



REAL ESTATE COMMISSION NEWS BULLETIN

January 2019

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REAL ESTATE ETHICS COURSE REQUIRED FOR 2020 RENEWAL

The Missouri Real Estate Commission voted last year to add real estate ethics as a core topic for continuing education (CE). Additionally, the Commission approved real estate ethics as a continuing education core course requirement for the next renewal of both broker and salesperson type licenses.

The Commission reviews complaints filed against real estate licensees, investigation reports, and findings of audits of real estate entities. In many of the cases reviewed, the Commission determined various violations cited were ethics related matters. Therefore, the Commission decided to require a real estate ethics core course before a license can be renewed in 2020 for the 2020-2022 license period.

If you have already taken an MREC approved elective ethics course since renewing your license in 2018, upon request from the school by January 1, 2019, the course will be automatically converted to a core course.

To renew your license in 2020, you will need to have a 3-hour core real estate ethics course plus 9 hours of other continuing education. The other nine hours can be either elective courses, core courses, or any combination of elective and core courses. CE does not apply to inactive licenses.

If you have questions about CE, call MREC at (573) 751-2628, ext. 6.

ALERT – USING REAL ESTATE AGENT IDENTITY IN TIMESHARE SCANDAL

On October 5, 2018, the Missouri Real Estate Commission (MREC) warned consumers and real estate brokers in a media alert to be aware of recent timeshare scams. These scams involve telephone calls from individuals posing as a Missouri real estate salesperson and offering to sell the homeowner's timeshare in the country of Mexico. These callers falsely represent themselves by using the actual name, address and real estate license number of a Missouri real estate licensee and encourages the homeowner to contact the Missouri Real Estate Commission to verify license status. The caller then informs the owner that if they are interested in selling their timeshare, the caller has a buyer. Since many timeshare owners want to "get out" of their timeshare, they agree to sell and wire money to the supposed real estate salesperson. The caller may allow a couple of weeks to pass before contacting the owner/seller to inform them they require more money to complete the transaction and close the paperwork on the deal, informing the owner they will then wire the money (proceeds) from the sale of the timeshare to the seller. When the Missouri real estate agent is contacted, the agent knows nothing about the transactions. Their identity had been fraudulently used. The FBI was contacted by MREC staff and they encourages victims (both timeshare owners and real estate agents) to go to website "IC3.gov" and fill out a complaint.

THINGS TO PONDER

- 1) Every licensee shall _____ tender to the seller or seller's agent every written offer to purchase.
 - a) Within 24 hours
 - b) Within 48 hours
 - c) Within a reasonable time
 - d) Promptly

- 2) Any addendums, riders, endorsements, attachments, or changes to a listing agreement for brokerage services must contain the initials of _____.
 - a) The broker
 - b) All parties
 - c) The buyer
 - d) The seller

- 3) MREC can file a complaint to discipline a broker's license when a designated broker failed to supervise the real estate activities of all licensed and unlicensed persons affiliated with the company.
 - a) True
 - b) False

- 4) Within _____ of the termination of the association of any broker-salesperson or salesperson, a broker shall notify MREC and return to the MREC that licensee's license.
 - a) 48 hours
 - b) 72 hours
 - c) 10 days
 - d) 30 days

- 5) Which of the following is true concerning an inactive broker-salesperson or salesperson license?
 - a) Must keep license renewed.
 - b) Not required to complete CE before renewal.
 - c) Must complete 24-hour course to reactivate.
 - d) All of the above (a thru c) are required.

(Answers found on last page)

REAL ESTATE EXAMINATION COMPANY CHANGES

Effective January 1, 2019, PSI Services, LLC., of Glendale, CA., is the vendor for the Missouri real estate licensure tests. Our old testing company was Applied Measurement Professionals, Inc. (AMP) from Olathe, KS. PSI acquired AMP in August 2017, but our old contract permitted Missouri (if AMP was bought out) to continue with AMP testing until the contract expired on December 31, 2018; therefore, we continued with the AMP tests.

Additionally, the old contract permits Missouri to continue the old test for a transition period after the expiration of the existing contract. Since the schools providing pre-licensure courses will need to be trained on the new job task analysis results, testing materials, and have the opportunity to modify their course instruction materials, we anticipate the PSI tests will begin on mid-year 2019. Written course/learning objectives will be provided by the testing vendor.

The new MREC contract specifications call for a minimum of four testing locations - St. Louis area, Kansas City area, Springfield, and Jefferson City. PSI's contract exceeded the minimum requirement by making eight testing sites available to Missouri applicants. Those locations include St. Louis, Gladstone, Springfield, Jefferson City, Kirksville and West Plains in Missouri, as well as Olathe and Overland Park just across the state line in Kansas.

Furthermore, the fee to take the Missouri real estate examination will decrease. The 2018 fee with AMP was \$68 each time an examination was taken (state examination, national examination, or national and state examination taken together). The new 2019 PSI price will be \$62 for the state examination, \$62 for the national examination, or \$65 for the national and state examination taken together.

Final details of the contract are being worked out at the time this newsletter was published. Watch our website <https://pr.mo.gov/realestate.asp> for the latest information.

HOLDING MULTIPLE LICENSES

Many Missouri real estate brokers own more than one company. Under Missouri real estate laws, rules, and regulations, all entities must be administered by a designated broker. Therefore, when a broker is the designated broker for more than one company, that designated broker must have a broker's license for each of the companies.

When a designated broker renews his/her broker's license, the company license (in which the designated broker's license is affiliated) is not automatically renewed. Therefore, the designated broker must also renew the entity (brokerage/company) license. Should the designated broker renew his/her broker's license, but not renew the company license, then all licenses affiliated with the company are not valid until the brokerage license is renewed. Licensees, therefore, should not be doing any real estate activities until the company in which they are affiliated becomes legally licensed.

If a salesperson affiliated with a brokerage renews his/her license, but the company license is not renewed, then the salesperson's license will sit at "renewal approved" and will not print until the company license is renewed.

AFFILIATION TRANSFERS – WHEN ARE THEY EFFECTIVE?

20 CSR 2250-4.050 (4) states in part "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 mail...**if all** materials required to transfer are mailed under one 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 new license is received by the broker..." If the transfer form is filled out improperly, fees not included, current license not attached, etc., then the transfer application is "incomplete" and the transfer is not in effect until processed by MREC.

DISCIPLINARY ACTIONS

If you are interested in viewing disciplinary actions taken by the Commission, you will find the information online at: <https://pr.mo.gov/realestate-disciplines.asp>

LICENSEE REPORT - JAN. 1, 2019

46,098 TOTAL

Broker Licenses:	12,817
Salesperson Licenses:	29,113
Entity Licenses:	4,168

INVESTIGATIONS FOR UNLICENSED ACTIVITY ON THE INCREASE

The Missouri Real Estate Commission has noticed an increase in the number of investigations resulting from reported and detected cases of persons conducting real estate activities without a valid real estate license. These cases arise from:

1. Licensees not renewing their professional license but continue to practice real estate.
2. Property management operations where property owned by a third party is managed by an individual and/or company required to have a real estate license.
3. Licensees continuing to practice real estate activities while under a House Bill-600 suspension/revocation because of an unpaid Missouri income tax liability.
4. Individuals licensed only in another state but advertising Missouri property for sale on social media or the Internet.
5. Brokerages failing to renew the company license, but affiliates renewed and their licenses are setting at "renewal approved" until the company renews the brokerage license.
6. Licensees starting work before being officially transferred to their new company because their paperwork is not correct when submitted.

In calendar year 2018, MREC staff opened 32 cases for investigation of possible unlicensed activity. Many of those cases are still pending; but, 3 have been referred to the Attorney General's Office for a court injunction and 6 have been referred to legal counsel for initialization of the disciplinary process.

KNOW YOUR COMMISSIONERS

MS. SHARON L. KEATING – CHAIR
JEFFERSON CITY, MO



MR. STEPHEN “STEVE” KENNY – VICE CHAIR
NEOSHO, MO



MS. SHERRY “LYNN” FARRELL
MEMBER - OSAGE BEACH, MO



MS. CYNTHIA “CINDY” FOX
MEMBER - ST. CHARLES, MO



MR. WILLIAM “BILL” GRATZ
MEMBER – JEFFERSON CITY, MO



MR. CHARLES “CHIP” MISKO
PUBLIC MEMBER – ST. LOUIS, MO



YOUR COMMITMENT TO THE REAL ESTATE INDUSTRY AND YOUR CAREER

By Ms. Terry Murphy – MREC Education Specialist

Real estate is an ever-evolving industry with constant market and trend changes that affect the way you do business. As a real estate licensee, you have the opportunity to learn in the field as well as take continuing education (CE) to stay ahead of the curve and perform at your best. Continuing your real estate education is far more than just maintaining your license as required by the Commission. You know you have to take CE classes, but you may ask yourself why training is important.

CE is a career-long commitment! The best way CE can contribute to your success and abilities is fundamental in your relationship with clients. The more knowledge you have on various real estate topics, the more clients will trust you when it's time to make life-altering decisions. Knowledge gained from CE courses allows for a solid education foundation with necessary updates on current license law, skilled-based courses on issues and trends that affect the real estate industry, risk reduction, fair housing, agency, ethical principles, professionalism and delivering the best service possible to protect the public.

Don't underestimate the importance of continuing education (CE)! While it's tempting to take CE courses that you completed in the last license cycle, or possibly least painful, think of it as an opportunity to expand your "skill set" as a real estate professional. Start now - don't wait until the last minute to take CE! Spread out the training in a license cycle to make it most beneficial to you. If you wait until right before the required renewal date, you are likely to sign up for any course that fits your schedule, whether it was really the beneficial course you were looking for on a given topic.

Right to fair housing, fundamental legal principles, managing risk, ethical behavior, professionalism, and serving the public continue to be prevalent in the real estate industry. **NEW for the upcoming license cycle:** The Commission has mandated a change in the CE requirement for the next broker and salesperson renewal cycle. **The 2020-2022 license cycle will require an approved CORE course in real estate ethics.** As you know, Missouri regulations currently require 12 hours of continuing education, of which at least 3 hours must be a CORE course. Therefore, if a licensee only takes one CORE course for the next renewal, it must be a real estate ethics course. The licensee can, however, take all 12 hours as CORE courses. Any licensee who has taken an approved ELECTIVE ethics course since the deadline for the 2018 renewal (after June 30, 2018 for brokers and after September 30, 2018 for salespersons), credit will automatically be changed from an ELECTIVE course to a CORE course. MREC approved schools are offering ample opportunities to complete a real estate ethics CORE course. CE or education questions may be directed to Terry Murphy, Education Specialist, at 573-751-2628 option 6.

BRANCH OFFICE REQUIREMENTS

Missouri administrative rule 20 CSR 2250-8.030 governs branch offices. The rule requires branch offices to be operated under the same name and license as the parent office and must comply with 20 CSR 2250-8.010 (Place of Business). Project sales offices, leasing offices, or management offices maintained "on-site" in an apartment complex, development project, office building, shopping center, industrial development, etc. are not required to be registered as branch offices.

Branch offices must be under the "DIRECT SUPERVISION" of either a licensed broker, broker-salesperson, or a broker-partner, broker-associate, or broker-officer of the principal licensed broker; provided "nothing contained in the rule shall be construed to relieve the principal licensed broker from responsibility for all brokerage activities conducted at the branch office." A broker shall notify the Commission, in writing, within 10 days after opening or making any change in the address or managing licensee of a branch office.

Some brokerages establish "satellite" offices and conduct business at the satellite offices (e.g., meet clients, write and review contracts with clients, advertise the satellite as a real estate office, etc.). In most cases, the satellite office should be registered as a branch office. Some complaints have been filed concerning teams, groups, or LLCs forming their own office outside the principal office and not registering the office as a branch office. Once again, in most cases, these offices should be registered as a branch office.

RECONCILING AN ESCROW ACCOUNT: How Does an Examiner Do It...?

By Lisa Brush, Examiner

One of the most important tasks you will face as a broker is the reconciliation of any escrow accounts (bank accounts that hold any funds not belonging to you). Examples of funds which are required to be held in an escrow account are:

- Purchasers' earnest money deposits
- Tenant security deposits
- Rents collected and held for property owners
- Property funds held in reserve for maintenance repairs

HINT: If you are currently holding any of the above types of funds in a brokerage operating account or any other non-escrow type account, they should be moved to an escrow account as soon as possible and register that account with the MREC.

REGISTERING THE ESCROW ACCOUNT: If you are going to hold funds of others, you will need to open and maintain an escrow account. You must register the escrow account with the Commission on a "Consent to Examine and Audit Escrow or Trust Account" form. This form is listed on the Commission website under "Application Forms," and is also the form used to change any information regarding your escrow account (such as bank name or account number) and to close your escrow account.

CALCUATING WHAT SHOULD BE IN THE ESCROW ACCOUNT: The first thing the examiner does is calculate the "liabilities" to the account or what funds **SHOULD BE IN THE ACCOUNT**. If it is a **sales escrow account**, the examiner will have already reviewed the pending files and totaled what earnest money deposits, funds held related to down/disputed transaction, etc. should be maintaining in the escrow account. If it is a **property management escrow account**, or **security deposit escrow account**, the examiner will determine what funds should be in the account by examining owner statements, owner balance reports, rent rolls, or a security deposit report. It is important to note that the reconciliation of the escrow account will be done to both the **AMOUNT THAT SHOULD BE IN THE ACCOUNT** and to **THE BANK STATEMENT**. This ensures that you know to whom every cent in the escrow account belongs, and that there are no unidentified funds that have not been returned or forwarded to the proper party. The liability total will then be listed at the top of the audit work paper called an "Escrow Audit Report." This total is very important as all calculations are done based off of this amount—it is the total of funds that **SHOULD BE IN THE ACCOUNT**.

If any amount of brokerage funds are kept in the account to cover bank fees, etc., they will also be taken into account. Please keep in mind that you may not keep more than \$1,000.00 in broker funds in the account at any time, and you must know the **EXACT** amount of funds you have in the account as of the audit cut-off date. If you are unsure of how much money you have in the account, the examiner will not list any broker funds in the escrow account, and this could contribute to an unidentified balance when the account is reconciled.

EXAMINING PAYMENTS AND DEPOSITS: Next, the examiner will review the checks, deposits and bank statements for the audit period. Any outstanding checks and deposits will be listed on the Escrow Audit Report, along with the bank balance as of the audit cut-off date. Accounting for the outstanding items and the bank balance will determine the total of funds that are **ACTUALLY IN THE ACCOUNT**.

At this point in the in the reconciliation process, if all funds are properly accounted for, the amount that **SHOULD BE IN THE ACCOUNT** and the amount that is **ACTUALLY IN THE ACCOUNT** should match and leave a zero unidentified balance. However, if there were any violations or issues noted with the escrow account, they will be listed as identified overages or shortages. These may include a wide variety of items—negative owner balances in a property management account which create an identified shortage to the account, funds held for a property which the broker did not have a management agreement for which create an identified overage to the account, funds that had not been remitted to the proper owner which also create an identified overage to the account, etc. These items will be totaled and subtracted from or added to, as applicable, the calculation above.

ESCROW ACCOUNT AUDIT RECONCILIATION OUTCOMES: After these calculations are completed, there are three possible outcomes:

- Zero Reconciled Balance—all funds in the escrow account are accounted for. This may include identified overages or shortages as explained above which need to be corrected, but no unidentified funds
- Unidentified Overage—there is a balance of funds in the escrow account that is not attributed to a property, owner, tenant, etc.
- Unidentified Shortage—the amount of money in the bank is not sufficient to cover the amounts attributed to a property, owner, tenant, etc.

The examiner will review the reconciled balance with you at the end of the audit and leave copies of all work papers, including the Escrow Audit Report. After the examiner departs, you may begin making corrections to any identified overages or shortages to the account. Keep in mind, correcting an overage or shortage does not necessarily mean removing or depositing funds. For example, if you are managing a property without an agreement, any funds held for that property would be considered an identified overage to the account because you did not have a management agreement in effect which dictated the terms of holding those funds. To correct this overage, you would simply get a management agreement signed by the owner which provides authorization for you to deposit and hold the funds.

Also, if there is an unidentified overage or shortage to the account, you may start researching the transaction history in an attempt to identify who the funds belong to. Please note, the Commission will address all identified and unidentified overages and shortages in the response letter you will receive after their review of the audit results. Thus, you may want to take the time between the conclusion of the audit and the time you receive the response letter to research and identify the ownership of all unidentified funds.

Once any unidentified funds have been identified, reconciling to **WHAT SHOULD BE IN THE ACCOUNT** on a monthly basis will ensure that any errors are caught immediately and all funds are properly accounted for. If you have questions about the auditing process or requirements, please feel free to call our office at (573) 751-2628, extension 5.

2019 vs 2018 LICENSEES IN MISSOURI
(ALMOST A 6.80% OVERALL INCREASE)

<u>LICENSE TYPE</u>	<u>2019</u>	<u>2018</u>	<u>DIFFERENCE</u>
Broker	3,549	3,564	-15
Broker Associate	3,505	3,290	215
Broker Officer	1,727	1,782	-55
Broker Partner	46	50	-4
Broker Salesperson	3,199	3,227	-280
Inactive Broker	642	572	70
Inactive Salesperson	2,362	2,043	319
Prof. Corp. Broker Salesperson	149	145	4
Prof. Corp. Salesperson	477	429	48
Real Estate Association	2,867	2,725	142
Real Estate Corporation	1,266	1,293	-27
Real Estate Partnership	35	37	-2
Salesperson	26,274	24,013	2,261
TOTAL	46,098	43,170	2,928 (+6.784%)

DESIGNATED BROKER RESPONSIBILITIES

In recent months, the Missouri Real Estate Commission has experienced an increase in the lack of designated brokers being diligent in supervisory responsibilities. The three major “lack of supervision” issues includes: (1) approving forms without reviewing them – portions of the form is left blank but signed by the designated broker; (2) permitting licensees with expired licenses to continue to work real estate; and (3) not directly supervising LLCs affiliated with the parent company.

Missouri Rule 20 CSR 2250-8.020 states in pertinent part that the MREC can file a complaint with the Administrative Hearing Commission to discipline the broker’s license when the “...designated broker failed to supervise the real estate activities of all licensed and unlicensed persons...” This would include the three issues mentioned above: approving incomplete forms, permitting expired licensees to continue working, and not directly supervising LLCs (teams, groups, etc.).

COMMON MISTAKES FOUND ON PAPERWORK SUBMITTED TO MREC

MREC staff wants to help applicants and licensees get their license paperwork processed as quickly as possible. Here are some of the issues that MREC staff experiences when documents are received and must be rejected back to the sender. Ensuring these matters are not part of your paperwork errors will assist in guaranteeing your transaction is not delayed.

- | | |
|---|---|
| Handwritten paperwork not legible. | Check or money order not enclosed. |
| Date signed not placed on forms. | All paperwork not submitted together (at the same time). |
| Check or money order not signed. | Incorrect amount of fees submitted. |
| Improper postage amount on envelope. | All pages of original application not enclosed (copy sent). |
| Case # or Audit # not included. | Missing required paperwork. |
| Required signatures no included
(by applicant, by broker, etc.). | Check or money order does not show MREC as Payee. |
| | Course certificate not provided. |

MISTAKES CAUSE EXTENDED DELAYS IN APPLICATION PROCESSING

Anytime applications are received incomplete, required documents are not attached, appropriate fees are not included, boxes on form are not checked, signatures are not present, or a copy of the paid fingerprint receipt is not attached, the application is rejected back to the applicant. This causes a delay in getting the license application processed in a timely fashion and the license issued.

Once a properly completed license application is received, the application is put in a processing que in date order received. After processed, the approved license information will be put on the MREC website.

LATE RENEWALS CAN STILL OCCUR

If not renewed, Broker type licenses that expired June 30, 2018 and Salesperson type licenses that expired September 30, 2018 can still be renewed. If the 12 hours of CE were not completed before the expiration date, then the 24-hour Missouri Real Estate Practice Course must be completed in order to renew. Simply send to the MREC office (in one packet) a copy of the 24-hour course completion certificate (dated after your license expiration date), the completed renewal application form (with any corrections marked on the form), and the money amount of your original renewal fee plus a \$200 delinquency fee. Call MREC staff at (573) 751-2628 ext. 2 with renewal questions.

NEW SIGNED FINGERPRINT FORM REQUIRED

As you know, Missouri law requires applicants for real estate licenses to be fingerprinted via the Missouri State Highway Patrol (MSHP) vendor for a background check prior to being licensed. The electronic fingerprints are transmitted from the reception site to the MSHP and then to the FBI for analysis. The criminal history results may be returned to MREC within hours, or in rare occasions, it can take up to several days (depending on the complexity of the criminal case results).

State licensing agencies and the MSHP are at the mercy of the FBI requirements and their Criminal Justice Information Services (CJIS) unit if the state agency wants to utilize the FBI criminal record information. Effective August 6, 2018, CJIS began requiring a written notification to applicants and a signed document showing applicants reviewed the State & National Rap Back Privacy Notice, the Noncriminal Justice Applicant Privacy Rights, and the Privacy Act Statement. This document is now required before a license application can be processed. The signature form is now included with the application given to the applicant after successfully passing the required real estate examination(s).

UPCOMING MEETINGS AND WORKSHOPS

COMMISSION MEETINGS FOR 2019

February 6, 2019

August 7, 2019

April 3, 2019

October 2, 2019

June 5, 2019

December 4, 2019

(Commission meetings are held at the Professional Registration Building Central Office in Jefferson City, MO. Contact MREC for further information @ 573-751-2628 or at e-mail realestate@pr.mo.gov).

EDUCATORS' WORKSHOP – 2019

October 21, 2019 (Jefferson City)

(Contact MREC Education Specialist Ms. Terry Murphy for further information @ 573-751-2628, extension # 6 or Terry.Murphy@pr.mo.gov).

GOVERNOR

The Honorable Michael L. Parson

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Chlora Lindley-Myers, Director

DIVISION OF PROFESSIONAL REGISTRATION

Kathleen (Katie) Steele Danner,
Division Director

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Jefferson City, Missouri

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Vice Chairperson
Neosho, Missouri

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William W. (Bill) Gratz, Member
Jefferson City, Missouri

Charles G. (Chip) Misko
Public Member
St. Louis, Missouri

Vacant Member

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2) Licensing
3) Consumer Group
4) Complaints & Investigations
5) Audits
6) Education: Schools & Courses

Fax: (573) 751-2777

Email: Realestate@pr.mo.gov

Website: <https://pr.mo.gov/realestate.asp>

The Missouri Real Estate Commission office is open Monday-Friday, 8 a.m-5 p.m., except State Holidays. Walk-ins are asked to arrive no later than 4:30 p.m. At this time, MREC is not set up to take payment by credit/debit card at the office (must be cash or check only – in the exact amount of the fee).

Things to Ponder - Answers

1. **D Promptly** – 20 CSR 2250-8.100
2. **B All Parties** – 20 CSR 2250-8.090 (4) (C)
3. **A True** – 20 CSR 2250-08.020
4. **B 72 Hours** – 20CSR 2250-04.050 (3)
5. **D All the above are required** – 20 CSR 2250-04.050 (6) & (7)

DISCLAIMER

This publication is designed to discuss common practice issues or issues of concern for real estate agents. It is provided with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional should be sought. The Missouri Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the MREC Newsletter also appears with the article. MREC often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission, and do not constitute additional policies and/or rules of the Commission above those currently adopted by Missouri statute and/or rule. Permission to reprint solicited articles must be obtained from the article source.