc. 6. Attend settlement unless accompanied by licensee 7. Remove/install lock box 8. Negotiate or write contracts 9. Hold open house 10. Prepare promotional materials or ads without the review and approval of licensee and supervising broker 11. Answer any questions on listings, title, financing, closing, etc. 12. Discuss or explain a contract, listing, lease agreement, or other real estate document 13. Attend pre-settlement walk-through unless accompanied by licensee 14. Complete and execute rental agreements or leases 15. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee 16. Solicit listings or management contracts from prospective clients 17. Negotiate the amount of rent, security deposit, or other lease provisions in connection with rental properties 18. Give out information on listed properties (doing so would in almost all instances constitute being involved in the negotiations of the sale of property) 19. Act as a 'go between' with a seller and a buyer, such as when an offer is being negotiated 20. Discuss terms of an earnest money agreement with a buyer or seller
NE	N/A	Policy (formal action)	<p>The Nebraska Real Estate Commission created policy regarding the permissible activities of unlicensed assistants set forth by state legislation. (Amended Nov. 2001)</p> <p>Activities which cannot be performed by unlicensed persons, include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Host Open houses, kiosks, home show booths or fairs, or hand out materials at such functions 2. Show property 3. Answer any questions on listings, title, financing, closing, etc.

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 4. Discuss or explain a contract, agreement, listing, or other real estate document with anyone outside the firm 5. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc. 6. Negotiate or agree to any commission, commission split or referral fee on behalf of a licensee.
NV	N/A	Guideline	<p>The Real Estate Division of Nevada published an informational guideline stating permissible and impermissible activities of unlicensed assistants. (Revised 2005)</p> <p>Tasks that cannot be performed by unlicensed personnel include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Meet with clients to obtain or renew brokerage agreements or property management agreements 2. Negotiate or agree to any commission or referral fee 3. Provide advice or guidance to a buyer or seller regarding a real estate contract, brokerage agreement, or any other real estate document 4. Show property or provide clients or consumers information on listings 5. Answer any questions about a listing, including asking price, square footage, age of structure 6. Give listing presentations, interview buyers or present or negotiate offers 7. Contact or solicit prospective sellers or buyers, landlords or tenants, including scheduling appointments as a result of a telemarketing survey asking any of those parties if they would like to speak with a licensee about their real estate questions
NH	N/A	Guidelines (formal action)	<p>Guidelines detailing allowable tasks for unlicensed assistants to perform were published by the New Hampshire Real Estate Commission. Under the approved activities list, unlicensed assistants may:</p> <ol style="list-style-type: none"> 1. Give general information about listed properties such as location, availability, and price (without any solicitation on behalf of the assistant) 2. Perform clerical duties, which may include answering the telephone and forwarding calls 3. Fill out and submit listings and changes to multiple listing services 4. Type contract forms for approval by licensee and supervising broker 5. Pick up and deliver paperwork to other brokers and salespersons 6. Follow up on loan commitments after a contract has been negotiated, and pick up and deliver loan documents requiring signatures 7. Obtain status reports on a loan's progress 8. Assemble closing documents 9. Obtain required public information from the Registry of Deeds, public utilities, etc.

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 10. Write advertising for approval by the licensee and supervising broker, and arrange to place the advertising 11. Have keys made for company listings, and place signs on listed property 12. Attend open houses to provide security, and hand out pre-approved promotional material 13. Gather information required for a Comparative Market Analysis 14. Schedule appointments for licensee to show a listed property 15. Drive clients to view properties which will be shown by the licensee
NJ	N/A	Published Guideline (updated Jan. 2015)	<p>The New Jersey Real Estate Commission issued a formal guidance on the use of unlicensed personnel. An unlicensed assistant or secretary cannot:</p> <ol style="list-style-type: none"> 1. Make cold calls by telephone or in person to potential clients 2. In the absence of a licensee, host open houses, booths at home shows, malls or fairs, or distribute promotional literature at such locations 3. Prepare promotional material or ads without the review and approval of a licensee 4. Show property 5. Discuss, explain, or answer any questions on listings, contracts, or other real estate documents with the public or anyone outside the firm 6. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of licensee
NM	NM Admin Code Tit.16 § 61.21.8	Rule	<p>The New Mexico Real Estate Commission issued a rule defining “unlicensed assistants” and “responsible persons” to such assistants, and outlining activities in which unlicensed assistants can/cannot engage.</p> <p>Under the rule, unlicensed assistants may not do the following:</p> <ol style="list-style-type: none"> 1. Prepare legal documents, such as listing and sale contracts 2. Interpret documents, or offer opinions or advice 3. Disseminate and distribute information orally or in writing, unless the information is in writing and is prepared and approved by the responsible person 4. Obtain personal or property information from a client or customer of the responsible person, except when acting as a coordinator directed by the responsible person, by gathering and following up on information and the status of matters pertaining to the transaction after a contract has been executed 5. Pick up from or deliver to customers or clients financial documents prepared by title companies, lenders, or other third persons for the purpose of obtaining signatures 6. Attend a closing without the responsible person present 7. Show property without the responsible person present 8. Represent himself or herself as being a licensee or as being engaged in the business of buying, selling, exchanging, renting, leasing, managing, auctioning, or dealing with

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<p>options on any real estate or the improvements thereon for others</p> <p>9. Perform telephone solicitation of any kind designed to procure transactions requiring licensure under Section 69-21-1 et seq. NMSA1978, including, but not limited to, procuring buyers, sellers, listings, or appointments for listing presentation</p> <p>An unlicensed assistant is permitted to engage in the following activities:</p> <ol style="list-style-type: none"> 1. Obtaining information pursuant to written instructions from the Responsible Person from public records, a Multiple Listing Service (MLS), Listing Exchange or from third party sources including, but not limited to, surveyors, banks, appraisers and title companies 2. An Unlicensed Assistant does not discuss, negotiate or solicit offers for the property or provide any information other than printed materials prepared and approved by the Responsible Person 3. The Licensee is present at the open house where the Unlicensed Assistant is located 4. All inquiries are referred to the Responsible Person or other Licensees 5. Disseminating and distributing information prepared and approved by the Licensee 6. Picking up and delivering paperwork to Licensees other than the Employing Licensee 7. Picking up and delivering paperwork to sellers or purchasers after a contract has been executed if the paperwork has already been reviewed and approved by the Responsible Person, without answering any questions or providing any opinions or advice to the recipient of the paperwork. All substantive questions must be referred to the Responsible Person. 8. Writing advertisements, flyers, brochures, and other promotional materials for the approval of the Responsible Person, and placing classified advertisements approved by the Responsible Person 9. Placing or removing signs on real property as directed by the Responsible Person 10. Ordering repairs as directed by the Responsible Person 11. Receiving and depositing funds, maintaining books and records, while under the supervision of the Responsible Person 12. Typing or word processing documents, including purchase and listing agreements, prepared by the Responsible Person
NY	N/A	Rule Interpretation	<p>The Division of Licensing Services of New York issued a policy interpretation of Section 440 of Article 12A of the NY State Real Property Law on the use of unlicensed assistants.</p> <p>Permissible tasks by unlicensed personnel include:</p> <ol style="list-style-type: none"> 1. General clerical duties such as typing of letters and filing 2. Answering phone calls, arranging appointments

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 3. Follow-up on loan commitments after a contract has been negotiated and generally secure status reports on loan progress 4. Assemble documents for closing 5. Write ads for approval of broker and place approved classified advertising 6. Type contract form for approval by broker 7. Gather information for a comparative market analysis and for appraisals
NC	N/A	Article (formal action)	<p>The North Carolina Real Estate Commission has published an article describing its view of the permissible and impermissible activities of unlicensed assistants. (Published Oct. 2012)</p> <p>Under the article, the Commission has stated that unlicensed employees may not do the following:</p> <ol style="list-style-type: none"> 1. Show properties for sale to prospective purchasers 2. Solicit listings or management contracts from prospective clients 3. Answer questions concerning properties listed with the firm, except to confirm that the property is listed, to identify the listing broker or agent, and to provide such information as would normally appear in a simple, classified newspaper advertisement (e.g., location, price, number of rooms) 4. Prepare promotional materials or advertising of properties for sale or lease without the office broker-in-charge's review and approval 5. Discuss or explain listings, management agreements, offers, contracts, or other similar matters with persons outside the firm 6. Negotiate the amount of rent, security deposit, or other lease provisions in connection with rental properties managed by the firm
ND	N/A	Article (formal action)	<p>The North Dakota Real Estate Commission has repeatedly published an article containing guidelines for what unlicensed assistants may and may not do. (Published June 2008)</p> <p>Under the article, an unlicensed assistant may not:</p> <ol style="list-style-type: none"> 1. Make cold calls by telephone or in person to potential listers and purchasers 2. Show properties for sale to prospective purchasers 3. Host public open houses, host REALTOR® open houses, home show booths or fairs 4. Answer questions concerning properties listed with the firm, except to confirm that the property is listed, to identify the listing broker or salesperson, and to provide such information as would normally appear in a simple, classified newspaper ad (e.g., location, price, number of rooms) 5. Prepare promotional material or advertising of properties for sale or lease without the approval of the supervising broker 6. Discuss or explain listings, offers, contracts, or other similar matters with persons outside the firm

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 7. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc. 8. Act as a "go-between" with a seller and buyer, such as when an offer is being negotiated
OH	N/A	Pronouncement /Opinion	<p>The Ohio Department of Commerce Division of Real Estate has issued a pronouncement on permissible activities of real estate assistants. (Published Fall 2012)</p> <p>According to the Department of Commerce, unlicensed assistants may not do the following:</p> <ol style="list-style-type: none"> 1. Pass out information sheets, verbally provide information on the property, or otherwise respond to questions which may be asked by prospective purchasers (at an open house or via phone) 2. Gather information on an owner's house or a home he or she may be looking for, provide information to the owner on properties listed, or request the names of others interested in buying or selling a property 3. Call a "for sale by owner" or owner of expired listings to discuss their housing needs or make representations as to the services offered by the brokerage 4. Interpret the terms of a purchase agreement, counteroffers, etc. 5. Advise parties as to their specific rights or obligations and benefits/coverage relating to home warranty programs
OR	N/A	Guideline	<p>The Oregon Real Estate Commission published a guideline for the use of unlicensed assistants in an official publication on June 2016. The Guidelines states that an unlicensed assistant may not engage in the following activities, which are considered to be professional real estate activity:</p> <ol style="list-style-type: none"> 1. Show real estate to prospective buyers 2. Hold open houses 3. Perform a walk-through inspection 4. Answer questions relating to a transactional document 5. Give instructions to inspectors, appraisers, or maintenance/repair people 6. Engage in negotiations with clients in a transaction 7. Engage in real estate marketing or cold calling people to buy or sell real estate
PA	N/A	Guideline	<p>The Pennsylvania Real Estate Commission provides a guideline on the use of real estate assistants and unlicensed individuals. (Amended June 2000)</p> <p>An unlicensed assistant or individual may not perform any duties that require licensure. An unlicensed assistant or individual may not, for example:</p> <ol style="list-style-type: none"> 1. Host an open house to be attended by the public

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 2. Explain or interpret information on the listing sheets to licensees or the public, in person, over the phone, or on the internet 3. Provide information on the style of the home, location of the home, lifestyle or amenities available 4. Tour/show a model to the public 5. Discuss prices, price ranges or mortgage rates with the public 6. Engage in telemarketing, excluding cemetery sales
RI	Policy Restatement L-97-1	Policy Restatement (Reviewed on June 2011)	<p>The Rhode Island Real Estate Commission has issued a policy statement concerning the proper scope of duties and responsibilities of unlicensed personal assistants. A personal assistant cannot:</p> <ol style="list-style-type: none"> 1. Make representations about real property, except for transmitting published information 2. Show real property for sale, rental or lease; 3. Host or conduct an open house without being accompanied at all times by a Licensee; 4. Prepare or present a Comparable Market Analysis (CMA) of real property, but may compile such information for a Licensee 5. Receive compensation in the form of a payment or commission computed on the basis of real property sales activity, listings, sales or rentals; or 6. Discuss or negotiate terms or conditions of the sale, rental or lease of real property.
SC	N/A	Policy Restatement	<p>The South Carolina Real Estate Commission issued a policy restatement for the use and functions of unlicensed office personnel. An unlicensed assistant cannot:</p> <ol style="list-style-type: none"> 1. Host Open houses, kiosks, home show booths or fairs, or hand out materials at such functions 2. Show property 3. Answer any questions on listings, title, financing, closing, etc. 4. Discuss or explain a contract, agreement, listing, or other real estate document with anyone outside the firm 5. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc. 6. Negotiate or agree to any commission, commission split or referral fee on behalf of a licensee

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

SD	N/A	Guidelines	<p>The South Dakota Real Estate commission published guidelines on the use of unlicensed assistants. Unlicensed assistants may not:</p> <ol style="list-style-type: none"> 1. Show Property to prospective buyers 2. Solicit by telephone or in person potential sellers, purchasers, tenants or landlords 3. Answer questions on title insurance, financing or closings 4. Host open houses for licensee or the public, or staff booths at home shows or fairs 5. Give additional information not included in prepared written promotional material that has been distribute to the public 6. Act as a go-between with a seller and buyer 7. Solicit bidders for real estate sold at auction
TN	N/A	Policy (formal action)	<p>The Tennessee Real Estate Commission has issued a policy outlining the permissible and impermissible activities of unlicensed assistants. In the Commission's judgment, unlicensed assistants may not do the following:</p> <ol style="list-style-type: none"> 1. Make cold calls by telephone or in person to potential listers or purchasers 2. Show properties for sale and/or lease to prospective purchasers 3. Host public open houses, host licensee open houses, home show booths or fairs 4. Answer questions concerning properties listed with the firm, except only that information contained on the listing agreement, as limited by the broker 5. Prepare promotional material or advertising or properties for sale or lease without the approval of the supervising broker 6. Discuss or explain listings, offers, contracts, or other similar matters with persons outside the firm 7. Be paid on the basis of real estate activity, such as percentage of commission, or any amount based on listings, sales, etc. 8. Act as a "go-between" with a seller and buyer, such as when an offer is being negotiated 9. Negotiate or agree to any commission split or referral fee on behalf of a licensee
TX	Tex. Occ. Code 1101.002(1)(A)	Rule	<p>The Texas Real Estate Commission distinguishes activities that may and may not be performed by unlicensed persons, although some areas remain somewhat uncertain.</p> <p>According to TREC's statutory interpretation, an unlicensed assistant may not do the following:</p> <ol style="list-style-type: none"> 1. Interview prospects to determine the criteria for selecting a property or to determine the qualifications of a prospect 2. Act in a manner that would constitute a solicitation 3. Select properties for prospects to see 4. Input information into a computer when the secretary or clerical employee is making the decision about what to enter

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 5. Respond to inquiries about a property or prospect when the response requires communication of information that has not been specifically advertised 6. Act as a telemarketer for the purpose of determining if a property owner may be willing to list his or her property for sale or rent 7. Show properties
UT	Utah Admin. Rule R-162-6.2-14	Regulation	<p>The Utah Real Estate Commission has promulgated an administrative rule describing the tasks that unlicensed persons may perform and how they can be compensated. (Published Fall 2009)</p> <p>The rule provides that unlicensed assistants:</p> <ol style="list-style-type: none"> 1. May attend an open house and distribute preprinted literature written by a licensee, as long as a licensee is present and the unlicensed person furnishes no additional information concerning the property or financing and does not become involved in negotiating, offering, selling, or filling in contracts 2. May act only as a courier service in delivering documents, picking up keys, or similar services, as long as the courier does not engage in any discussion of, or filling in of, the documents 3. May be compensated for their work at a predetermined rate which is not contingent upon the occurrence of real estate transactions; licensees may not share commissions with unlicensed persons who have assisted in transactions by performing the services listed in this rule 4. May not engage in telephone solicitation or other activity calculated to result in securing prospects for real estate transactions, except as provided in R162-6.2.15.(a)
VA	N/A	Informal Guidance (Published 2014)	<p>The Virginia Real Estate Board governs what is licensed versus unlicensed activity. Proposed regulations by VREB provide guidance on what unlicensed assistants can and cannot do. VREB as highlighted 5 things that it views as licensed activities (that unlicensed personnel cannot do):</p> <ol style="list-style-type: none"> 1. Show property 2. Hold an open house 3. Answer questions on listings, title, financing, closings, contracts, brokerage agreements, and legal documents 4. Discuss, explain, interpret, or negotiate a contract listing, lease agreement or property management agreement with anyone outside the firm 5. Negotiate or agree to any commission, commission split, management fee or referral fee
WA	N/A	Formal Guidelines	<p>The WA Real Estate Commission has published guidelines that describe the tasks and duties that may be performed by unlicensed assistants. Unlicensed assistants may not:</p>

**State Statutes and Regulations for Unlicensed Assistants
As of September 11, 2017**

			<ol style="list-style-type: none"> 1. Show properties, answer questions, or interpret information about the property, price, or condition 2. Interpret information about listings titles, financing, contracts, closing, or other information relating to a transaction 3. Fill in legal forms or negotiate price or terms 4. Hold or distribute trust funds 5. Perform any act with the intent to circumvent, or which results in the circumvention of real estate licensing laws
WI	Wisc. Admin. Code § RL 17.02(5) & § RL 17.12	Rule	Wisconsin law relates to the employment and use of personal assistants by licensed real estate salespersons and brokers who are themselves employed by real estate brokers.
WV	WV Code § 30-40-5 (West Virginia Real Estate License Act)	Rule	<p>The WV Real Estate License Act states activities that may and may not be performed by unlicensed individuals.</p> <p>According to § 30-40-5 unlicensed assistants may only do one or more of the following tasks:</p> <ol style="list-style-type: none"> 1. Disseminate brokerage preprinted and predetermined real estate sales and rental information; 2. Accept and process rental reservations or bookings for a period not to exceed thirty (30) consecutive days in a manner and procedure predetermined by the broker 3. Collect predetermined rental fees for the rentals which are to be promptly tendered to the broker; 4. Make appointments on behalf of the broker or licensed salesperson with buyers and sellers of real estate and potential buyers and sellers of real estate; or 5. Any combination thereof.

*** AS A NOTE OF CAUTION, IT MUST BE UNDERSTOOD THAT THIS REPORT DOES NOT CONSTITUTE LEGAL ADVICE. THIS REPORT IS INTENDED TO PROVIDE GENERAL INFORMATION, AND SHOULD NOT BE RELIED UPON AS LEGAL GUIDANCE. BEFORE ACTING, BOTH THE LAWS OF THE STATE AND LEGAL COUNSEL SHOULD BE CONSULTED. MUCH OF THIS RESEARCH WAS PERFORMED IN 2015, AND SO THE RESEARCH MAY NO LONGER BE CURRENT.**

Washington State
Department of Licensing

Real Estate Advertising Guidelines



dol.wa.gov

Contents

Disclaimerii

Introduction

Understanding the law related to real estate broker advertising is critical1
Where are the advertising laws and rules found?2

Advertising Basics

What is advertising?3
Advertising requirements3
Must include licensed name of firm3
Assumed name licenses4
Inclusion of name in social media and on-line advertising5
Advertising shall not be false, deceptive or misleading5
Examples of false, deceptive, or misleading advertising6
Consider the duration of an advertisement8
Implied endorsements are prohibited9
Avoid bait and switch9
Copyright concerns11
Fair Housing11

Specific Advertising Issues

Teams/Branding12
Commission policies13
Performance guarantees13
Stated experience13
Material representations and verifiable statements14
Comparative statements in advertising15
Achievement awards/association memberships15
Professional designations16
Years of experience16
Advertised inducement or referral fees16
Seller advertising18
Guidelines for advertising listings online18
Domain names, email addresses, meta tags and descriptions19
Links, deep links and frames21

The Department of Licensing and the Washington State Real Estate Commission would like to thank the Real Estate Council of Alberta, Canada for their contributions to the development of the Washington State Real Estate Commission Advertising Guidelines.

These guidelines are for real estate industry professionals licensed by the Washington State Department of Licensing (DOL).

Disclaimer

These are guidelines only. This guide does not include every possible advertising situation and it is not legal advice. Please review the appropriate legislation concerning advertising as an industry professional in Washington State before proceeding with any advertising. This includes, but is not limited to, the Real Estate Licensing Law (RCW 18.85), the Real Estate Brokerage Relationships (“Agency”) Act (RCW 18.86), the Uniform Regulation of Business and Professions Act (RCW 18.235), and the Washington Administrative Code (WAC 308-124 through 308-124I).

DOL may periodically update this guide. To obtain the current version, please visit the DOL website:
www.dol.wa.gov.

Industry professionals are encouraged to share these guidelines with third-party service providers who assist them in their advertising and marketing.

*We are committed to providing equal access to our services.
For information visit dol.wa.gov/access (TDD/TTY call 711).*





Introduction

Understanding the law related to real estate broker advertising is critical

No matter what role you play in the real estate industry, advertising is critical to your success! Advertising can be fun and creative and it WILL make the difference between a professional who builds a business portfolio and achieves results in moving property for sellers from an industry professional who just gets by. Advertising is an unavoidable and substantial component of the real estate brokerage industry, provided by all successful real estate firms, brokers and managing brokers.

The requirements of lawful advertising obligate and regulate every real estate licensee, regardless of the license that is held. Brokers, managing brokers, licensed assistants and firms are all accountable for compliance with advertising requirements. Therefore, it is critical that all licensees understand the requirements of lawful advertising within the real estate industry. This guide will provide the fundamental advertising requirements for real estate professionals in Washington State.

Before getting to that, however, it is important for all licensees to know how and to whom they are accountable for compliance with advertising requirements.

A **designated broker** is responsible for all real estate brokerage services provided by any person licensed to the designated broker's firm. A **branch manager** is responsible for all licensed conduct provided by any licensee operating under the branch manager. This is not a passive responsibility. The Licensing Law requires designated brokers and managing brokers and branch managers who are given management authority, to actively "supervise" the conduct of licensees.

With respect to advertising, this means that designated brokers and branch managers should establish a policy and training system within the firm or branch that ensures compliance with

advertising requirements. DOL will not dictate what a firm or branch must do to ensure compliance. DOL recognizes and respects the autonomy and professionalism inherent in the status of designated broker and branch manager. This publication will synthesize advertising requirements. It is up to the professionals charged with supervision and responsibility to create mechanisms that ensure compliance.

With that said, one of the easiest ways for firms to help ensure that their licensed professionals comply with advertising requirements is to have a firm policy and training program that includes information about advertising. DOL expects firms to exercise robust oversight of all licensee advertising. If a real estate licensee uses advertising that is false, deceptive or misleading, DOL may sanction that industry professional and their firm.

Managing Brokers, Brokers, and Licensed Assistants are responsible for personal compliance with all advertising laws and rules and firm policies.

Where are the advertising laws and rules found?

Numerous laws and rules in Washington State and the United States regulate, in one way or another, the rules and requirements associated with real estate brokerage advertising. In Washington, the Real Estate Licensing Law (RCW 18.85), the Real Estate Brokerage Relationships (“Agency”) Act (RCW 18.86) and the Washington Administrative Code (WAC 308-124 through 308-124I) address real estate brokerage advertising. Additionally, the Uniform Regulation of Business and Professions Act (RCW 18.235), the Consumer Protection Act (RCW 19.86.020) and the Washington Fair Housing law (RCW 49.60.222) regulate real estate advertising in some respect.



Washington law obligates DOL to require industry professionals to comply with the advertising laws and rules identified above. If an industry professional fails to comply with laws or rules, consequences can include an advisory letter, letter of reprimand, administrative penalty for minor infractions, or referral for criminal or civil charges for major violations. In addition, every industry professional is subject to civil liability if a consumer is damaged by a licensee’s failure to comply with advertising requirements. Defense of a claim for civil liability consumes the time and resources necessary for adjudication through a lawsuit. Ensuring that advertising complies with rules and laws protects the professional as an individual, protects the reputation of each firm, protects consumers and protects the image of the industry.

Advertising Basics

What is advertising?

Advertising includes any activity, public notice, or representation an industry professional makes or that someone makes on their behalf to promote the industry professional, their services, or the real property the professional is promoting.

Examples of advertising include but are not limited to:

- ALL printed material (circulars, pamphlets, newspapers, magazines, brochures, hand-outs, flyers, etc.)
- Websites, including websites controlled by the licensee as well as websites that licensee does not control, but on which licensee's advertising is found
- Social media accounts and profiles used to advertise the licensee's business or market real property
- All promotional events, including open houses
- Billboards, television and radio commercials
- Signs (yard signs, sandwich board signs, directional signs, etc.)
- Business cards, letterhead, fax cover sheets, e-mails, text messages, and other promotional materials

Advertising requirements

When you may advertise real property

Industry professionals may only advertise properties for sale or lease, or properties that have been sold or leased, when they have written authorization from the owner or the owner's lawful representative. This means industry professionals cannot place signs or other advertising that designate property as being on the market, such as "for sale," "sold," "for rent," "will develop to suit," etc., without the written

consent of the owner of that property or the owner's authorized representative. Membership in a multiple listing service may grant some authority for sharing and promotion of property information but it is a licensee's responsibility to ensure they have sufficient authorization for any advertising of property owned by another. In addition, the licensee should ensure compliance with any applicable multiple listing service rules.



Must include licensed name of firm

All advertising of professional services and any marketing of a client's property, without exception, must include the firm's licensed name. The firm's name must be included, in a clear and conspicuous manner. "Clear and conspicuous" in an advertising statement means the representation or term being used is of such a color, contrast, size, or audibility. This means that the firm name must be presented in a manner so as to be readily noticed and understood. Said differently, a reasonable consumer

should be able to identify the firm based only on the advertisement. Licensees advertising their personally owned real property must only disclose that they hold a real estate license.

- Industry professionals must clearly indicate the name of their firm, as it appears on the firm's license, in all advertising. It is not sufficient to advertise only the franchise name if the firm's licensed name, includes additional words. For example, firm's licensed name is "Big Franchise/South Sound". All advertisements must include "Big Franchise/South Sound." It would be unlawful to include only "Big Franchise" or "South Sound."
- The licensed firm name is the name that appears on the firm's license. If the firm applied and received a DBA (doing business as), the DBA name must be clearly and conspicuously identified in all forms of advertising.
- The firm name cannot be abbreviated or include abbreviations in advertisements if those abbreviations are not commonly understood. For example, if the name of the brokerage contains the words "Real Estate," industry professionals cannot use "R.E" as an abbreviation. If the name includes "Realty," use of "Rlty" is not appropriate. Commonly understood abbreviations, such as "Inc." or "Corp." may be used. If the firm license has the abbreviations, then those abbreviations can be used.
- Including a firm logo or website address does not qualify as including the firm's licensed name.
- The advertised firm name can be an "assumed name" so long as the firm holds an "assumed name" license for the firm name. For more information, see the section below entitled "Assumed Name Licenses".

Assumed name licenses

Firms may obtain, from DOL, an assumed name license. The assumed name license may be the firm's DBA or it may be the name of a team of broker's licensed to the firm. There is no limit on the number of assumed name licenses a firm may obtain. The assumed name license is owned by the firm. The obligation to include the firm's licensed name, on all advertising, is satisfied by use of any assumed name duly licensed to the firm.



DOL may deny, suspend, or reject an assumed name license application that, in DOL's opinion, is derogatory, similar to another licensed firm name, implies that the firm is a government agency, or that the firm is a non-profit or research organization. A bona fide franchisee may be licensed using the name of the franchisor with the firm name of the franchisee.

An industry professional may use the assumed name in advertising, or use both the complete firm name and assumed name as licensed. It is unlawful, however, to use only part of either the firm name or the assumed name. For example, the firm's originally licensed name is "Big Franchise/South Sound." The firm's assumed name license is "Team Terrific." Advertising can include either licensed name without the other, but advertising could not include, for example, "Big Franchise/Team Terrific".

Inclusion of name in social media and on-line advertising

All Internet related advertising that consumers can view or experience, as a separate unit, (for example, email messages or web pages) require disclosure of the firm's name as licensed *and* disclosure of the broker's or managing broker's name, as licensed. Once an agency relationship has been established with a buyer or seller, the disclosure of licensed firm and broker name is no longer required in this medium.

Whenever a licensee owns a website or controls its content, every viewable page should include disclosure of the firm's and the broker's or managing broker's licensed name. (A "viewable page" is one that may or may not scroll beyond the borders of the screen and includes the use of framed pages.) When using such formats as newsgroups, discussion lists or bulletin boards, licensee should include disclosure of the firm's and the broker's or managing broker's licensed name at the beginning or end of each message. When using social media, disclosure of the firm's and the broker's or managing broker's licensed name should be prominently displayed and easily understood and be no more than one click away from the viewable page. Multimedia advertising (e.g. web based, executable e-mail attachments, etc.) and banner ads should disclose the firm's and the broker's or managing broker's licensed name and/or should link to a webpage that has full disclosure that is a single click away from the viewable page.

Advertising shall not be false, deceptive or misleading

Industry professionals shall make no statements known to be false, deceptive or misleading in any of licensee's advertising. Moreover, licensees are not shielded from responsibility for making a false statement because licensee was unaware of the falsity if, by reasonable care or inquiry, licensee

could have learned of the falsity. In other words, it is not a defense for a licensee to claim ignorance of falsity if, through reasonable care and inquiry, broker could have discovered the truth.

To determine if advertising is false, deceptive or misleading, DOL considers the literal meaning of the advertisement and the general impression it creates. Truth in advertising goes beyond simple truthfulness; advertising must not mislead or be capable of misleading a reasonable consumer.

When an industry professional makes claims in an advertisement, information substantiating those claims should be readily available to consumers from the firm upon request. Claims may include the firm's or an individual professional's guarantee, performance, accomplishments, service levels, etc. or it may include a representation regarding the condition of seller's property. A broker is entitled to rely on the representations of a seller regarding seller's property and thus, it is always a good idea for a firm to retain proof in its transaction file that seller reviewed and approved all representations regarding the condition of seller's property.

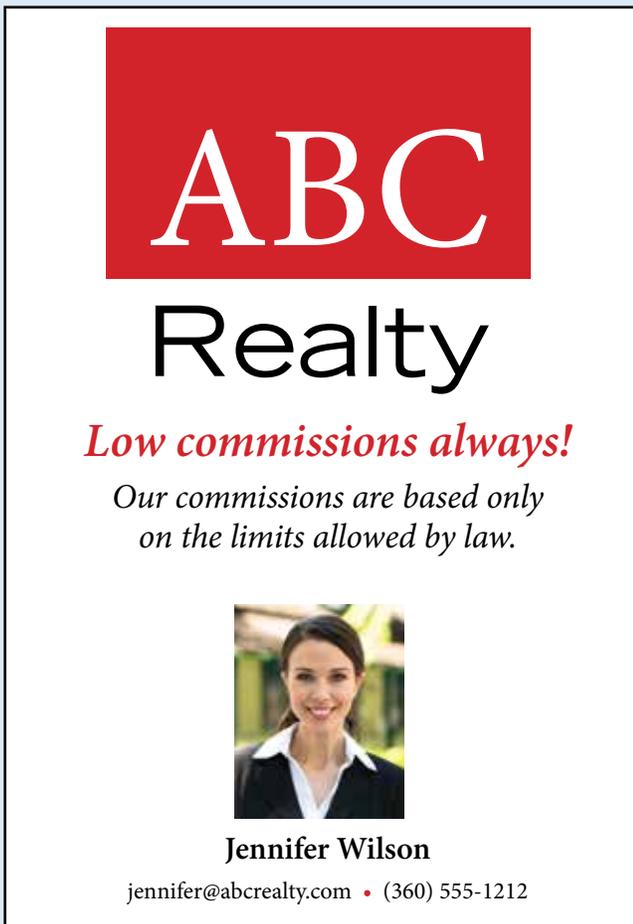
Advertising can be false, deceptive or misleading even if there is no proof a consumer was misled. DOL must show only that the advertisement is capable of misleading a reasonable consumer.

Carelessness, negligence, incompetence, and recklessness can result in false, deceptive or misleading advertising, as can intentional misrepresentations (intentionally untrue statements). Licensees are equally responsible in both cases.

Examples of false, deceptive, or misleading advertising



- A. *Business cards are misleading if industry professionals hold themselves out as specialists in a given area when they do not have the necessary education or experience to advertise such a specialty. If broker's business card includes the statement "VA loan specialist," broker should have specialized training and/or significant experience successfully assisting VA buyers with the purchase of property. If broker's business card says "condo specialist," broker should have specialized training and/or significant experience in condominium transactions.*



- B. *Advertising is false if broker makes a deliberate misrepresentation with the intention of enticing a party to act such as advertising that broker's commission will be "the rate established by law." Because it is untrue that any commission rate is established by law, it is false advertising for broker to state the commission charged by the broker is established by law. There is nothing unlawful associated with a licensee advertising the rate of commission charged by the licensee, but it is unlawful for broker to state or imply that the commission rate is established by law, rule or industry standard.*



\$450,000

Gorgeous contemporary home

This four bedroom, three bath home borders a green belt and features modern amenities, including an open concept with a gourmet kitchen, large master bedroom and bathroom with jetted tub and so much more!

- C. Advertising for property is deceptive if it says that the property is buffered by a “green belt” when broker knows that the trees, described as a “green belt,” are scheduled for removal as part of a construction project. Use of the term “green belt” is intended to create the impression in a consumer’s mind, that the trees are protected from being cut. Even though a broker could argue that they intended nothing more than to illustrate that the green trees were present and “belted” the property when buyer viewed the property, it is clear that use of the term “green belt” would deceive the average consumer into believing that the trees were protected and would remain in place long-term.



\$475,000

Modern Craftsman

Looking for a classic modern look? This home has it all. Beautiful exterior features and landscaping. The nearly new roof is in great condition.

- D. Buyer’s broker attaches a home inspector’s report to an email sent to seller’s broker. The inspector’s report describes the condition of seller’s property, including a roof vent leak that has resulted in mold infested attic insulation and rotten trusses, notwithstanding that the roof is relatively new. Buyer does not purchase the property. Seller’s broker chooses not to open the attached inspector’s report and says, when advertising the property, “nearly new roof in great condition”. Broker’s advertisement is false, deceptive and misleading because, with reasonable care and inquiry, broker should have learned the truth regarding the condition of seller’s roof. Broker is not permitted to make a false statement because broker chose to avoid knowledge of the truth.

Leaking vent discovered during inspection and not disclosed in subsequent statements or advertisements.

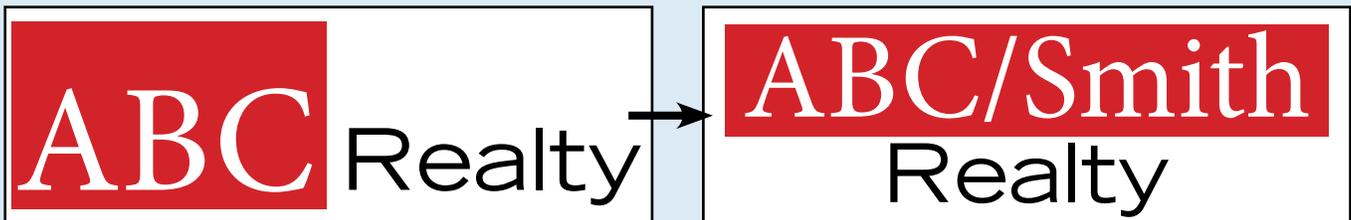


Consider the duration of an advertisement

Industry professionals may avoid problems associated with false, deceptive and misleading advertisements by considering the duration of the intended advertisement. Advertisements in circulation for long periods of time, such as firm signage, business cards and listings that are launched into on-line, secondary marketing sources present special problems for industry professionals. The problem is the facts that support the claims in the advertising may change while the advertisement is still active. Industry professionals should consider whether statements made in the advertisement are likely to change. If so, licensee must have a plan for monitoring the advertisement and removing or modifying the advertisement should the facts supporting the advertisement change. When the facts supporting an advertisement change, the industry professional must make immediate corrections to the advertisement or delete the advertisement in order to avoid false, deceptive and misleading advertising.

Examples

- A. *Firm's licensed name is ABC Realty. Firm purchases signage for the front of the office advertising ABC REALTY. Firm's owner then takes a partner and they change the licensed name to ABC/Smith Realty. The signage on the firm must change to reflect the newly licensed name of the firm.*



- B. *Broker's business card claims "Most Listings in the MLS". Broker did, in fact, have more listings than any other broker in the MLS at the time the business card was printed. However, the MLS report generated in the subsequent reporting period showed that broker no longer occupied that status. Broker must change the statement on the business card to avoid making a false, deceptive or misleading statement.*



\$450,000

Gorgeous contemporary home

This four bedroom, three bath home borders a green belt and features modern amenities, including an open concept with a gourmet kitchen, large master bedroom and bathroom with jetted tub and so much more!

C. A listing placed in the MLS is advertised through secondary marketing sources. The listing expires and is not renewed. Seller takes the property off the market. The listing remains in the secondary marketing sources. Broker must take every reasonable step to remove seller's listing from the secondary marketing sources.

Implied endorsements are prohibited

Industry professionals must avoid giving the impression that someone or some entity endorses the professional unless there is written confirmation of the endorsement. Using information that implies an endorsement without actually stating that a certain individual or organization endorses the business or professional could also result in a misrepresentation. Licensees should be certain to use only logos they have permission to use. Using a logo other than one's own could be an improperly implied endorsement, in addition to potential copyright or trademark infringement.

Example

Broker is a huge fan and season ticket holder of the local, professional football team. Based on broker's fond affection for the team, broker includes the team's logo on all of broker's advertising. Use of the football team's logo creates the impression that the football team endorses broker's business. For broker to create that impression in broker's advertising, broker must be able to provide a copy of the football team's written endorsement. If there is no written endorsement from the football team, the team's logo must be removed from broker's advertising.

Avoid bait and switch

(Use of "Restrictions" or "terms and conditions apply" does not make a false representation true).

In promoting their business model, licensees will often offer incentives for consumers to hire the licensee. The incentive often creates a catchy headline, but if the headline does not match the program that is offered, then the advertisement is false, deceptive or misleading. After the consumer has agreed to hire the professional, the contract used by the professional must present contract terms that mirror the advertised incentive. Use of the statement "terms and conditions apply" means that the terms and conditions will not materially alter the substance of the offer. If the terms and conditions materially alter the program from the description in the headline, that is considered "bait and switch" and is unlawful. Details of all restrictions or terms and conditions must be available to consumers before the consumer is asked to sign a contract.

Examples

**Sell your home in
30 days or I will buy it!**



ABC Realty

Susan Mendoza
susan@abcrealty.com
(360) 555-1212

- A. *Broker advertises “Sell Your Home in Thirty Days or Broker will Buy.” Seller hires broker, seller signs broker’s contract and listing agreement. Seller’s home does not sell in thirty days and seller asks broker to purchase the property. Broker presents a purchase agreement for seller’s property with a purchase price that is 50% of the market value of seller’s property. Seller objects and broker points to the language in broker’s contract indicating that broker will only pay 50% of the value of seller’s property. Broker engaged in unlawful “bait and switch.”*

Free Caribbean Cruise!

**Buy a home
from me and
I will give you
a Caribbean
Cruise!**



ABC Realty

Riley Owens • riley@abcrealty.com
(360) 555-1212

- B. *Broker advertises “Buy a home from me and I will give you a Caribbean Cruise.” Buyer buys and seeks information regarding the cruise. Broker responds that the promotion was only available to buyers who purchased a home in excess of one million dollars, which buyer did not do. Those program details were never given to buyer. Broker engaged in deceptive advertising without fully informing consumer of the limitations prior to consumer’s agreement to utilize broker’s services.*



It should be further noted that if the program details include reference to industry terminology or abbreviations, those must be explained sufficiently for a consumer to understand the reference. For example, if an incentive is offered only in transactions where there is a “3% BAC” or a “3% SOC,” broker will have to prove that the consumer understood the meaning of that reference and understood that a buyer has no control over what the “buyer agent commission” or “selling office commission” is, because those are typically negotiated between seller and listing firm before buyer is introduced to the property.

Copyright concerns

Licensees must avoid using, in all advertising, photographs, images, text, graphs, illustrations and other content that broker does not own or have a license to use. If broker did not take the photograph or create the other representations set forth in advertising, then broker does not have authority to include them in advertising unless broker has obtained specific permission from the photographer, author, creator, etc. Unauthorized use of another person’s creative work may result in a civil damages claim.

Fair Housing

It is unlawful for a licensee to discriminate against any person, in the sale or leasing of real property, based on the person’s race, color, national origin, religion, disability, sex, familial status, creed, marital status, sexual orientation, gender identity, HIV/ AIDS and hepatitis C status and veteran/military status. There are additional classes protected by local ordinances. Fair Housing laws impact advertising by industry professionals. Generally, when advertising a property for sale, licensee should market and describe the features of the property and not the buyer or the tenant who is sought for the property. When marketing services, the industry professional’s advertising should present no limitations on the consumer who is sought and, moreover, the industry professional must be prepared to reasonably accommodate any consumer who seeks the advertised services of the industry professional.

Specific Advertising Issues

Teams/Branding

Teams are not firms, but they sometimes create their own administration that, in some ways, mimics the appearance of a firm in order to attract, retain, and service clients. The team concept can lead to confusion with respect to advertising. Advertising a team name or a “brand” must be consistent with all rules of advertising previously discussed. Additionally, the advertising cannot include wording that suggests a legal entity separate from the real estate firm, such as “Inc.,” “LLC,” or “Corp.” or that is commonly understood to reference an entire firm or office, such as “realty,” “realtors,” “firm,” or “real estate.”

- All advertising must include the firm’s name or the firm’s DBA or assumed name as licensed.
- If the team name is licensed as one of the firm’s assumed names, then the team may advertise in the licensed assumed name/team name, in the absence of any other licensed firm name.
- If the team name is not a licensed assumed name, then all team advertising must include the firm’s licensed name in a clear and conspicuous manner, meaning that a reasonable consumer should be able to clearly identify the licensed firm based only on the advertisement.
- Teams should be aware that when a firm obtains an assumed name license in the team’s name, the firm owns the name and the license and the firm is not required to surrender ownership of the name or the license for so long as the firm renews the assumed name license.

To advertise that a potential client will be hiring an entire “team” may be misleading. It must be remembered that based on the Agency Law, RCW 18.86.020, the only team member(s) who represent

a seller are the team member(s) who have been appointed as an agent or sub agent of the seller.

Example

Team Terrific consists of four members. One team member obtains a listing and is the only broker identified on the listing agreement as the listing agent. As a result, the only licensees who represent seller are the listing agent and the listing agent’s managing broker(s). Other team members involved in the sale of the seller’s property may represent the buyer.

Teams must also be careful not to create false impressions in an effort to bolster team statistics. It is not acceptable, for example, for a single team member to be identified on all purchase agreements as the broker representing a party or to be identified in the MLS as the agent who represented all clients of the team unless that team member did actually represent all clients of the team.

Example

Team Terrific has four members, one of whom is the team leader, Beth. Fred, a member of the team, meets and works with a buyer, writes an offer and shepherds the transaction through to closing. Fred is the only team member who worked with the buyers. It would be unlawful for Beth to include her name on the purchase agreement or in the MLS as buyer’s agent. Beth may be Fred’s delegated managing broker and if so, can be disclosed as such. But, it would be misleading for Beth to be identified as buyer’s agent if Beth never worked with the buyer.

Commission policies

Some firms may have a policy with respect to the amount of commissions it charges clients. Industry professionals must not advertise that commission rates are somehow “set” or regulated by a higher authority, such as a governing body or trade association. Commission rates are negotiable between a firm and a client, and to say otherwise is false and misleading. The industry professional is the firm’s representative in those negotiations.

A firm may be unwilling to negotiate commission, but the client must understand that is a firm policy. Industry professionals cannot give clients the impression that all firms charge the same, non-negotiable commission.



Performance guarantees

A firm, through its industry professionals, may wish to offer a performance guarantee, such as a commission reduction if the property fails to sell by a specific date. Firms may advertise performance guarantees as long as the advertisements are not false or misleading. Firms are not required to include full particulars of the guarantee in the advertisement, so long as the advertisement and the written guarantee are materially consistent and so long as the actual guarantee is available to consumers before the consumer is asked to enter an agency agreement based on the guarantee. If firm fails to put the performance guarantee

in writing, then the guarantee created by the advertised statement will constitute the totality of the guarantee. DOL encourages firms to put all performance guarantees in writing. If there is a link between the performance guarantee and an evaluation of the property’s market value, the valuation must reflect the reality of the market. The industry professional should keep the information for the basis of the property’s valuation in the transaction file.

Stated experience

Industry professionals often advertise special qualifications, experience, or expertise in specific industry sectors, or in certain geographic areas. Professionals make these representations for the purpose of enticing consumers to do business with the professional, in reliance on this special qualification. When making these claims, industry professionals must ensure they are in a position to demonstrate the related qualification or experience they claim. If an industry professional advertises special qualifications or expertise, the consumer and DOL expect them to perform at that level, and if not, the advertisement could be considered false, deceptive or misleading.

A person holding a managing broker’s license may advertise “managing broker” even though the advertiser does not manage any other brokers. The description “managing broker” refers to a category of license held denoting additional training and experience. Similarly, a person claiming a title from another industry, such as military, union membership, athletics, and others, may claim the title earned in that industry, but if the title was previously earned and not currently held, then the advertisement should make that clear. For example, “Major, US Army, retired” or “Former Superior Court Judge” both indicate the status achieved by the advertiser and put the consumer on notice that it was a formerly held, but no longer current.

Material representations and verifiable statements

Statements such as “We sell every home we list in 60 days or less!” is a material representation intended to induce a consumer to select this specific professional. DOL does not prohibit such statements, but upon receipt of a complaint, will hold the advertiser accountable to prove the claims are accurate. Advertisements that are accurate when created, but that become inaccurate with the passage of time, must be withdrawn or modified. It is not a defense against disciplinary action for an advertiser to claim the statement was true when made but became false by the time the consumer relied on it. If an industry professional knowingly makes or sustains a false claim about their credentials or abilities for the purpose of inducing a consumer to do business, that is known as “fraudulent inducement.” It is unlawful and will likely be sanctioned by DOL. Moreover, it exposes the licensee to a civil claim by the consumer.

Making statements along the lines of “#1 industry professional” is inherently false, deceptive and misleading because there is no way of knowing the basis or data that could support the statement. If a licensee intends to use such a statement in advertising, the licensee must include enough information in the advertisement to avoid deceiving or misleading the public. A verifiable and quantifiable identification statement in any advertising must provide enough information so that a reasonable member of the public discerns the true meaning of the message.

If broker advertises that the broker “Sold 400 Homes Last Year,” broker must be able to prove that broker, personally, was the broker who sold 400 homes last year. This advertisement would be false, deceptive and misleading if broker was merely licensed to a firm that sold 400 homes last year or if broker was part of a team that sold 400 homes last year. The

firm or the team could make the representation but it would be unlawful for broker to claim that statistic in a personal advertisement when broker did not personally earn the statistic. Team leaders falsely advertise their accomplishments when they personally claim all the transactions handled by other team members if the team leader was not the professional who actually provided brokerage services to the consumer. It would be appropriate for the team to make claims based on team statistics and data but it is false, deceptive and misleading for an individual team member, even the team leader, to personally claim the accomplishments of the team.

Industry professionals must:

- be able to support and prove claims asserted in advertising using current facts and/or data
- update and refresh advertising so that stated claims remain accurate as facts, statistics and data evolve

An industry professional who wants to refer to him or herself as “#1” needs to include more information in the ad—such as information about the market in which the professional is #1 and information about what makes the industry professional #1 (i.e. most homes sold, most homes listed, most money made). The advertisement also needs to include a timeframe.



Comparative statements in advertising

Advertising that compares the industry professional to competitors or other industry professionals is lawful if, as with all advertising, it is accurate.

Industry professionals who use comparative advertising must:

- present measurable facts and figures in a clear, straightforward way
- disclose the source of facts and figures they include
- take no facts or figures out of context
- be able to prove the truth of comparative statements upon request by a consumer or DOL.

A statement like “Team Terrific will get more for your listing than any other broker” is inherently false, deceptive and misleading because there is no way of proving the truth of the statement. There is no comparison showing the sales price achieved by Team Terrific on specific properties as opposed to the sales price achieved by another professional for the same properties in the same market. This statistic is impossible to determine because real estate can only be sold by one professional in the market that existed at the precise time of the sale. This is different from commodity sales. For example, an auto dealer, who sells exactly the same cars at exactly the same time as competitors, could potentially support a claim such as this. Because all real estate is unique, a claim such as this cannot be supported and is, therefore, false, deceptive and misleading.

If Team Terrific says “Team Terrific closed more sales in 2016 than any other member of the Clark County Association of REALTORS” that is a statement with enough specificity that it can be proven.

Achievement awards/association memberships

Many firms, franchises, and industry associations have a system of awards to recognize professional achievements. These awards may recognize sales achievements, service to the industry, service to the community, or years of industry or association affiliation. Examples of these awards include language such as “President’s Club,” “100% Club,” “Million Dollar Club,” “REALTOR® of the Year” and “Top Producer Award.” The rules for granting these awards may vary greatly between each brokerage, as well as between associations.

DOL accepts that industry professionals may receive this type of recognition and does not prohibit industry professionals from including these awards in advertising. Industry professionals who include awards in their advertising must be able to provide verification of the achievement of the award. As with all advertising, industry professionals must be certain that claimed “awards” are current or that the claim indicates past accomplishment. For example, if the award was for a specific time period, such as the year 2013, then today’s advertisement should say, “2013 Franchise Top Producer”.

Additionally, it is unlawful for an industry professional to falsely claim membership in an association or to wrongfully use the logo or trademarks of an association to create the impression that licensee is a member of an association. The term “REALTOR” and the capital “R” logo associated with the National Association of REALTORS are both registered trademarks. Use of those trademarks in advertising by non-members is not only a potential violation of the trademarks, it is also false, deceptive and misleading.

Professional designations

An industry professional who is a licensed professional in another profession, such as an engineer or lawyer, may include it in their advertising as long as they are a member in good standing and/or remain licensed. Likewise, real estate professionals may hold a professional designation or certification given to them through a professional or industry association, and they can include those in advertising as long as they are current.

Years of experience

Industry professionals may want to indicate the number of years of experience they have working in real estate, but any such statement must clearly indicate the actual experience gained in those years. For example, five years of experience as an unlicensed assistant in a real estate office plus five years of experience as a licensed real estate broker does not equal 10 years of experience as a broker. Broker may be able to advertise that broker has 10 years of experience working in the industry but broker's advertising is deceptive if it creates the impression, in the mind of a reasonable consumer, that broker has held a real estate broker's license for 10 years.

Advertised inducement or referral fees

It is lawful for an industry professional to advertise that they will give any or all of their compensation to either party in the transaction. Rebating commission back to one of the parties, either in the form of cash or a gift, is nothing more than a reduction in the compensation charged to a consumer and industry professionals are free to reduce their compensation. Any reduction by a broker or managing broker, however, must be approved by the firm before the advertising statement is made. All compensation for real estate brokerage services is payable only to

a firm, so it would be false, deceptive or misleading for a broker or managing broker to advertise a return of commission to a consumer if the broker or managing broker did not have permission of the firm to give away compensation belonging to the firm. In addition, if funds or a gift are being given to a buyer who is obtaining financing, then buyer's lender must be made aware of the commission rebate or gift. Some lenders have regulations restricting payment of money or gifts to a buyer.

Advertising a return of money or gifts to a client or other party in the transaction is very different from advertising a willingness to pay a referral fee to an unlicensed, third party who refers a buyer or seller to an industry professional. With respect to payment of referral fees to unlicensed people who are not parties to the transaction, the question is more complicated. The License Law, RCW 18.85, says that a real estate licensee may pay a referral fee to a third party, unlicensed person, so long as payment of the referral fee is not contingent upon receipt of compensation by the licensee or the real estate firm. There is no dollar limit on the referral fee that may be paid. Advertising the referral fee is lawful so long as the advertisement, and subsequent payment, create no contingency on a successful closing.

RESPA, a federal law ("Real Estate Settlement Procedures Act"), indicates that any payment made in direct exchange for a referral, is prohibited. RESPA prohibits settlement service providers from giving or receiving anything of value in exchange for a referral. "Settlement service provider" is a broadly defined term which could include unlicensed, non-professional individuals. HUD, the federal agency charged with enforcement of RESPA, has not indicated whether RESPA prohibits payment of referral fees to unlicensed, non-professional people.

Examples

- A. Broker advertises that she will pay \$1,000 of her commission toward buyer's closing costs as an inducement to attract buyer clients. The advertisement is lawful so long as: 1) broker's firm approved the advertised payment from the firm's commission; 2) buyer is made aware that buyer's acceptance of the inducement is dependent on buyer's lender's approval of broker's contribution toward payment of buyer's closing costs; and 3) broker actually contributes the promised funds toward payment of buyer's closing costs, assuming such payment is authorized by buyer's lender.

**I will pay \$1,000
towards your closing!**



ABC Realty

Jennifer Wilson
jennifer@abc Realty.com
(360) 555-1212

**FREE \$500
Gift Card!**
Refer a buyer or seller
to me after you close
and get a free gift card!

ABC Realty
Susan Mendoza • susan@abc Realty.com • (360) 555-1212

- B. Broker advertises that he will give a \$500 gift card, after closing, to any person who refers a buyer or seller to him. This advertisement is unlawful because it makes the obligation to give the gift card to an unlicensed person contingent on the broker's receipt of compensation from the referral.

- C. Broker advertises that she will give a \$50 gift card to any person, if and as soon as they refer a potential buyer or seller to her. This advertisement is lawful under Washington law because the promise of the gift to an unlicensed person is not contingent upon broker's receipt of compensation. Depending on how HUD interprets RESPA, the advertisement may violate RESPA.

**FREE \$50
Gift Card!**
Refer a buyer or seller
to me and get a free
gift card!

ABC Realty
Susan Mendoza • susan@abc Realty.com • (360) 555-1212



ABC Realty
Jennifer Wilson

D. Broker is a member of a children's hospital charity board and offers to make a \$5,000 donation, at closing, to the charity, in the name of any other member who buys or sells from broker. This advertisement is lawful, so long as broker's firm has approved the payment, even though the funds are going to a third party and are contingent upon a successful closing. Because the charitable funds are donated in the name of one of the parties to the transaction, that is tantamount to the broker giving the funds to the party, who in turn, donates the funds to the charity. So long as broker makes the promised donation, this advertisement is lawful.

Seller advertising

DOL does not regulate buyers or sellers. If sellers want to advertise their own property, separate from advertising offered by their listing firm, that is fine. However, if sellers do their own advertising and include the name of their real estate professional, they must also include and clearly indicate the firm's name as licensed.

Guidelines for advertising listings online

The primary issues associated with online listings relate to keeping the online information current and accurate with all marketing sources. Consumers should be able to assume that information they find in an online listing is current and accurate. Online listing information needs to be consistent with the property description and actual status of the listing. Real estate professionals must update material changes to the listing status or property description in a timely manner.

It can be difficult for a broker to effect changes in on-line listings presented by secondary marketing sources. To comply with licensee's obligations for truthful advertising, the licensee must be able to demonstrate that licensee took all reasonable steps to communicate with and persuade the secondary marketing source to update the listing or transaction information. Real estate professionals should also be aware of the terms and conditions of any secondary marketing sources, like the right of the secondary marketing source to distribute the listing to third party websites.

If real estate professionals want to display listing information from other firms, they must have an agreement with the other firm to do so. DOL recommends that real estate professionals do not display listing information from other firms unless they can ensure current and accurate information.

Key points:

- Online listing information should be consistent with the property description and actual status of the listing. When a real estate professional



Example: Twitter

In this tweet, the real estate broker is advertising a listing, an act that requires she disclose her brokerage. As long as the link in the tweet contains the necessary brokerage disclosure, this tweet is acceptable.

controls a website, they must make updates in a timely manner if there are material changes to the listing status or property description.

- When a real estate professional has a website maintained by a third-party, the professional needs to make sure they submit requests in writing to that third-party in a timely manner if there are updates reflecting material changes to the listing status or property description.
- When a real estate professional authorizes advertisement of a listing by a secondary marketing source, the professional must maintain proof of all efforts to communicate with and to persuade the secondary marketing source to make necessary changes to the listing information in a timely manner.
- As a best practice, real estate professionals should not advertise listings from other firms without written permission and, if given, should not alter the online display or any informational part of the listing without written permission from the listing firm.

Domain names, email addresses, meta tags and descriptions

A domain name is the Internet address of a website. For example, the DOL domain name (website address) is www.dol.wa.gov. Metatags are descriptive words hidden in a web site's code that search engines use to index the web site. Most sites use common words such as real estate, Washington, city names, homes, houses, etc. Those uses are fine. But some web site owners have also inserted their competitor's names into the metatags, so that when a potential customer searches for their site, the competitor's site will also come up as a match. This should not be done. Courts have ruled that this constitutes trademark infringement. Domain names, email address, and meta tags should not contain any trademark that the industry professional is not authorized to use.

Industry professionals must also avoid registering and using domain names for their websites that include the names of their competitors. For example, if broker's name is John Doe, it would be inappropriate for broker to register under a competitor's name, such as www.BobSmith.com



Jennifer Wilson

Real Estate Specialist

HOME FEATURED LISTINGS SEARCH FOR HOMES BUYER/SELLER INFO MORE

Location:

Bedrooms:

Bathrooms:

Min Price:

Max Price:

SEARCH



Featured Listings [VIEW ALL](#)

Contact me about these and other properties!

(800) 555-1212
jennifer@abc Realty.com



Bainbridge Island \$595,000
Executive home with high end finishes. Situated on 1.4 acres. Mature landscaping and irrigation system.



Magnolia \$895,000
Vintage home with high end finishes. Situated on extra large city lot. Mature landscaping with fruit trees.

Example A:
On this broker's website, her name and specialty is prominent at the top, but the brokerage company name is not obvious. Brokerage names must be clearly displayed and prominent on every page within the website. See Example B.



HOME SEARCH FOR HOMES BUYER/SELLER INFO MORE

Location:

Bedrooms:

Bathrooms:

Min Price:

Max Price:

SEARCH



Featured Listings [VIEW ALL](#)



Jennifer Wilson
jennifer@abc Realty.com • (360) 555-1212



Bainbridge Island \$595,000
Executive home with high end finishes. Situated on 1.4 acres. Mature landscaping and irrigation system.



Magnolia \$895,000
Vintage home with high end finishes. Situated on extra large city lot. Mature landscaping with fruit trees.

Example B:
The brokerage name is displayed prominently at the top of each page correctly and also shows the licensed broker who represents the properties.

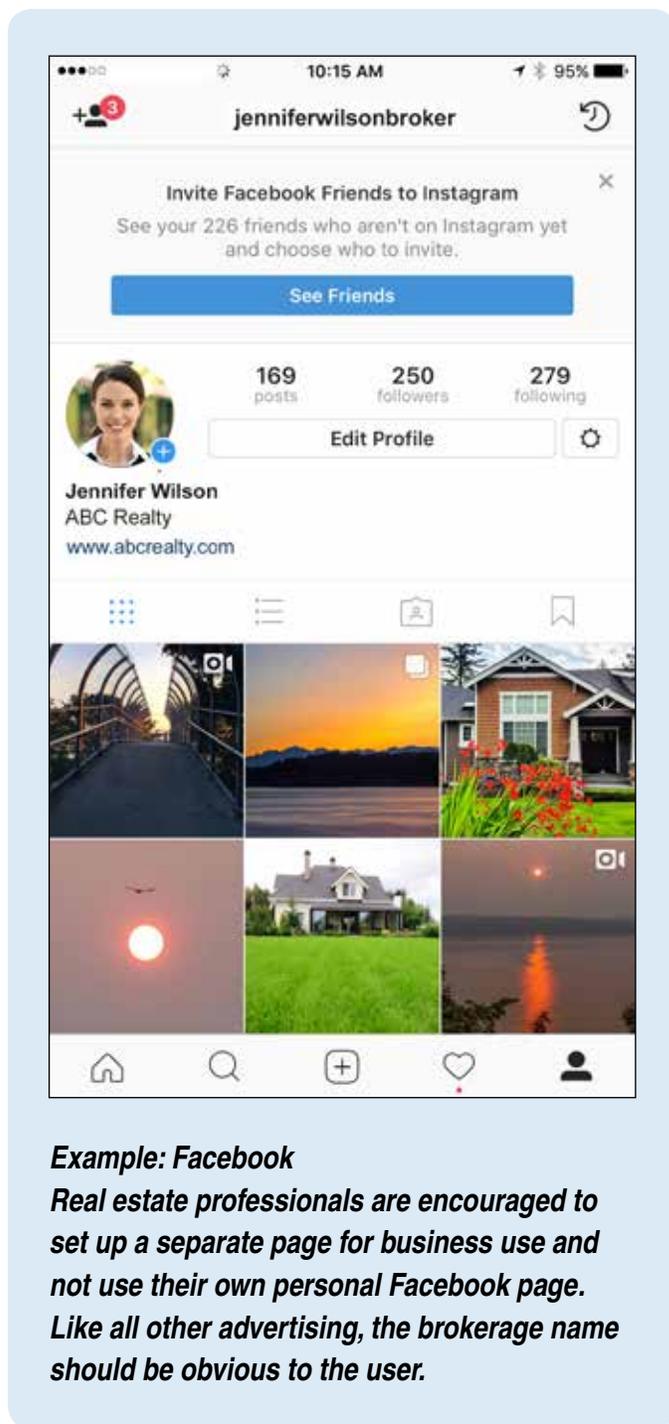
and then advertise services—or redirect Bob Smith’s website visitors to John Doe’s website.

Industry professionals must not make representations or carry on conduct that misleads or deceives, or is likely to mislead or deceive, consumers. Misleading meta tags or the use of inappropriate domain names could mislead consumers.

Links, deep links and frames

Links are either graphics or words on a webpage that, when a user clicks on them, takes them to another webpage, either within the same site or a different website. Deep links are links that take a user to a webpage other than the homepage of a specific website.

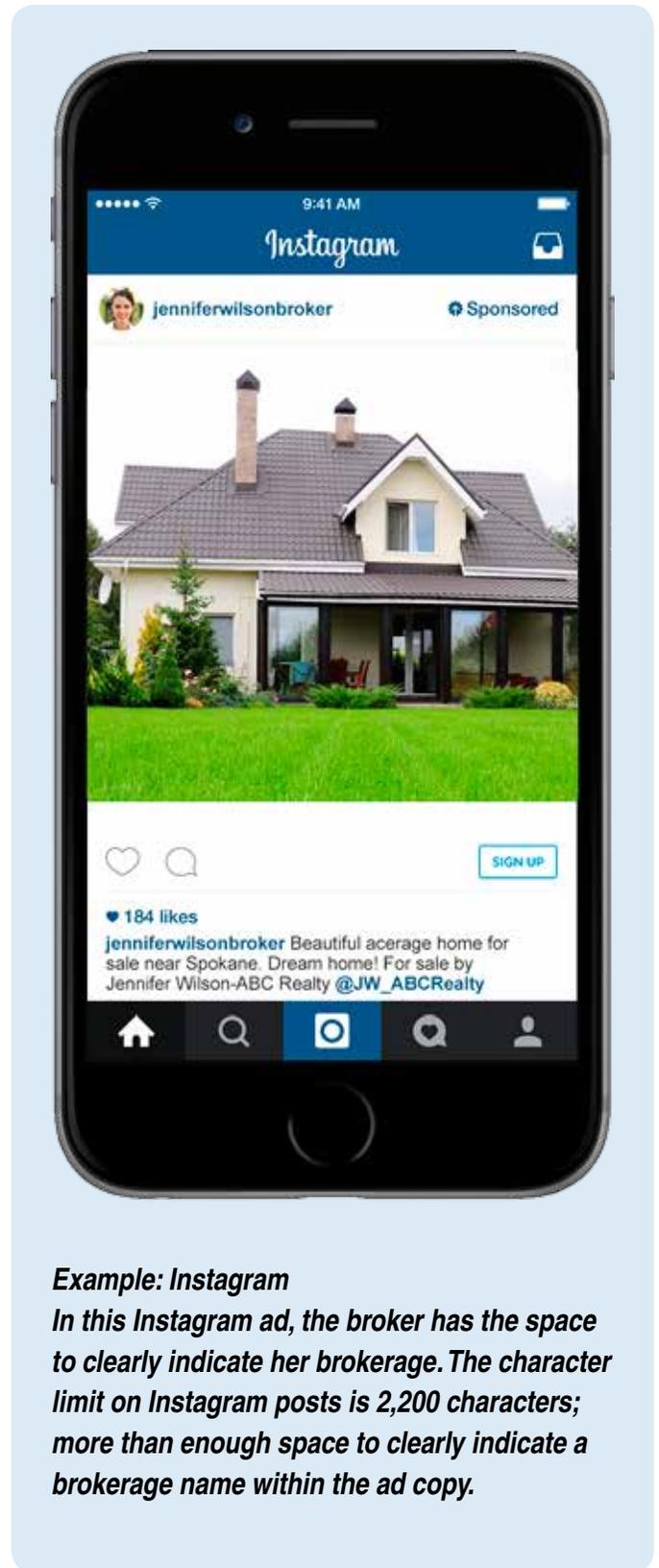
Frames are a design element that are created when one website captures information from another website or webpage and displays it graphically within the original window. A website is “framed” if one web page appears to be a part of, or embedded in, another page. A website designer may do this to retain design elements and links within certain frames on the website, even while the user changes the information presented in another frame. Some website designers also use frames to post content from other websites, and embed that content within their own website, such as outside mortgage calculators or multiple listing service information.



Example: Facebook
Real estate professionals are encouraged to set up a separate page for business use and not use their own personal Facebook page. Like all other advertising, the brokerage name should be obvious to the user.

There are a number of issues relating to linking and framing.

1. Regardless of which website hosts the listings of a local multiple listing service, there are rights of compilation in those databases. Industry professionals must adhere to the guidelines established by the relevant multiple listing service for linking to that listing information.
2. Embedding content from another website within a frame of an industry professional's website can lead to copyright and/or trademark infringement. Licensee should have permission from the website owner prior to framing.
3. Industry professionals must not misrepresent the relationship between their services and the services offered by a site to which their site links. If the link creates the impression the industry professional is participating in, or endorsing the services the other side offers, the industry professional may be assuming responsibility for the performance of those services.



Example: Instagram

In this Instagram ad, the broker has the space to clearly indicate her brokerage. The character limit on Instagram posts is 2,200 characters; more than enough space to clearly indicate a brokerage name within the ad copy.

ALASKA REAL ESTATE COMMISSION STRATEGIC PLAN 2020

The Commission recognizes we have a very small, yet extremely competent staff for the number of licensees we oversee, and to assist affected consumers. We have every confidence that our Executive Administrator Shyla Consalo, Project Assistant Nancy Harris, and Investigator Autumn Roark, will all support us in reaching our goals.

GUIDING PRINCIPLE	OBJECTIVE – how will we meet this guiding principle?	Who will complete this task?
Protect the Consumer / Inform the Licensees	With agreement of the appropriate departments, upload informational videos done by appropriate personnel on: 1) how to file a complaint against a licensee and its process; and 2) if a complaint is filled against a license what the process is for a license. Additionally, provide best practice “white papers” on various topics as approved by the Commission for placement on our website.	Commission, Staff & Investigator Goal to have recorded presentation done & submitted to Chief Investigator for review/approval before the December meeting.
Protect the Consumer	Provide the Commission for consideration, what they should have jurisdiction over in property management; i.e. financial responsibilities of the property owner or property manager. Then, provide next steps should the Commission agree to move forward with recommendations. And, provide a list of property management FAQs (frequently asked questions) for both licensed property managers and property owners, to be approved by the Commission then placed on our website.	Property Management Committee of the Commission Work in Progress - PM Committee continuing to develop best practices for REC consideration, several already approved & on website.
Protect the Consumer	Refine and rework current processes, to increase the speed of actions to keep outside licensees and/or non-licensees from transacting business for which an Alaska real estate license or broker’s license is required. Then, put this information on the Commission website and make sure it is easily accessible.	Commissioners Nelson & Pruhs, plus Shyla & Autumn
Protect the Consumer / Inform licensees	Define minimum standards, based on what other jurisdictions have successfully implemented, for team advertising (i.e. the requirement to include brokerage information, minimum size etc).	Commissioner Nelson & McConnochie to provide information to staff Complete - to be presented at September meeting.
Inform licensees	Assist staff to clear up the following issues: <ul style="list-style-type: none"> • How “inactive status” is logged/started and the notification to the affected licensee • How required education, for those who apply for license by endorsement, is defined and verified • Provided a military spouse has a current license in good standing in another state, streamline the process when they apply for an Alaska real estate license • Change how the Commission receives and disseminates license history; i.e. paper versus digital, or some other process Complete • Define and simplify the criteria for getting or upgrading an Alaska real estate license; i.e. referring to <u>criminal history</u> and what specifically constitutes a valid reason a license will not be given/upgraded and the timing since conviction or completion of sentence 	Commissioner McConnochie & Staff
Protect the Consumer / Inform licensees	Review all regulations and propose one major regulation change (clean up) which will bring regulations into the 21 st century.	ALL Complete - to vote on at September meeting.

Executive Administrator's Report

EDUCATION REPORT

September 23, 2020

(as of 9/15/2020)

<u>Course Type</u>	<u>Currently Approved</u>
Pre-Licensing (SPL)	12
Broker Upgrade Pre-Licensing (BPL)	4
Elective Continuing Education (ECE)	302
Designated Continuing Education (DCE)	33
Post Licensing Education (PLE)	69
	Total: 420
 <u>Instructor</u>	
Permanent	63
New instructors	3
Temporary Instructor	0

LICENSING REPORT
 SEPTEMBER 23, 2020

New Licensees June 10, 2020 - September 14, 2020: 89
Total Number of <u>Active</u> Licensees with 1/31/2022 exp: 2680
Total Number of Licensees with 1/31/2022 exp: *2730

ACTIVE: 1/31/22 exp	Mar	Jun	Sept
Broker	393	405	412
Associate Broker	369	373	382
Salesperson	1769	1826	1886
Total Active:	2531	2531	2680

INACTIVE: 1/31/22 exp	Mar	Jun	Sept
Broker	0	1	2
Associate Broker	0	0	2
Salesperson	3	5	42
Total Inactive:	3	6	46

LAPSED: NON-COMPLIANCE OF PLE w/exp date of 1/31/22			
	Mar	Jun	Sept
Broker	0	0	0
Associate Broker	0	0	0
Salesperson	7	1	4
Total:	7	1	4

LAPSED: 1/31/20 exp	Mar	Jun	Sept
Broker	35	30	29
Associate Broker	37	36	34
Salesperson	333	318	308
Total Lapsed:	405	384	371

Transfers:	Mar	Jun	Sept
	156	175	279

PLE Completed:	Mar	Jun	Sept
	45	97	77

Upgrades:	
S - AB = 7	S - B = 3

In this reporting period	Mar	Jun	Sept
License Returned	6	197	58
Probation License	3	3	1
Suspended	0	0	0
Revoked	0	1	0
Surrendered	0	1	1

*includes licensees that are active, inactive, lic rtnd, probation, suspension, surrender, and lapsed (PLE), all with 1/31/2022 expiration date

RICE INSURANCE SERVICES COMPANY, LLC
 CLAIMS LISTING FOR CNA CLAIMS
 ALASKA REAL ESTATE COMMISSION GROUP POLICY
 SECOND QUARTER 2020

Claim #	Loss Date	Report Date	Date Notified	Allegation	Policy #	Status	Claim Reserves	Expense Reserves	Claims Payment	Expense Payment	Subr	Incurred
CC13284	9/1/2016	10/16/2018	9/5/2018	Non-Disc / Misrep Mold	18 EO 0001AK-	O	\$1,000.00	\$1,000.00	\$0.00	\$0.00		\$2,000.00
							\$1,000.00	\$1,000.00	\$0.00	\$0.00		\$2,000.00
				CLAIMS COUNT:		1			--Losses--	----LAE----		---Total---
				CLOSED CLAIMS:		0	Closed Paid:		\$0.00	\$0.00		\$0.00
				OPEN CLAIMS:		1	Closed Recovery:		\$0.00	\$0.00		\$0.00
							Closed Incurred:		\$0.00	\$0.00		\$0.00
							Open Paid:		\$0.00	\$0.00		\$0.00
							Open Reserves:	\$1,000.00		\$1,000.00		\$2,000.00
							Open Incurred:	\$1,000.00		\$1,000.00		\$2,000.00
							Current Recov's:	\$0.00		\$0.00		\$0.00
							Total Incurred:		\$1,000.00	\$1,000.00		\$2,000.00
CC14132	10/25/2017	9/19/2019	9/19/2019	Incident / Allegations Unknown	19 EO 0002AK-	C	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
CC13986	4/4/2019	7/25/2019	6/28/2019	Negligent Hiring of Contractor	19 EO 0002AK-	C	\$3,000.00	\$0.00	\$3,000.00	\$0.00		\$3,000.00
CC14231	4/15/2017	10/28/2019	10/28/2019	Subpoena	19 EO 0002AK-	D	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00
							\$3,000.00	\$0.00	\$3,000.00	\$0.00		\$3,000.00
				CLAIMS COUNT:		3			--Losses--	----LAE----		---Total---
				CLOSED CLAIMS:		3	Closed Paid:		\$3,000.00	\$0.00		\$3,000.00
				OPEN CLAIMS:		0	Closed Recovery:		\$0.00	\$0.00		\$0.00
							Closed Incurred:		\$3,000.00	\$0.00		\$3,000.00
							Open Paid:		\$0.00	\$0.00		\$0.00
							Open Reserves:	\$0.00		\$0.00		\$0.00
							Open Incurred:	\$0.00		\$0.00		\$0.00
							Current Recov's:	\$0.00		\$0.00		\$0.00
							Total Incurred:		\$3,000.00	\$0.00		\$3,000.00

**RICE INSURANCE SERVICES COMPANY, LLC
ALASKA REAL ESTATE COMMISSION
GROUP POLICY CLAIMS INFORMATION
SECOND QUARTER 2020**

Group Policy Number	TOTAL PAID FOR CLOSED CLAIMS			TOTAL INCURRED FOR OPEN CLAIMS			Claims Count	Total Incurred
	Claims Count	Loss	Legal	Claims Count	Loss	Legal		
18 EO 0001AK-	0	\$0.00	\$0.00	1	\$1,000.00	\$1,000.00	1	\$2,000.00
19 EO 0002AK-	1	\$3,000.00	\$0.00	1	\$0.00	\$0.00	0	\$3,000.00
TOTALS	1	\$3,000.00	\$0.00	2	\$1,000.00	\$1,000.00	1	\$5,000.00

Total Incurred Closed Claims \$3,000.00

Total Incurred Open Claims \$2,000.00

*The incurred amount for open claims includes payments and reserve amounts set by the adjusters (the estimated amount needed for damages and claims expenses to close the open claims) but does not include any amounts incurred but not reported (IBNR), loss development amounts (a factor used by actuaries to determine the ultimate loss incurred), or administrative costs (the insurer's costs to provide the program, including their staffing costs and expense allocations, program administration, marketing, and claims adjustment costs). All of these factors are additional costs for the program.

**Statement of Net Positions
Real Estate Recovery Funds
June 30, 2020**

	Actuals						Projected	
	For the Fiscal Year Ending June 30, 2015	For the Fiscal Year Ending June 30, 2016	For the Fiscal Year Ending June 30, 2017	For the Fiscal Year Ending June 30, 2018	For the Fiscal Year Ending June 30, 2019	For the Fiscal Year Ending June 30, 2020	For the Fiscal Year Ending June 30, 2021	For the Fiscal Year Ending June 30, 2022
ASSETS								
Cash and Investments	\$ 454,264	\$ 465,770	\$ 392,207	\$ 394,514	\$ 277,675	\$ 327,850	\$ 211,011	\$ 261,186
Total Assets	454,264	465,770	392,207	394,514	277,675	327,850	211,011	261,186
LIABILITIES								
Accounts Payable and Accrued Liabilities	7,211	(30)	1,517	(10,691)	11,230	4,857	11,230	4,857
Total Liabilities	7,211	(30)	1,517	(10,691)	11,230	4,857	11,230	4,857
FUND BALANCES								
Reserved for Education and Claims	447,053	465,800	390,691	405,205	266,445	322,993	199,781	256,329
Total Fund Balance	447,053	465,800	390,691	405,205	266,445	322,993	199,781	256,329
Total Liabilities and Fund Balances	\$ 454,264	\$ 465,770	\$ 392,207	\$ 394,514	\$ 277,675	\$ 327,850	\$ 211,011	\$ 261,186
Average 2 year licensing cycle fund balance:		Average of 6/30/15 & 6/30/16	Average of 6/30/16 & 6/30/17	Average of 6/30/17 & 6/30/18	Average of 6/30/18 & 6/30/19	Average of 6/30/19 & 6/30/20	Average of 6/30/20 & 6/30/21	Average of 6/30/20 & 6/30/21
		\$ 460,017	\$ 428,988	\$ 393,361	\$ 336,095	\$ 302,763	\$ 269,431	\$ 130,593

Note: Per the State Comprehensive Annual Financial Report the State "funds are reported using modified accrual accounting which measures cash and other financial assets that can be readily converted to cash".

Note: The total Liabilities is year to date

For FY22 Liabilities projected using FY20

Statement of Revenues, Expenditures, and Changes in Fund Balances
Real Estate Recovery Fund
Actual for Years Ended June 30, 2015 through June 30, 2020
and
Projected for Fiscal Years Ending June 30, 2021 and June 30, 2022

	Actuals										Projected	
	For the Fiscal Year Ended 6/30/15	For the Fiscal Year Ended 6/30/16	For the Fiscal Year Ended 6/30/17	For the Fiscal Year Ended 6/30/18	For the Fiscal Year Ended 6/30/19	For the Quarter Ended 9/30/19	For the Quarter Ended 12/31/19	For the Quarter Ended 3/31/20	For the Quarter Ended 6/30/20	For the Fiscal Year Ended 6/30/20	For the Fiscal Year Ended 6/30/21	For the Fiscal Year Ended 6/30/22
REVENUES												
Licenses and Permits	38,425	\$ 126,910	38,370	133,550	29,465	6,840	35,800	138,460	12,765	193,865 ⁽¹⁾	29,465 ⁽¹⁾	193,865
Interest and Investment Income	2,164	2,533	3,178	4,230	9,964	1,258	1,267	2,004	2,389	6,918 ⁽²⁾	9,964 ⁽²⁾	6,918
TOTAL REVENUES	40,589	129,443	41,548	137,780	39,429	8,098	37,067	140,464	15,154	200,783	39,429	200,783
EXPENDITURES												
Personal Services	113,145	112,763	115,097	134,846	126,366	26,801	4,258	1,171	92,582	124,812 ⁽³⁾	126,366 ⁽³⁾	124,812
Travel	0	-	-	-	-	-	-	-	-	-	-	-
Commodities	0	89	-	617	-	-	-	-	-	-	-	-
Services - Non-claims	732	5,085	13	10	5,000	-	321	105	70	497	5,000	497
Services - Claims & Associated Legal costs	0	-	-	-	24,902	-	25,300	-	-	25,300	24,902	25,300
TOTAL EXPENDITURES	113,877	117,937	115,110	135,473	156,268	26,801	29,879	1,276	92,652	150,608	156,268	150,608
Excess (Deficiency) Revenues Over Expenditures	(73,288)	11,505	(73,562)	2,307	(116,839)	(18,703)	7,187	139,188	(77,498)	50,175	(116,839)	50,175
Other Financing Sources (Uses)	-	-	-	-	-	-	-	-	-	-	-	-
Net Change in Fund Balances	(73,288)	11,505	(73,562)	2,307	(116,839)	(18,703)	7,187	139,188	(77,498)	50,175	(116,839)	50,175
Fund Balances - Beginning of Year	527,552	454,264	465,770	392,207	394,514	277,675	258,972	266,160	405,348	277,675	327,850	211,011
Fund Balances - End of Year	454,264	\$ 465,770	\$ 392,207	\$ 394,514	\$ 277,675	258,972	266,160	405,348	327,850	\$ 327,850	\$ 211,011	\$ 261,186

(1) For FY22, licenses and permits revenue projected to be the same as FY20.
(2) Projecting through FY21 based on FY19 rate of earnings.
For FY21, the annual personal services costs are projected for the Executive Administrator to spend 10% and the Project Assistant to spend 100% of their time on Real Estate Recovery Fund related tasks.
(3)

Statement of Cash Flows
Real Estate Recovery Fund
June 30, 2020

	Actuals						Projected	
	For the Fiscal Year Ended 6/30/15	For the Fiscal Year Ended 6/30/16	For the Fiscal Year Ended 6/30/17	For the Fiscal Year Ended 6/30/18	For the Fiscal Year Ended 6/30/19	For the Fiscal Year Ended 6/30/20	For the Fiscal Year Ended 6/30/21	For the Fiscal Year Ended 6/30/22
CASH FLOWS FROM OPERATING ACTIVITIES								
Receipts for Licenses & Permits	\$ 38,425	\$ 126,910	\$ 38,370 ⁽¹⁾	\$ 133,550 ⁽¹⁾	\$ 29,465 ⁽¹⁾	\$ 193,865 ⁽¹⁾	\$ 29,465	\$ 193,865
Payments to Employees	(113,145)	(112,763)	(115,097) ⁽²⁾	(134,846) ⁽²⁾	(126,366) ⁽²⁾	(124,812) ⁽²⁾	(126,366)	(124,812)
Payments for Services/Claims	-	-	-	- ⁽³⁾	(24,902) ⁽³⁾	(25,300) ⁽³⁾	(24,902)	(25,300)
Other Payments	(732)	(5,174)	(13)	(627)	(5,000)	(497)	(5,000)	(497)
Net Cash Provided (Used) by Operating Activities	(75,452)	8,973	(76,740)	(1,923)	(126,803)	43,257	(126,803)	43,257
CASH FLOWS FROM INVESTING ACTIVITIES								
Interest and Dividends on Investments	2,164	2,533	3,178 ⁽³⁾	4,230 ⁽³⁾	9,964 ⁽³⁾	6,918 ⁽³⁾	9,964	6,918
Net Cash Provided (Used) by Investing Activities	2,164	2,533	3,178	4,230	9,964	6,918	9,964	6,918
Net Increase (Decrease) in Cash	(73,288)	11,505	(73,562)	2,307	(116,839)	50,175	(116,839)	50,175
Cash and Cash Equivalents - Beginning of Year	527,552	454,264	465,770	392,207	394,514	277,675	327,850	211,011
Cash and Cash Equivalents - End of Year	\$ 454,264	\$ 465,770	\$ 392,207	\$ 394,514	\$ 277,675	\$ 327,850	\$ 211,011	\$ 261,186

(1) For FY22, licenses and permits revenue projected to be the same as FY20.

(2) Projecting through FY21 based on FY19 rate of earnings.

(3) For FY21, the annual personal services costs are projected for the Executive Administrator to spend 10% and the Project Assistant to spend 100% of their time on Real Estate Recovery Fund related tasks.

Commission Members Comments & Questions

Adjournment