

## ADDENDUM TO THE MAY 2007 PUBLICATION OF THE MISSOURI REAL ESTATE COMMISSION'S STATUTES AND RULES

**BOLD TEXT** identifies new language and text that is [bracketed] is being deleted.

### **House Bill 2188 and Senate Bill 388 – effective 8/28/08**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

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

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

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

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

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

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

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

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

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

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

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

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

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

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

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

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

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

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

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

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

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

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

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or SCS SB 788 130 intended to result in the sale, exchange, leasing or rental of real estate;
- (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
- (10) Performs any of the foregoing acts [as an employee of, or] on behalf of[,] the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

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

3. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

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

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

6. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, association, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof[, provided such owner, lessor, or lessee is not engaged in the real estate business];

(2) Any licensed attorney-at-law;

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

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

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

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

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

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

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

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

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

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

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

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

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

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

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

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

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

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

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

339.120. 1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of the members of the commission shall be for five years, and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that

association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860. Each member of the commission shall receive as compensation an amount set by the commission not to exceed seventy-five dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner for cause.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The commission shall employ such board personnel, as defined in subdivision (4) of subsection [15] 10 of section [620.010] **324.001**, RSMo, as it shall deem necessary to discharge the duties imposed by the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860.

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

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

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

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

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

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

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

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

**(3) For any other transaction,** a person regularly engaged in the real estate brokerage business outside of the state of Missouri. Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

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

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

**House Bill 780 and Senate Bill 308 – effective 8/28/07**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

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

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

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

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

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

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

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

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

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

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

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

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

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the

first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material.

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

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

**(1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860; or**

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

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

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

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

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

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

**and**

- (5) The interest of the public.**

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

**4. Payment of a civil penalty shall be made within sixty days of filing the order, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the commission. If the penalty is not timely paid, the commission shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.**

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

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

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

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

## Regulation Amendments Effective 4/30/08

[ ] signifies deleted text  
BOLD text signifies new text

### 20 CSR 2250-1.010 General Organization.

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

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

(5) Requests for general information, applications, complaint forms or copies of statutes and rules may be directed to the Missouri Real Estate Commission, 3605 Missouri Boulevard, P.*[.]*O.*[.]* Box 1339, Jefferson City, MO 65102, telephone *[(314)]* **(573)** 751-2628, FAX number *[(314)]* **(573)** 751-2777.

### 20 CSR 2250-3.010 Applications for License.

(3) Salesperson.

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

1. Proof of successful completion of an approved forty-eight (48)-hour course of study known as "Salesperson Pre-Examination Course" prior to the date of examination and no more than six (6) months prior to the *[postmark date applied by the postal service or hand delivery date of license application to the Missouri Real Estate Commission]* **receipt date as affixed by the United States Postal Service or recognized common carrier or, the date the application is hand delivered to the Missouri Real Estate Commission during regular business hours;**
2. Proof of satisfactory completion of both national and state portions of the required examination after the

successful completion of the course identified as "Salesperson Pre-Examination Course"; and

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

(4) Broker Type License.

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

*[1. Proof of having been actively licensed as a salesperson for at least one (1) year immediately preceding date of application, and proof of satisfactory completion of both national and state portions of the required broker examination no more than six (6) months prior to the postmark date applied by the postal service or hand delivery date of license application to the Missouri Real Estate Commission after having completed the "Broker Pre-Examination Course"; or*

*2. Proof of having completed all requirements to obtain a Missouri salesperson's license, proof of successful completion of an approved forty-eight (48)-hour course of study known as the "Broker Pre-Examination Course" prior to the date of examination and no more than six (6) months prior to the postmark date applied by the postal service or hand delivery date of license application to the Missouri Real Estate Commission, and proof of satisfactory completion of both national and state portions of the required examination after the successful completion of the course identified as "Broker Pre-Examination Course."]*

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

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

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

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

*[(1) Every license issued and every license renewal for broker, corporation, broker-officer, partnership, broker-partner, association, broker-associate, broker-salesperson, professional corporation (broker-salesperson) and inactive broker licenses shall expire June 30 in every even-numbered year. Professional corporation (salesperson), salesperson and inactive salesperson licenses shall expire September 30 in every even-numbered year. The commission may mail to each licensee, at least thirty (30) days prior to license expiration, a notice of the expiration and an application for renewal of license to the licensee's address on file with the commission. The commission may issue a new license for each renewal period upon receipt of a properly completed renewal application, including proof of completion of the continuing education requirement pursuant to 4 CSR 250-10.010, and the biennial fee postmarked by a postal service before midnight of the date of expiration. Delinquent renewal applications must be accompanied by a delinquent fee of fifty dollars (\$50) per month or partial month elapsed since date of expiration, not to exceed a two hundred dollar (\$200) maximum delinquent fee. Any licensee who fails to complete continuing education requirements, in addition to paying delinquent fees as set out previously, must attend the prescribed prelicense course. A delinquent renewal application, accompanied by the required fees and proof of satisfactory completion of the prescribed course, must be postmarked by a postal service within six (6) months of course completion.]*

**(1) Renewal of License.**

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

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

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

**(D) The commission may issue a new license for each renewal period upon receipt of a properly completed renewal application, including proof of completion of the continuing education requirement pursuant to 20 CSR 2250-10.100, and the biennial fee, if the receipt date as affixed by the United States Postal Service or recognized common carrier or, if hand delivered to the Missouri Real Estate Commission before the close of business, is no later than the date of license expiration.**

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

**(F) Any licensee who fails to complete continuing education requirements during the renewal period must submit with their renewal, proof of completion of the prescribed pre-examination course pertinent to their license type. This pre-examination course must have been completed no more than six (6) months prior to the receipt date as affixed by the United States Postal Service or recognized common carrier or, the date the application is hand delivered to the Missouri Real Estate Commission during regular business hours.**

(2) Failure of a licensee to receive the notice and application to renew from the commission shall not excuse the licensee from the requirements for renewal contained in this rule. Any licensee who fails to renew during a subsequent renewal period is no longer licensed and in order to become licensed again will be required to *[complete the prelicense course, requalify by examination and apply]* **requalify** as if an original applicant. Until a new license is procured, the holder of an expired license shall not perform any act for which a license is required.

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

(1) A broker shall not conduct business under any other name or at any other address than the one for which the broker's individual license is issued unless the broker first complies with *[4 CSR 250-4.030]* **20 CSR 2250-4.030**. If a broker changes his/her name, home or business address, the broker shall notify the commission in writing within ten (10) days after the change becomes effective.

(2) When a broker returns his/her license to the commission, the broker must first comply with the provisions of *[4 CSR 250-8.155]* **20 CSR 2250-8.155**. The broker shall have six (6) months in which to change

status or reinstate the license. If the application to change status or reinstate the license is not made within the six (6)-month period, the applicant will be required to complete the required *[prelicense]* **pre-examination** course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not reinstated or placed on inactive status within the subsequent renewal period, the licensee will be required to *[complete the prelicense course, requalify by examination and apply]* **requalify** as if an original applicant.

(3) A broker may apply for inactive broker status. This request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the broker clearly printed with the word inactive and the inactive broker shall not engage in any activity for which a license is required. An inactive broker license must be renewed biennially on or before June 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A broker license which is inactive may not be reactivated until the licensee presents to the commission the proper application accompanied by the required fee and a certificate from a school accredited by the commission evidencing satisfactory completion, within the preceding six (6) months, of the broker course of study required by *[4 CSR 250-6.020]* **20 CSR 2250-6.060**.

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

(1) A broker whose license is in good standing and who elects to operate under the supervision of a licensed broker shall first comply with the provisions of *[4 CSR 250-8.155]* **20 CSR 2250-8.155**. The broker shall surrender his/her license to the commission for conversion to a broker-salesperson license. A broker-salesperson license will be issued upon receipt of the properly completed application accompanied by the required fee. No individual holding a broker-salesperson license may have a salesperson licensed under him/her. A broker license may be reinstated upon proper application to the commission accompanied by the required fee.

(3) Within seventy-two (72) hours of the termination of the association of any broker-salesperson or salesperson, a broker shall notify the commission and shall return to the commission that licensee's license. The broker shall provide a dated and timed receipt to the licensee when the licensee submits a letter of termination to the broker. When a licensee's license is

surrendered to the commission, the licensee shall have six (6) months in which to transfer to another broker or change license status. If the application for transfer or change in status is not made within the six (6)-month period, the applicant will be required to complete the required *[prelicense]* **pre-examination** course and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not transferred or placed on inactive status, or if no status change has been made within the subsequent renewal period, the licensee will be required to *[complete the prelicense course, requalify by examination and apply]* **requalify** as if an original applicant.

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

(6) A salesperson whose association with a broker is terminated may request the commission to transfer the license to an inactive status. The request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the salesperson clearly printed with the word inactive and the inactive salesperson shall not be associated with a broker nor engage in any activity for which a license is required. An inactive salesperson license must be renewed biennially on or before September 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A salesperson license which is in an inactive status may not be reactivated until the licensee presents to the commission a certificate from a school accredited by the commission evidencing satisfactory completion by that person, within the preceding six (6) months, of the salesperson course of study required by *[4 CSR 250-6.020]* **20 CSR 2250-6.060**. The holder of an inactive salesperson license may be transferred to active status

upon proper application to the commission accompanied by the required fee and the school completion certificate.

(7) A broker-salesperson whose association with a broker is terminated may request the commission to transfer the license to an inactive status and shall be subject to the provisions of [4 CSR 250-4.040(3)] **20 CSR 2250-4.040(3)**.

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

(1) Every partnership, association or corporation must obtain a separate and distinct real estate broker license before transacting business as a broker pursuant to Chapter 339, RSMo. If the partnership, association or corporation wishes to do business under an assumed or fictitious name, it shall first comply with [4 CSR 250-4.030] **20 CSR 2250-4.030** regarding registration of the name.

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

#### **PROPOSED RESCISSION**

**20 CSR 2250-4.080 Nonresident Licenses; Reciprocity; Process Agent.** *PURPOSE: This rule is being rescinded and readopted to make the licensing requirements of all nonresident licenses more uniform.*

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

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

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

#### **(A) Salesperson Requirements:**

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

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

#### **(B) Broker Requirements:**

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

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

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

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

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

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

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

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

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

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

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

(A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson \$ 80[.00]

(B) Salesperson \$ 40[.00]

(C) Partnership, Association, Corporation or Professional Corporation \$ 80[.00]

(D) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation \$ 150[.00] and

(E) Nonresident Salesperson \$ 100[.00.]

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

(A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson \$ 50[.00]

(B) Salesperson or Inactive Salesperson \$ 40[.00]

(C) Partnership, Association, Corporation or Professional Corporation \$ 50[.00]

(D) Delinquent Fee \$ 50[.00] (per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee) \$ 200[.00]

(E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation \$ 150[.00] and

(F) Nonresident Salesperson and Inactive Salesperson \$ 100[.00]

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

**(A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson \$ 10**

**(B) Salesperson or Inactive Salesperson \$ 10**

**(C) Partnership, Association, Corporation or Professional Corporation \$ 10**

**(D) Delinquent Fee \$ 50 (per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee) \$ 200**

**(E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation \$ 10 and**

**(F) Nonresident Salesperson and Inactive Salesperson \$ 10**

~~[(4)]~~**(5)** The following fees shall be paid for the appropriate transactions:

(A) Transfer/Status Change \$ 50[.00]

(B) Replacement of a Lost, Destroyed or Stolen License \$ 25[.00]

(C) Certification of Licensure \$ 10[.00] and

(D) Professional Corporation Name Approval Fee \$ 10[.00.]

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

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

(F) The Salesperson Pre-Examination Course, Broker Pre-Examination Course, and Missouri Real Estate Practice Course offered shall include the subjects set forth in [4 CSR 250-6.060] **20 CSR 2250-6.060**;

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

1. Be designed primarily for classroom purposes or designed for multipurpose use in the case of meeting halls and convention facilities;
2. Contain proper seating and writing surfaces;
3. Be properly lighted;
4. Be properly ventilated;
5. Be reasonably free from distracting pedestrian traffic;
6. Be reasonably free of sound and light disturbances; and
7. Not contain recruiting material and be free of reference to individual real estate firms, groups of firms or franchises, unless the course is restricted to only licensees of the referenced firm or franchise and the notice submitted by the school to the commission [as required under 4 CSR 250-7.040] is clearly marked as a restricted class.

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

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

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

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

(4) The commission may deny, suspend, revoke or place on probation the accreditation of any school if it is determined that the school, administrator, staff, instructor(s) or any person associated in any way have violated any of the requirements of Chapter 7 of these regulations or have performed or attempted to perform any acts identified in [4 CSR 250-7.060(5)] **20 CSR 2250-7.090(5)**.

#### **20 CSR 2250-8.070 Advertising.**

[1] For the purpose of these rules, advertising shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one (1) or more licensees and the public; it shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, display or group ads in telephone directories and billboards.]

[2](1) Disclosure.

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

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

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

(C) Nothing in this section shall be construed to eliminate the disclosure requirements found elsewhere in these rules, including those contained in [4 CSR 250-8.110] **20 CSR 2250-8.110**.

[3](2) No real estate advertisement by a licensee shall show only a post office box number, telephone number or street address. Every advertisement of real estate by a licensee shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party

advertising is a real estate broker and not a private party.

~~[(4)]~~**(3)** Every advertisement of real estate by a licensee where the licensee has no interest in the real estate shall be made under the direct supervision and in the name of the broker or firm who holds the licensee's license. If the licensee's name or telephone number, or both, is used in any advertisement, the advertisement also shall include the name and telephone number of the broker or firm who holds the licensee's license.

~~[(5)]~~**(4)** No licensee shall advertise to buy, sell, rent, lease, manage or exchange property in any manner that indicates, directly or indirectly, any unlawful discrimination against any individual or group because of race, color, religion, national origin, ancestry, sex, handicap or familial status.

~~[(6)]~~**(5)** Guaranteed Sales.

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

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

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

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

#### **20 CSR 2250-8.090 Brokerage Service Agreements.**

(1) A licensee shall not advertise or place a sign upon any property offering it for sale or lease to prospective customers *[unless the broker holds a currently effective written listing agreement or other written authorization*

*signed by all owners]* **without the written consent of the owner or his or her duly authorized agent.**

(3) In a commercial real estate transaction, a brokerage service agreement prepared by legal counsel for the client/customer to be represented or assisted shall not be subject to the provisions of ~~[4 CSR 250-8.090(4)-(7)]~~ **20 CSR 2250-8.090(4)-(7).**

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

**(A) Identify the property to be managed;**

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

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

**(D) Contain the beginning date of the agreement;**

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

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

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

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

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

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

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

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

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

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

**(10) The licensee shall give to the owner or the owner's authorized agent a legible copy of every written property management agreement or other written authorization at the time the signature of the owner is obtained. The licensee's broker shall retain a copy.**

#### **PROPOSED RESCISSION**

##### **20 CSR 2250-8.210 Management Agreements.**

*PURPOSE: The purpose of this rescission is to move the wording in this section to 20 CSR 2250-8.090 so that the requirements of the management agreement are contained in the same section as the brokerage service agreements.*

## Regulation Amendments Effective 9/30/09

[ ] signifies deleted text  
BOLD text signifies new text

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

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

(3) A broker may apply for inactive broker status. This request shall be on an application approved by the commission and shall be accompanied by the required fee. A license shall be issued to the broker clearly printed with the word inactive and the inactive broker shall not engage in any activity for which a license is required. An inactive broker license must be renewed biennially on or before June 30 of each renewal year. A licensee holding an inactive license as described in this rule will not be required to complete the continuing education requirement for license periods during which the license is inactive. A broker license which is inactive may not be reactivated until the licensee presents to the commission the proper application accompanied by the required fee and a certificate from a school accredited by the commission evidencing satisfactory completion, within the preceding six (6) months, of the *[broker course of study]* **Missouri Real Estate Practice Course** required by 20 CSR 2250-6.060.

### 20 CSR 2250-4.050 Broker-Salesperson and Salesperson Licenses; Transfers; Inactive Salespersons.

(3) Within seventy-two (72) hours of the termination of the association of any broker-salesperson or salesperson, a broker shall notify the commission and shall return to the commission that licensee's license. The broker shall provide a dated and timed receipt to the licensee when the licensee submits a letter of termination to the broker. When a licensee's license is surrendered to the commission, the licensee shall have six (6) months in which to transfer to another broker or change license status. If the application for transfer or change in status is not made within the six (6)-month period, the applicant will be required to complete the

required *[pre-examination course]* **Missouri Real Estate Practice Course** and show proof of satisfactory completion of that course within six (6) months prior to reinstatement of the license. If the license is not transferred or placed on inactive status, or if no status change has been made within the subsequent renewal period, the licensee will be required to requalify as if an original applicant.

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

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

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

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

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

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

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

(2) All applications for licensure as a professional corporation shall be subject to the provisions of *[4 CSR 250-3.010]* **20 CSR 2250-3.010** and all applicable provisions of Chapter 339, RSMo.

(7) Upon dissolution of a licensed professional corporation, the professional corporation is subject to the provisions of *[4 CSR 250- 4.050]* **20 CSR 2250-4.050.**

## **20 CSR 2250-8.030 Branch Offices.**

(1) If a broker maintains a branch office(s), each shall be operated under the same name and license as the parent office and every such place of business shall comply with the provisions of *[4 CSR 250-8.010]* **20 CSR 2250-8.010.**

## **20 CSR 2250-8.090 Brokerage Service Agreements.**

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

(C) Any *[change]* **addendums, riders, endorsements, attachments, or changes** to the listing agreement or other written agreement for brokerage services must contain the initials of all parties.

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

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

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

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

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

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

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

(H) Any *[change]* **addendums, riders, endorsements, attachments, or changes** to the written authorization must contain the initials of all parties; and

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

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

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

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

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

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

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

#### **20 CSR 2250-8.095 Brokerage Relationship Disclosure.**

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

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

1. A licensee acting as an agent or subagent of the seller/landlord shall disclose this agency status no later than the first showing to a buyer/tenant who is not represented by or working with another licensee pursuant to **sections** 339.710 to 339.860, RSMo.
2. If the buyer/tenant is represented by another licensee, the disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.
3. If the seller's/landlord's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the seller's/landlord's agent.
4. In a cooperative sale/lease between a seller's/landlord's agent and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's agent shall make disclosure of this agency status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.
5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, their agent, or transaction broker, the seller's/landlord's agent shall disclose this agency status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.
6. If the landlord's agent is conducting property management pursuant to *[4 CSR 250-8.200]* **20 CSR 2250-8.200**, the unlicensed office personnel may, in their performance of the duties enumerated in **section** 339.010.5(5)(a)–(e), **RSMo**, make the disclosure described herein on behalf of the landlord's agent;

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

1. A licensee acting as an agent or subagent of the buyer/tenant shall disclose this agency status no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to **sections** 339.710 to 339.860, RSMo.
2. If the seller/landlord is represented by another licensee, the disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.
3. If the buyer's/tenant's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the buyer's/tenant's agent.
4. In a cooperative sale/lease between a buyer's/tenant's agent and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's agent shall make disclosure of this agency status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.
5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent, or transaction broker, the buyer's/tenant's agent shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this agency status prior to the presentation of an offer to exchange, purchase, rent, or lease.
6. If the landlord's agent or transaction broker is conducting property management pursuant to *[4 CSR 250-8.200]* **20 CSR 2250-8.200**, the unlicensed office personnel may, in their performance of the duties enumerated in **section** 339.010.5(5)(a)–(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

##### **(D) Transaction Broker Assisting Seller/Landlord.**

1. A licensee assisting a seller/landlord as a transaction broker who has not been deemed a transaction broker pursuant to **section** 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to buyer/tenant who is not represented by or working with another licensee pursuant to **sections** 339.710 to 339.860, RSMo.
2. If the buyer/tenant is represented by another licensee, this disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.
3. If the licensee has not entered into a written transaction brokerage agreement with the

seller/landlord, the licensee shall disclose the licensee's transaction broker status to the seller/landlord upon establishing such relationship with the seller/landlord.

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

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

6. If the landlord's transaction broker is conducting property management pursuant to [4 CSR 250-8.200] **20 CSR 2250-8.200**, the unlicensed office personnel may, in their performance of the duties enumerated in **section 339.010.5(5)(a)–(e)**, RSMo, make the disclosure described herein on behalf of the landlord's transaction broker;

(E) Transaction Broker Assisting Buyer/Tenant.

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

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

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

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

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

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

6. If the landlord's agent or transaction broker is conducting property management pursuant to [4 CSR 250-8.200] **20 CSR 2250-8.200**, the unlicensed office personnel may, in their performance of the duties enumerated in **section 339.010.5(5)(a)–(e)**, RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

**20 CSR 2250-8.096 Brokerage Relationship Confirmation.**

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

(A) Written confirmation must—

1. Identify the licensee's brokerage relationship;

2. Identify the source or sources of compensation;

3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;

4. Confirm the seller's/landlord's and buyer's/tenant's receipt of the Broker Disclosure Form prescribed by the commission;

5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to [4 CSR 250-8.200–4 CSR 250-8.210] **20 CSR 2250-8.200–20 CSR 2250-8.210**, the landlord shall not be required to sign the written confirmation; and

6. Be signed and dated by the disclosing licensees on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to [4 CSR 250-8.200–4 CSR 250-8.210] **20**

**CSR 2250-8.200–20 CSR 2250-8.210**, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)–(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

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

(1) In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the licensee shall provide that person with a written copy of the current Broker Disclosure Form prescribed by the Missouri Real Estate Commission. In any event, a licensee shall provide the party that has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the Broker Disclosure Form upon obtaining any personal or financial information or before the signing of a brokerage service agreement, whichever occurs first. If a landlord's agent or transaction broker is conducting property management pursuant to [4 CSR 250-8.200] **20 CSR 2250-8.200**, the unlicensed office personnel may, in their performance of the duties enumerated in **section 339.010.5(5)(a)–(e), RSMo**, provide a tenant with a written copy of the current Broker Disclosure Form prescribed by the commission on behalf of the landlord's agent or transaction broker.

#### **20 CSR 2250-8.155 Closing a Real Estate Firm.**

*PURPOSE: This rule is being rescinded and readopted to simplify the procedures to follow when closing a real estate firm.*

#### **20 CSR 2250-8.155 Closing a Real Estate Brokerage Firm**

##### **(1) Voluntary Closing.**

**(A) A real estate brokerage shall be closed in the following manner. The individual broker or the designated broker shall—**

- 1. Notify the commission in writing on a form prescribed by the commission of the effective date of the closing, the location where the records will be stored, and that all requirements of 20 CSR 2250-8.155(1) have been met;**
- 2. Notify all licensees associated with the brokerage in writing of the effective date of closing. The licenses of any licensees associated with the brokerage at the time of closing must be returned to the commission with the closing statement;**
- 3. Notify all current listing, buyer or tenant agreement, and management contract clients as well**

**as parties and co-brokers to existing contracts, in writing, advising of the date the brokerage will close. All listing, buyer, tenant, and management clients must be advised in writing that they may enter into a new listing, buyer, tenant, or management agreement with the broker of their choice;**

**4. Remove all advertising signs from all properties which were listed with or managed by the brokerage. Arrange to cancel all advertising in the name of the brokerage, including office signs and telephone listing advertisements;**

**5. Maintain all escrow or trust accounts until all monies are transferred to a title company, an escrow company, or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds; and**

**6. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company, or an attorney. In the case of a sale, transfer, or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the express written consent of all parties to the transactions. Notify all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.**

##### **(2) Revocation/Suspension.**

**(A) Individual Broker or Corporation, Partnership, or Association. Upon the revocation or suspension of an individual broker, corporation, partnership, or association, the individual broker or designated broker shall—**

- 1. Cease all brokerage business immediately upon the effective date of the suspension or revocation order;**
- 2. Notify the commission of the location where records and files will be stored, as well as the name, address, and phone number of the custodian who will be storing the records and files;**
- 3. Notify all licensees associated with the brokerage of the revocation/suspension and return all licenses held by the broker to the commission;**
- 4. Notify all current listing, buyer or tenant agreement, and management contract clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the brokerage will close. All listing, buyer, tenant, and management clients must be advised in writing that they may enter into a**

new listing, buyer, tenant, or management agreement with the brokerage of their choice;

5. Remove all advertising signs from all properties which were listed with or managed by the brokerage;

6. Cancel or suspend all advertising and telephone listing advertisements. In case of suspension, post a notice of the suspension period on the outside of the office in a prominent location. In case of revocation, the licensee shall remove all office signs visible to the public;

7. Maintain all escrow or trust accounts until all monies are transferred to a title company, a lending institution, an escrow company, or an attorney for closing the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds;

8. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company, or an attorney. Notify all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

9. Notify the commission in writing on a form prescribed by the commission of the location where the records will be stored and that all requirements of 20 CSR 2250-8.155(2) have been met.

(3) Closing as a Result of Death or Disability. Upon the death or disability of an individual broker, or upon the death or disability of one (1) or more of the licensed broker-partners, broker-officers, or broker-associates of a real estate partnership, corporation, or association in which the affairs of the partnership, corporation, or association cannot be carried on, the following procedures shall apply:

(A) All licensees associated with the broker, corporation, partnership, or association must cease all brokerage activity until their licenses have been transferred to another broker; and

(B) The administrator or executor of the broker's, broker-officer's, broker-partner's, or broker-associate's estate or the legal representative thereof—

1. May, as provided in section 339.040.8, RSMo, apply for a temporary broker license for the sole purpose of concluding pending business;

2. Shall follow the procedures established in section (1) for voluntary closing; and

3. Shall notify the commission in writing on a form prescribed by the commission of the effective date

of the closing, the location where the records will be stored, and that all requirements of 20 CSR 2250-8.155(3) have been met.

**20 CSR 2250-8.200 Management Agreement Required.**

(2) A licensee who is managing the leasing or rental of real estate shall not act as an agent in the sale or exchange of that real estate unless the licensee complies with the requirements of [4 CSR 250-8.090] 20 CSR 2250-8.090.

**20 CSR 2250-8.220 Escrow or Trust Account and a Separate Property Management Escrow Account Required.**

(5) The property management escrow account(s) maintained by the broker shall be [a checking] an account in a bank, savings and loan, or credit union.

**20 CSR 2250-10.100 Continuing Education Requirements for Licensees.**

(1) Each real estate licensee who holds an active license shall complete during the two (2)-year license period prior to renewal, as a condition precedent to license renewal, a minimum of twelve (12) hours of real estate instruction approved for continuing education credit by the Missouri Real Estate Commission. An active license is any license issued by the commission except those which have been placed on inactive status. Failure to provide the commission evidence of course completion as set forth shall constitute grounds for not renewing a license. For purposes of [4 CSR 250-10] 20 CSR 2250-10, an hour is defined as sixty (60) minutes, at least fifty (50) minutes of which shall be devoted to actual classroom instruction and no more than ten (10) minutes of which shall be devoted to a recess. No credit will be allowed for fractional hours.