

# REAL ESTATE BOARD



## REGULATIONS

Last Updated April 1, 2008

## STATUTES

Title 54.1, Chapter 21

*Virginia*

**DOR**

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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## PART I.

### GENERAL

#### 18 VAC 135-20-10. Definitions.

The following words and terms when used in this chapter unless a different meaning is provided or is plainly required by the context shall have the following meanings:

"Active" means any broker or salesperson who is under the supervision of a principal or supervising broker of a firm or sole proprietor and who is performing those activities defined in §§[54.1-2100](#) and [54.1-2101](#) of the Code of Virginia.

"Actively engaged" means active licensure with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§[54.1-2100](#) and [54.1-2101](#) of the Code of Virginia for an average of at least 40 hours per week. This requirement may be waived at the discretion of the board in accordance with §[54.1-2105](#) of the Code of Virginia.

"Actively engaged in the brokerage business" means anyone who holds an active real estate license.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Client" means a person who has entered into a brokerage relationship with a licensee as defined by §[54.1-2130](#) of the Code of Virginia.

"Firm" means any sole proprietorship (nonbroker owner), partnership, association, limited liability company, or corporation, other than a sole proprietorship (principal broker owner), which is required by 18VAC135-20-20 B to obtain a separate brokerage firm license. The firm's licensed name may be any assumed or fictitious name properly filed with the board.

"Inactive status" refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, who is not active with a firm or sole proprietorship and who is not performing any of the activities defined in §§[54.1-2100](#) and [54.1-2101](#) of the Code of Virginia.

"Independent contractor" means a licensee who acts for or represents a client other than as a standard agent and whose duties and obligations are governed by a written contract between the licensee and the client.

"Licensee" means real estate brokers and salespersons as defined in Chapter 21 (§[54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia.

"Principal broker" means the individual broker who shall be designated by each firm to assure compliance with Chapter 21 (§[54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia, and this chapter, and to receive communications and notices from the board which may affect the firm or any licensee active with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees.

"Principal to a transaction" means a party to a real estate transaction including without limitation a seller or buyer, landlord or tenant, optionor or optionee, licensor or licensee. For the purposes of this chapter, the listing or selling broker, or both, are not by virtue of their brokerage relationship, principals to the transaction.

"Sole proprietor" means any individual, not a corporation, who is trading under the individual's name, or under an assumed or fictitious name pursuant to the provisions of Chapter 5 (§[59.1-69](#) et seq.) of Title 59.1 of the Code of Virginia.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in Article 3 (§[54.1-2130](#) et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia.

"Supervising broker" means (i) the individual broker who shall be designated by the principal broker to supervise the provision of real estate brokerage services by the associate brokers and salespersons assigned to branch offices or (ii) the broker, who may be the principal broker, designated by the principal broker to supervise a designated agent as stated in §[54.1-2130](#) of the Code of Virginia.

#### Historical Notes

Derived from VR585-01-1 §1.1, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

## **PART II.**

### **ENTRY**

#### **18 VAC 135-20-20. Necessity for license.**

Refer to § 54.1-2106.1 of the Code of Virginia.

- A. Sole proprietor (principal broker owner). A real estate broker's license shall be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, only after the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the clerk of court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.
- B. Sole proprietor (non-broker owner), partnership, association, limited liability company, or corporation. Every sole proprietor (non-broker owner), partnership, association, limited liability company, or corporation must secure a real estate license for its firm before transacting real estate business. This license is separate and distinct from the individual broker license required of each partner, associate, manager of a limited liability company, and officer of a corporation who is active in the firm's brokerage business. Each applicant for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. Each applicant shall also disclose the business address of the firm. The board will consider the application of any partnership, association, corporation or limited liability company only after the entity is authorized to conduct business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia
- C. Branch office license. If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each place of business maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. The branch office license shall be maintained at the branch office location.

#### Historical Notes

Derived from VR585-01-1 §2.1, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

### **18 VAC 135-20-30. Qualifications for licensure.**

Every applicant to the Real Estate Board for an individual salesperson's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.
2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of [§54.1-2105](#) of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure.
3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.
4. In accordance with [§54.1-204](#) of the Code of Virginia, each applicant shall disclose the following information:
  - a. All misdemeanor convictions involving moral turpitude, sexual offense, drug distribution or physical injury within five years of the date of the application; and
  - b. All felony convictions during his lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with [§54.1-204](#) of the Code of Virginia.
5. The applicant shall be at least 18 years old.
6. The applicant shall have a high school diploma or its equivalent.
7. The applicant, within 12 months prior to making complete application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board.
8. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with all procedures established with regard to conduct at the examination may be grounds for denial of application.

9. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration by the board.

#### Historical Notes

Derived from VR585-01-1 §2.2, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Errata, 19:14 VA.R. 2176, 2177 March 24, 2003; amended, Virginia Register Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-40. Additional qualifications for brokers.**

An applicant for an individual license as a real estate broker shall meet the following requirements in addition to those set forth in 18 VAC 135-20-30:

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.
2. The applicant shall have been actively engaged as defined in 18 VAC 135-20-10 as a real estate salesperson for a period of 36 of the 48 months immediately preceding application. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

#### Historical Notes

Derived from VR585-01-1 §2.3, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-45. Additional qualifications for salesperson's or associate broker's license as a business entity.**

An applicant for a salesperson's license as a business entity shall meet the following requirements in addition to those set forth in 18 VAC 135-20-30:

1. Every owner or officer who actively participates in the real estate business shall hold a license as a salesperson or associate broker. The business entity license does not replace the individual license. More than one licensee may be a participant of the business entity.
2. When one licensee is the owner or officer, the business entity shall be named in accordance with § 54.1-2106.1.C of the Code of Virginia.

3. The board will consider the application of any partnership, association, corporation or limited liability company only after the entity is authorized to do business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 15, Issue 5, eff. January 1, 1999; amended, Virginia Register Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-50. Concurrent licenses.**

Concurrent licenses shall be issued by the board to brokers active in more than one firm upon receipt of a concurrent license form and written statements verifying that written notice of the applicant's concurrent licensure status has been provided to the principal broker of each firm with which the applicant is and will be associated. Payment is required for each license. A concurrent license will not be issued to an individual applying to be associated with a firm if that individual has an expired license associated with the same firm and the expired license may be reinstated.

#### Historical Notes

Derived from VR585-01-1 §2.4, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-60. Qualifications for licensure by reciprocity.**

An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have a high school diploma or its equivalent.
3. The applicant shall have received the salesperson's or broker's license by virtue of having passed in the jurisdiction of licensure a written examination deemed to be substantially equivalent to the Virginia examination.
4. The applicant shall sign a statement verifying that he has read and understands the provisions of this chapter and Chapter 21 (§[54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia.
5. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with all procedures established by the board with regard to conduct at the examination may be grounds for denial of application.
6. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.
7. At the time of application for a salesperson's license, the applicant must have been actively engaged as defined by 18VAC135-20-10 for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia. At the time of application for a broker's license, the applicant must have been actively engaged as defined by 18VAC135-20-10 for 36 of the preceding 48 months. These requirements may be waived at the discretion of the board in accordance with §[54.1-2105](#) of the Code of Virginia.
8. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.
9. In accordance with §[54.1-204](#) of the Code of Virginia, each applicant shall disclose the following information:

- a. All misdemeanor convictions involving moral turpitude, sexual offense, drug distribution or physical injury within five years of the date of the application; and
- b. All felony convictions during his lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with [§54.1-204](#) of the Code of Virginia.

- 10. Applicants for licensure who do not meet the requirements set forth in subdivisions 6 and 9 of this subsection may be approved for licensure following consideration by the board.

#### Historical Notes

Derived from VR585-01-1 §2.5, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Errata, 19:14 VA.R. 2176, 2177 March 24, 2003; amended, Virginia Register Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-70. Activation or transfer of license.**

- A. Any inactive licensee may activate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Continuing education pursuant to § 54.1-2105 of the Code of Virginia shall be completed within two years prior to activation of a license. Any licensee who has not been active with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the existing pre-license educational requirements.
- B. Any licensee may transfer from one licensed real estate firm or sole proprietorship to another by completing and submitting to the board a transfer application and the fee as set forth in 18 VAC 135-20-80.

#### Historical Notes

Derived from VR585-01-1 §2.6, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-80. Application fees.**

- A. All application fees for licenses are nonrefundable and the date of receipt by the board or its agent is the date which will be used to determine whether it is on time.
- B. Application fees are as follows:
- |   |          |
|---|----------|
| Salesperson by education and examination .....                            | \$150.00 |
| Salesperson by reciprocity .....  | \$150.00 |
| Salesperson's or associate broker's license as a<br>business entity ..... | \$190.00 |
| Broker by education and examination.....                                  | \$190.00 |
| Broker by reciprocity .....   | \$190.00 |
| Broker concurrent license .....   | \$140.00 |
| Firm license .....  | \$250.00 |
| Branch office license.....  | \$190.00 |
| Transfer application .....  | \$ 60.00 |
| Activate application .....  | \$ 60.00 |
- C. The fee for examination or re-examination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$90.00 per candidate.

Historical Notes

Derived from VR585-01-1 §2.9, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 14, Issue 6, eff. January 8, 1998; Volume 15, Issue 5, eff. January 1, 1999; Volume 15, Issue 18, eff. July 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 20, Issue 23, eff. September 1, 2004.

### **PART III.**

#### **RENEWAL OF LICENSE**

##### **18 VAC 135-20-90. Renewal Required.**

Licenses issued under this chapter for salespersons, brokers, and firms shall expire two years from the last day of the month in which they were issued, as indicated on the license, except concurrent broker licenses which shall expire on the same date as the original broker license.

##### Historical Notes

Derived from VR585-01-1 §3.1, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999.

##### **18 VAC 135-20-100. Qualification for renewal; continuing education requirements.**

Effective until June 30, 2008, as a condition of renewal, and pursuant to [§54.1-2105](#) of the Code of Virginia, all active brokers and salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of 16 classroom, correspondence, or other distance learning instruction hours during each licensing term, except for salespersons who are renewing for the first time and are required to complete 30 hours of postlicense education regardless of whether his license is active or inactive. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see 18 VAC 135-20-70, Activation of license).

1. Providers shall be those as defined in 18 VAC 135-20-350.
2. Eight of the 16 required hours shall include two hours of training in fair housing laws, and a minimum of one hour each in state real estate laws and regulations, ethics and standards of conduct, agency and contracts for brokers. Eight of the 16 required hours shall include two hours of training in fair housing laws, three hours in ethics and standards of conduct and a minimum of one hour each in state real estate laws and regulations, agency, and contracts for salespersons. If the licensee submits a notarized affidavit to the board which certifies that he does not practice residential real estate brokerage, residential management or residential leasing and shall not do so during the licensing term, training in fair housing shall not be required; instead such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The remaining hours shall be on subjects from the following list:

- a. Property rights;
  - b. Contracts;
  - c. Deeds;
  - d. Mortgages and deeds of trust;
  - e. Types of mortgages;
  - f. Leases;
  - g. Liens;
  - h. Real property and title insurance;
  - i. Investment;
  - j. Taxes in real estate;
  - k. Real estate financing;
  - l. Brokerage and agency contract responsibilities;
  - m. Real property management;
  - n. Search, examination and registration of title;
  - o. Title closing;
  - p. Appraisal of real property;
  - q. Planning subdivision developments and condominiums;
  - r. Regulatory statutes;
  - s. Housing legislation;
  - t. Fair housing;
  - u. Real Estate Board regulations;
  - v. Land use;
  - w. Business law;
  - x. Real estate economics;
  - y. Real estate investments;
  - z. Federal real estate law;
  - aa. Commercial real estate;
  - bb. Americans With Disabilities Act;
  - cc. Environmental issues impacting real estate;
  - dd. Building codes and design;
  - ee. Local laws and zoning;
  - ff. Escrow requirements;
  - gg. Ethics and standards of conduct; and
  - hh. Common interest ownership.
3. Licensees holding licenses in other jurisdictions must complete eight hours, which shall include fair housing laws, state real estate laws and regulations, ethics and standards of conduct, agency and contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this subsection.

4. The board may approve additional subjects at its discretion and in accordance with [§54.1-2105](#) of the Code of Virginia.
5. Credit for continuing education course completion is given for each class hour/clock hour as defined in 18 VAC 135-20-350.
6. Licensees are responsible for retaining for three years and providing proof of continuing education. Proof of course completion shall be made on a form prescribed by the board. Failure to provide documentation of completion as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to this chapter.
7. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses.

#### Historical Notes

Derived from VR585-01-1 §3.2, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-101. Qualification for renewal; continuing education requirements.**

Effective July 1, 2008, as a condition of renewal, and pursuant to [§54.1-2105](#) of the Code of Virginia, all active salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of 16 classroom, correspondence, or other distance learning instruction hours during each licensing term, except for salespersons who are renewing for the first time and are required to complete 30 hours of post-license education regardless of whether his license is active or inactive. All active brokers, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of 24 classroom, correspondence, or other distance learning instruction hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see 18 VAC 135-20-70, Activation of license).

1. Providers shall be those as defined in 18 VAC 135-20-350;
2. For salespersons, eight of the required 16 hours shall include two hours of training in fair housing laws, three hours in ethics and standards of conduct and a minimum of one hour each in state real estate laws and regulations, agency and contracts. For brokers, 16 of the 24 required hours shall include eight hours in supervision and management of real estate agents and the management of real

estate brokerage firms, two hours of training in fair housing laws, three hours in ethics and standards of conduct and a minimum of one hour each in state real estate laws and regulations, agency and contracts. If the licensee submits a notarized affidavit to the board that certifies that he does not practice residential real estate brokerage, residential management or residential leasing and shall not do so during the licensing term, training in fair housing shall not be required; instead such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The remaining hours shall be on subjects from the following list:

- a. Property rights;
- b. Contracts;
- c. Deeds;
- d. Mortgages and deeds of trust;
- e. Types of mortgages;
- f. Leases;
- g. Liens;
- h. Real property and title insurance;
- i. Investment;
- j. Taxes in real estate;
- k. Real estate financing;
- l. Brokerage and agency contract responsibilities;
- m. Real property management;
- n. Search, examination and registration of title;
- o. Title closing;
- p. Appraisal of real property;
- q. Planning subdivision developments and condominiums;
- r. Regulatory statutes;
- s. Housing legislation;
- t. Fair housing;
- u. Real Estate Board regulations;
- v. Land use;
- w. Business law;
- x. Real estate economics;
- y. Real estate investments;
- z. Federal real estate law;
- aa. Commercial real estate;
- bb. Americans With Disabilities Act;
- cc. Environmental issues impacting real estate;
- dd. Building codes and design;
- ee. Local laws and zoning;

- ff. Escrow requirements;
  - gg. Ethics and standards of conduct; and
  - hh. Common interest ownership.
3. Salespersons holding licenses in other jurisdictions must complete eight hours, which shall include fair housing laws, state real estate laws and regulations, ethics and standards of conduct, agency and contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this subsection. Brokers holding licenses in other jurisdictions must complete 16 hours that shall include supervision and management of real estate agents and the management of real estate brokerage firms, fair housing laws, state real estate laws and regulations, ethics and standards of conduct, agency and contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this subsection.
  4. The board may approve additional subjects at its discretion and in accordance with [§54.1-2105](#) of the Code of Virginia.
  5. Credit for continuing education course completion is given for each class hour/clock hour as defined in 18 VAC 135-20-350.
  6. Licensees are responsible for retaining for three years and providing proof of continuing education. Proof of course completion shall be made on a form prescribed by the board. Failure to provide documentation of completion as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to this chapter.
  7. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses.

#### Historical Notes

Derived from Virginia Register Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-105. Additional qualifications for renewal of a reciprocal license.**

In addition to the requirements set forth in 18 VAC 135-20-100, all licensees, including those licensees who upgrade to broker prior to renewal, who obtained their license by reciprocity in accordance with 18 VAC 135-20-60 must pass a written examination provided by the board or a testing service acting on behalf of the board covering Virginia real estate license law and regulations of the Real Estate Board.

#### Historical Notes

Derived from Virginia Register Volume 19, Issue 12, eff. April 1, 2003; amended, Virginia Register Volume 24, Issue 11, eff. April 1, 2008.

**18 VAC 135-20-110. Procedures for renewal.**

Prior to the expiration date shown on the license, each licensee desiring to renew the license shall return to the board the renewal application forms and the appropriate fee as outlined in 18 VAC 135-20-120. Failure to receive notices from the board regarding license renewal does not relieve the licensee of the obligation to renew.

Historical Notes

Derived from VR585-01-1 §3.3, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-120. Fees for renewal.**

A. All fees for renewals are nonrefundable, and the date of receipt by the board or its agent is the date which will be used to determine whether it is on time.

B. Renewal fees are as follows:

Salesperson.....	\$65.00
Salesperson’s or associate broker’s license as a business entity .....	\$90.00
Broker .....	\$80.00
Concurrent Broker .....	\$80.00
Firm .....	\$160.00
Branch Office .....	\$90.00

Historical Notes

Derived from VR585-01-1 §3.4, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 14, Issue 6, eff. January 8, 1998; Volume 15, Issue 5, eff. January 1, 1999; Volume 15, Issue 18, eff. July 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-130. Board discretion to deny renewal.**

The board may deny renewal of a license for (i) the same reasons as it may refuse initial licensure or discipline a current licensee; (ii) failure to meet the terms of an agreement for licensure or other board order; or (iii) failure to fully pay monetary penalties and costs imposed by the board, plus any accrued interest.

#### Historical Notes

Derived from VR585-01-1 §3.5, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 19, Issue 12, eff. April 1, 2003.

**PART IV.**

**REINSTATEMENT**

**18 VAC 135-20-140. Failure to renew; reinstatement required.**

A. All applicants for reinstatement must meet all requirements set forth in 18 VAC 135-20-100. Applicants for reinstatement of an active license must have completed the continuing education requirement in order to reinstate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

B. If the requirements for renewal of a license, including receipt of the fee by the board, are not completed by the licensee within 30 days of the expiration date noted on the license, a reinstatement fee is required as follows:

Salesperson.....	\$100.00
Salesperson's or associate broker's license as a business entity .....	\$135.00
Broker .....	\$120.00
Concurrent Broker .....	\$120.00
Firm .....	\$245.00
Branch Office .....	\$135.00

C. A license may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the license may not be reinstated under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. Any real estate activity conducted subsequent to the expiration date may constitute unlicensed activity and be subject to prosecution under Chapter 1 (§54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

Historical Notes

Derived from VR585-01-1 §4.1, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 14, Issue 6, eff. January 8, 1998; Volume 15, Issue 18, eff. July 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-150. Board discretion to deny reinstatement.**

The board may deny reinstatement of a license for (i) the same reasons as it may refuse initial licensure or discipline a current licensee; (ii) failure to meet the terms of an agreement for licensure or other board order; or (iii) failure to fully pay monetary penalties and costs imposed by the board, plus any accrued interest.

Historical Notes

Derived from VR585-01-1 §4.2, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

## PART V.

### STANDARDS OF PRACTICE AND CONDUCT

#### **18 VAC 135-20-155. Grounds for disciplinary action.**

The board has the power to fine any licensee, and to suspend or revoke any license issued under the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, and this chapter where the licensee has been found to have violated or cooperated with others in violating any provision of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia or any regulation of the board. Any licensee failing to comply with the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

#### Historical Notes

Derived from Virginia Register Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-160. Place of business.**

- A. Within the meaning and intent of [§54.1-2110](#) of the Code of Virginia, a place of business shall be an office where:
  - 1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in [§54.1-2100](#) of the Code of Virginia; and
  - 2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.
- B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.
- C. Every principal broker shall have readily available to the public in the main place of business the firm license, the principal broker license and the license of every salesperson and broker active with the firm. The branch office license and a roster of every salesperson or broker assigned to the branch office shall be posted in a conspicuous place in each branch office.
- D. Each place of business and each branch office shall be supervised by a supervising broker. The supervising broker shall exercise reasonable and adequate supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to the branch office. The supervising broker may

designate another broker to assist in administering the provisions of this subsection. The supervising broker does not relinquish overall responsibility for the supervision of the acts of all licensees assigned to the branch office. Factors to be considered in determining whether the supervision is reasonable and adequate include, but are not limited to, the following:

1. The availability of the supervising broker to all licensees under the supervision of the broker to review and approve all documents including but not limited to leases, contracts affecting the firm's clients, brokerage agreements and advertising;
2. The availability of training and written procedures and policies which provide, without limitation, clear guidance in the following areas:
  - a. Proper handling of escrow deposits;
  - b. Compliance with federal and state fair housing laws and regulations if the firm engages in residential brokerage, residential leasing, or residential property management;
  - c. Advertising;
  - d. Negotiating and drafting of contracts, leases and brokerage agreements;
  - e. Use of unlicensed individuals;
  - f. Agency relationships;
  - g. Distribution of information on new or changed statutory or regulatory requirements;
  - h. Disclosure of matters relating to the condition of the property.
  - i. Such other matters as necessary to assure the competence of licensees to comply with this chapter and Chapter 21 ([§54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia.
3. The availability of the supervising broker in a timely manner to supervise the management of the brokerage services;
4. The supervising broker ensures the brokerage services are carried out competently and in accordance with the provisions of this chapter and Chapter 21 ([§54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia;
5. The supervising broker undertakes reasonable steps to ensure compliance by all licensees assigned to the branch office;

6. If a supervising broker is located more than 50 miles from the branch office and there are licensees who regularly conduct business assigned to the branch office, the supervising broker must certify in writing on a quarterly basis on a form provided by the board that the supervising broker complied with the requirements in this subsection; and
7. The supervising broker must maintain the records required in this subsection for three years. The records must be furnished to the board's agent upon request.

#### Historical Notes

Derived from VR585-01-1 §5.1, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-170. Maintenance of licenses.**

##### A. Name and address.

1. Salespersons and individual brokers shall at all times keep the board informed of their current name and home address. Changes of name and address must be reported to the board in writing within 30 calendar days of such change. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee may use a professional name other than a legal name if that professional name is filed with the board prior to its use. The professional name shall include the licensee's first or last name and shall not include any titles.
2. Salespersons and brokers shall be issued a license only to the place of business of the sole proprietorship or firm with which the salesperson or broker is active.
3. Principal brokers must at all times keep the board informed of their current firm and branch office name and addresses and changes of name and address must be reported to the board in writing within 30 calendar days of such change. A physical address is required. A post office box will not be accepted.

##### B. Discharge or termination of active status.

1. When any salesperson or broker is discharged or in any way terminates his active status with a sole proprietorship or firm, it shall be the duty of the

sole proprietor or principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination or status change. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

2. When any principal broker is discharged or in any way terminates his active status with a firm, it shall be the duty of the firm to notify the board and return the license by certified mail to the board within three business days of termination or status change. The firm shall indicate on the license the date of termination, and shall sign the license before returning it. See [§54.1-2109](#) of the Code of Virginia for termination relating to the death or disability of the principal broker.

#### Historical Notes

Derived from VR585-01-1 §5.2, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

### **18 VAC 135-20-180. Maintenance and management of escrow accounts.**

- A. Maintenance of escrow accounts.
  1. If money is to be held in escrow, each firm or sole proprietorship shall maintain in the name by which it is licensed one or more federally insured separate escrow accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's client or expended on behalf of the client, or other escrow funds received by him or his associates on behalf of his client or any other person shall be deposited unless all principals to the transaction have agreed otherwise in writing. The balance in the escrow accounts shall be sufficient at all times to account for all funds that are designated to be held by the firm or sole proprietorship. The principal broker shall be held responsible for these accounts. The supervising broker and any other licensee with escrow account authority may be held responsible for these accounts. All such accounts, checks and bank statements shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account may include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. Funds in an escrow account shall not be paid directly to the licensees of the firm. The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by subdivision C 2 of this section, provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and the firm.
3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by subdivision C 2 of this section.

B. Disbursement of funds from escrow accounts.

1. a. Purchase transactions. Upon the ratification of a contract, earnest money deposits and down payments received by the principal broker or supervising broker or his associates must be placed in an escrow account by the end of the fifth business banking day following ratification, unless otherwise agreed to in writing by the parties to the transaction, and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated (nonconsummation), the principal broker or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to the principal to the transaction not to receive the deposit by either (i) hand delivery receipted for by the addressee, or (ii) by certified mail return receipt requested, with a copy to the other party, that this payment will be made unless a written protest from that principal to the transaction is received by the broker within 30 days of the hand delivery or mailing, as appropriate, of that notice. If the notice is sent within 90 days of the date of nonconsummation, the broker may send the notice by receiptable email or facsimile if such email address or facsimile information

is set forth in the contract or otherwise provided by the recipient. In all events, the broker may send the notice to the notice address, if any, set forth in the contract. If the contract does not contain a notice address and the broker does not have another address for the recipient of the notice, the broker may send it to the last known address of the recipient. No broker shall be required to make a determination as to the party entitled to receive the earnest money deposit. The broker shall not be deemed to violate any obligation to any client by virtue of making such a determination. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this chapter.

- b. Lease transactions: security deposits. Any security deposit held by a firm or sole proprietorship shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to the transaction. Each such security deposit shall be treated in accordance with the security deposit provisions of the Virginia Residential Landlord and Tenant Act, Chapter 13.2 ([§55-248.2](#) et seq.) of Title 55 of the Code of Virginia, unless exempted therefrom, in which case the terms of the lease or other applicable law shall control. Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant.
  - c. Lease transactions: rents or escrow fund advances. Unless otherwise agreed in writing by all principals to the transaction, all rents and other money paid to the licensee in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to the transaction, and remain in that account until paid in accordance with the terms of the lease and the property management agreement, as applicable.
2. a. Purchase transactions. Unless otherwise agreed in writing by all principals to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.
  - b. Lease transactions. Unless otherwise agreed in writing by the principals to the lease or property management agreement, as applicable, a licensee shall not be entitled to any part of the

security deposit or to any other money paid to the licensee in connection with any real estate lease as part of the licensee's commission except in accordance with the terms of the lease or the property management agreement, as applicable.

Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant.

3. On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals to the transaction regarding the disbursement of interest.
4. A licensee shall not disburse or cause to be disbursed moneys from an escrow or property management escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.
5. Unless otherwise agreed in writing by all principals to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

C. Actions including improper maintenance of escrow funds include:

1. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement;
2. Commingling the funds of any person by a principal or supervising broker or his employees or associates or any licensee with his own funds, or those of his corporation, firm, or association;
3. Failure to deposit escrow funds in an account or accounts designated to receive only such funds as required by subdivision A 1 of this section;
4. Failure to have sufficient balances in an escrow account or accounts at all times for all funds that are designated to be held by the firm or sole proprietorship as required by this chapter; and
5. Failing, as principal broker, to report to the board within three business days instances where the principal broker reasonably believes the improper conduct of a licensee has caused noncompliance with this section.

Derived from VR585-01-1 §5.3, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

### **18 VAC 135-20-185. Maintenance and management of financial records.**

- A. A complete record of financial transactions conducted under authority of the principal broker's Virginia license shall be maintained in the principal broker's place of business, or in a designated branch office. When the principal broker's office is located outside of Virginia and the firm has a branch office in Virginia, a copy of these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.
- B. The principal broker shall maintain a bookkeeping or record keeping system which shall accurately and clearly disclose full compliance with the requirements outlined in this section. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.
- C. Actions constituting improper record keeping include:
  - 1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing or ratification, if the transaction fails to close, a complete and legible copy of each disclosure of a brokerage relationship, and each executed contract, agreement, and closing statement related to a real estate transaction, in the broker's control or possession, unless prohibited by law;
  - 2. Having received monies on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing or termination of a lease or conclusion of the licensee's involvement in the lease; and
  - 3. Failing, within a reasonable time, to account for or to remit any monies coming into a licensee's possession which belong to others.

#### Historical Notes

Derived from Virginia Register Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-190. Advertising by licensees.**

- A. Definitions. The following definitions apply unless a different meaning is plainly required by the context:

"Advertising" means all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication to consumers for any purpose related to licensed real estate activity.

"Disclosure" in the context of online advertising means (i) advertising that contains the firm's licensed name, the city and state in which the firm's main office is located and the jurisdiction in which the firm holds a license or (ii) advertising that contains the licensee name, the name of the firm with which the licensee is active, the city and state in which the licensee's office is located and the jurisdiction in which the licensee holds a license. "Disclosure" in the context of other advertising means (a) advertising by the firm that contains the firm's licensed name and the firm's address or (b) advertising by an affiliated licensee that contains the licensee's name, the name of the firm with which the licensee is active and the firm's address.

"Institutional advertising" means advertising in which no real property is identified.

"Viewable page" means a page that may or may not scroll beyond the borders of the screen and includes the use of framed pages.

- B. All advertising must be under the direct supervision of the principal broker or supervising broker, in the name of the firm and, when applicable, comply with the disclosure required by [§54.1-2138.1](#) of the Code of Virginia. The firm's licensed name must be clearly and legibly displayed on all advertising.

- C. Online advertising.

1. Any online advertising undertaken for the purpose of any licensed activity is subject to the provisions of this chapter.
2. All online advertising that can be viewed or experienced as a separate unit (i.e., e-mail messages and web pages) must contain disclosure as follows:
  - a. The web. If a firm or licensee owns a webpage or controls its content, the viewable page must include disclosure or a link to disclosure.
  - b. E-mail, newsgroups, discussion lists, bulletin boards. All such formats shall include disclosure at the beginning or end of each

message. The provisions of this subsection do not apply to correspondence in the ordinary course of business.

- c. Instant messages. Disclosure is not necessary in this format if the firm or licensee provided the disclosures via another format prior to providing, or offering to provide, licensed services.
- d. Chat/Internet-based dialogue. Disclosure is required prior to providing, or offering to provide, licensable services during the chat session, or in text visible on the same webpage that contains the chat session if the licensee controls the website hosting the chat session.
- e. Voice Over Net (VON). Disclosure is required prior to advertising or the disclosure text must be visible on the same webpage that contains the VON session.
- f. Banner ads. A link to disclosure is required unless the banner ad contains the disclosure.

3. All online listings advertised must be kept current and consistent as follows:

- a. Online listing information must be consistent with the property description and actual status of the listing. The licensee shall update in a timely manner material changes to the listing status authorized by the seller or property description when the licensee controls the online site.
- b. The licensee shall make timely written requests for updates reflecting material changes to the listing status or property descriptions when a third party online listing service controls the website displaying the listing information.
- c. All listing information shall indicate in a readily visible manner the date that the listing information shown was last updated.

D. The following activities shall be prohibited:

- 1. Implying that property listed by a licensee's firm and advertised by the firm or licensee is for sale, exchange, rent or lease by the owner or by an unlicensed person;
- 2. Failing to include a notice in all advertising that the owner is a real estate licensee if the licensee owns or has any ownership interest in the property advertised and is not using the services of a licensed real estate entity;

3. Failing to include the firm's licensed name on any sign displayed outside each place of business;
4. Failing to obtain the written consent of the seller, landlord, optionor or licensor prior to advertising a specific identifiable property; and
5. Failing to identify the type of services offered when advertising by general description a property not listed by the party making the advertisement.

#### Historical Notes

Derived from VR585-01-1 §5.4, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-200. Repealed.**

#### Historical Notes

Derived from VR585-01-1 §6.1, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; repealed, Virginia Register Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-210. Disclosure of interest.**

If a licensee knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire or is selling or leasing real property through purchase, sale or lease and the licensee is a party to the transaction, the licensee must disclose that information to the owner, purchaser or lessee in writing in the offer to purchase, the application, the offer to lease or lease. This disclosure shall be made to the purchaser, seller or lessee upon having substantive discussions about specific real property.

#### Historical Notes

Derived from VR585-01-1 §6.2, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-220. Disclosure of brokerage relationships.**

- A. Purchase transactions.

1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective buyer or seller who is not the client of the licensee and who is not represented by another licensee and with whom the licensee has substantive discussions about a specific property or properties, the person whom the licensee represents in a brokerage relationship, as that term is defined in §[54.1-2130](#) of the Code of Virginia.
2. Except as otherwise provided in subdivision 3 of this subsection, such disclosure shall be made in writing at the earliest practical time, but in no event later than the time specific real estate assistance is first provided. Any disclosure complying with the provisions of §[54.1-2138](#) A of the Code of Virginia shall be deemed in compliance with this disclosure requirement.
3. A licensee acting as a dual or designated representative shall obtain the written consent of all clients to the transaction at the earliest practical time. Such consent shall be presumed to have been given by a client who signs a disclosure complying with the provisions of §[54.1-2139](#) of the Code of Virginia. Such disclosure shall be given to, and consent obtained from, (i) the buyer not later than the time an offer to purchase is presented to the licensee who will present the offer to the listing agent or seller, and (ii) the seller not later than the time the offer to purchase is presented to the seller.
4. Any disclosure required by this subsection may be given in combination with other disclosures or information, but, if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box or as otherwise provided by §[54.1-2138](#) of the Code of Virginia.

**B. Lease transactions.**

1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective landlord or tenant who is not the client of the licensee and who is not represented by another licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. Such disclosure shall be in writing and included in the application for lease or the lease itself, whichever occurs first. If the terms of the lease do not provide for such disclosure, the disclosure shall be made in writing not later than the signing of the lease.
2. This disclosure requirement shall not apply to lessors or lessees in single or multi-family residential units for lease terms of less than two months.

#### Historical Notes

Derived from VR585-01-1 §6.3, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-230. Repealed.**

#### Historical Notes

Derived from VR585-01-1 §6.4, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; repealed, Virginia Register Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-240. Provision of records to the board.**

Unless otherwise specified by the board, or as set forth in § 54.1-2108 of the Code of Virginia, a licensee of the Real Estate Board shall produce to the board or any of its agents within 10 days of the request any document, book, or record concerning any real estate transaction in which the licensee was involved, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

#### Historical Notes

Derived from VR585-01-1 §6.5, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-250. Response to inquiry of the board.**

A licensee must respond to an inquiry by the board, other than requested under 18 VAC 135-20-240, or its agents within 21 days.

#### Historical Notes

Derived from VR585-01-1 §6.6; Virginia Register Volume 11, Issue 18, eff. June 28, 1995; amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-260. Unworthiness and incompetence.**

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a license by false or fraudulent representation;
2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in this chapter;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Having been convicted or found guilty, regardless of the manner of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt;
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 5 of this section;
7. Having had a license as a real estate broker or real estate salesperson that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction.
8. Failing to inform the board in writing within 30 days of a disciplinary action as stated in subdivision 7 of this section.
9. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968, (82 Stat. 73) or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed;

10. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public; and
11. Engaging in improper, fraudulent, or dishonest conduct.

#### Historical Notes

Derived from VR585-01-1 §6.7, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Errata, 19:14 VA.R. 2176, 2177 March 24, 2003.

#### **18 VAC 135-20-270. Conflict of interest.**

Actions constituting a conflict of interest include:

1. Being active with or receiving compensation from a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;
2. Acting for more than one client in a transaction governed by the provisions of § 54.1-2139 of the Code of Virginia without first obtaining the written consent of all clients;
3. Acting as a standard agent or independent contractor for any client outside the licensee's brokerage firm(s) or sole proprietorship(s).

#### Historical Notes

Derived from VR585-01-1 §6.8, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

#### **18 VAC 135-20-280. Improper brokerage commission.**

Actions resulting in an improper brokerage commission include:

1. Offering to pay or paying a commission or other valuable consideration to any person for acts or services performed in violation of Chapter 21 ([§54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia, or this chapter; provided, however, that referral fees and shared commissions may be paid to any real estate entity licensed in this or another jurisdiction, or to any referral entity in the United

States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;

2. Accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, from any person except the licensee's principal broker at the time of the transaction, for the performance of any of the acts specified in Chapter 21 (§[54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board or related to any real estate transaction, without the consent of that broker. Unless he has notified the broker in writing of the activity or activities to be pursued and obtained the prior written consent of the principal broker, no salesperson or associate broker shall (i) use any information about the property, the transaction or the parties to the transaction, gained as a result of the performance of acts specified in Chapter 21 (§[54.1-2100](#) et seq.) of Title 54.1 of the Code of Virginia or (ii) act as an employee of a company providing real estate settlement services as defined in the Real Estate Settlement Procedures Act (12 USC §2601 et seq.) or pursuant to a license issued by the Commonwealth of Virginia to provide real estate settlement services to clients or customers of the firm;
3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or more principals to the transaction unless such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;
4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;
5. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor; and
6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's client for expenditures made on behalf of that client without the written consent of the client.

#### Historical Notes

Derived from VR585-01-1 §6.9, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May

15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

**18 VAC 135-20-290. Improper dealing.**

Actions constituting improper dealing include:

1. Entering a brokerage relationship that does not (i) specify a definite termination date; (ii) provide a mechanism for determining the termination date; or (iii) is not terminable by the client;
2. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized representative, or on any terms other than those authorized by the owner or the owner's authorized representative;
3. Placing a sign on any property without the consent of the owner of the property or the owner's authorized representative; and
4. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the name of the firm or sole proprietorship.

Historical Notes

Derived from VR585-01-1 §6.10, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-300. Misrepresentation/omission.**

Actions constituting misrepresentation or omission, or both, include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee did in fact have at least that quantity for sale or rent;

2. Failure by a licensee representing a seller or landlord as a standard agent to disclose in a timely manner to a prospective purchaser or tenant all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee;
3. Failing as a licensee to tender promptly to the buyer and seller every written offer, every written counteroffer, and every written rejection to purchase, option or lease obtained on the property involved;
4. Failure by a licensee acting as a standard agent to disclose in a timely manner to the licensee's client all material facts related to the property or concerning the transaction when the failure to so disclose would constitute failure by the licensee to exercise ordinary care as defined in the brokerage agreement;
5. Notwithstanding the provisions of subdivision 4 of this section, a licensee acting as a dual representative shall not disclose to one client represented in the dual representation confidential information relating to the transaction obtained during the representation of another client in the same dual representation unless otherwise provided by law;
6. Failing to include the complete terms and conditions of the real estate transaction, including but not limited to any lease, property management agreement or offer to purchase;
7. Failing to include in any application, lease, or offer to purchase identification of all those holding any deposits;
8. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:
  - a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;
  - b. Changes in terms or extensions of time for any of the items listed in this subdivision 8 whether by renewal, deferment of action, or other means without the prior written consent of the principals to the transaction;
  - c. Acceptance, release, or substitution of security for any of the items listed in subdivision 8 a of this section without the prior written consent of the principals to the transaction;
9. Knowingly making any material misrepresentation or making a material misrepresentation; and
10. Making a false promise through agents, salespersons, advertising, or other means.

Historical Notes

Derived from VR585-01-1 §6.11, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

**18 VAC 135-20-310. Delivery of instruments.**

Actions constituting improper delivery of instruments include:

1. Failing to make prompt delivery to each principal to a transaction, complete and legible copies of any written disclosures required by §§ 54.1-2138 and 54.1-2139 of the Code of Virginia, listings, leases, offers to purchase, counteroffers, addenda, ratified agreements, and other documentation required by the agreement;
2. Failing to provide in a timely manner to all principals to the transaction written notice of any material changes to the transaction;
3. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of monies received by the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of monies received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements; and
4. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.

Historical Notes

Derived from VR585-01-1 §6.12, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999.

**18 VAC 135-20-320. Repealed.**

Historical Notes

Derived from VR585-01-1 §6.12, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff.

May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; repealed, Virginia Register Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-330. Principal and supervising broker's responsibility for acts of licensees and employees.**

Any unlawful act or violation of any of the provisions of Chapter 21, (§ 54.1-2100 et seq.) of Title 54.1 or of Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia or of the regulations of the board by any real estate salesperson, employee, partner or affiliate of a principal broker, supervising broker or both, may not be cause for disciplinary action against the principal broker, supervising broker, or both, unless it appears to the satisfaction of the board that the principal broker, supervising broker, or both, knew or should have known of the unlawful act or violation and failed to take reasonable action under the circumstances to remedy the situation.

Historical Notes

Derived from VR585-01-1 §6.14, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-340. Effect of disciplinary action on subordinate licensees.**

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals active with the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to regulation 18 VAC 135-20-170 B.

Historical Notes

Derived from VR585-01-1 §6.15, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 19, Issue 12, eff. April 1, 2003.

**18 VAC 135-20-345. Effect of disciplinary action on concurrent licenses.**The board shall suspend, revoke or deny renewal of existing concurrent broker licenses when the board suspends, revokes or denies renewal of another broker's license held by the same individual.

Historical Notes

Derived from Virginia Register Volume 24, Issue 11, eff. April 1, 2008.

**PART VI.**

**SCHOOLS.**

**18 VAC 135-20-350. Definitions.**

The following words and terms, when used in this part, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Accredited university, college, community college, or other school or educational institution," as used in § 54.1-2105 B 1 of the Code of Virginia, means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by

the American Association of Collegiate Registrars and Admissions Officers.

"Class hour/clock hour" means 50 minutes.

"Equivalent course" means any course encompassing the basic educational curriculum of Virginia courses and approved by the board.

"Proprietary School" means (i) a privately owned school, (ii) a real estate professional association, or (iii) a related entity, which is not under the authority of the Department of Education, but approved by the Real Estate Board to teach real estate courses.

"Provider" means an accredited university, college, community college, or high school offering adult distributive education courses, or a proprietary school.

#### Historical Notes

Derived from VR585-01-1 §7.1, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999.

#### **18 VAC 135-20-360. Proprietary school standards, instructor qualifications and course requirements.**

- A. Every applicant to the Real Estate Board for a proprietary school certificate shall meet the standards provided in [§54.1-2105](#) of the Code of Virginia.
- B. Every applicant to the Real Estate Board for approval as an instructor for prelicense education shall have one of the following qualifications:
  - 1. Baccalaureate degree, a Virginia real estate broker's license, and two consecutive years of discipline-free active real estate experience immediately prior to application;
  - 2. Five consecutive years of discipline-free active experience acquired in the real estate field immediately prior to application and an active Virginia broker's license; or
  - 3. Expertise in a specific field of real estate with at least three years of active experience in that field. Such applicants will teach only in the area of their expertise and will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicant's expertise.

- C. Every applicant to the Real Estate Board for approval as an instructor for continuing education and postlicense education shall have expertise in a specific field of real estate with at least three years of active experience and will teach only in the area of their expertise. Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference that will verify the applicant's expertise.
- D. Prelicense courses must be acceptable to the board and are required to have a monitored, final written examination. Those schools which propose to offer prelicensing courses (Principles and Practices of Real Estate, Real Estate Brokerage, Real Estate Finance, Real Estate Law or Real Estate Appraisal, etc.) must submit a request, in writing, to the board prior to offering the course(s) and supply the following information:
1. Course content. All Principles and Practices of Real Estate courses must include the 25 topic areas specified in 18 VAC 135-20-400. All requests to offer broker courses must include a course syllabus acceptable to the board;
  2. Name of the course's text and any research materials used for study assignments;
  3. Description of any research assignments;
  4. Copies of test or quizzes;
  5. Information explaining how the "Principles" course will require 60 hours of study, or how each broker related course will require 45 hours of study, in compliance with [§54.1-2105](#) of the Code of Virginia; and
  6. Information about recordkeeping for the type of course delivery.
- E. Providers of continuing education courses shall submit all subjects to the board for approval prior to initially offering the course. Correspondence and other distance learning courses offered by an approved provider must include appropriate testing procedures to verify completion of the course. The board shall approve courses and the number of hours approved for each course based on the relevance of the subject to the performance of the duties set forth in §§[54.1-2100](#) and [54.1-2101](#) of the Code of Virginia.
- F. Approval of prelicense, continuing education and postlicense education courses shall expire on December 31 five years from the year in which the approval was issued, as indicated on the approval document.
- G. All schools must establish and maintain a record for each student. The record shall include: the student's name and address, the course name and clock hours attended, the course syllabus or outline, the name or names of the instructor, the

date of successful completion, and the board's course code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

- H. All schools must provide each student with a certificate of course completion or other documentation that the student may use as proof of course completion. Such documentation shall contain the hours of credit completed.
- I. All providers of continuing education courses shall electronically transmit course completion data to the board in an approved format within five days of the completion of each individual course. The transmittal will include each student's name, license number or social security number; the date of successful completion of the course; the school's code; and the board's code.

#### Historical Notes

Derived from VR585-01-1 §7.2, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-370. Fees.**

- A. The application fee for an original certificate for a proprietary school shall be \$190.
- B. The renewal fee for proprietary school certificates expiring every two years from the last day of the month in which they were issued shall be \$90.
- C. If the requirements for renewal of a proprietary school certificate, including receipt of the fee by the board, are not completed within 30 days of the expiration date noted on the certificate, a reinstatement fee of \$135 is required. A certificate may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the certificate may not be reinstated under any circumstances and the applicant must meet all requirements and apply as a new applicant. If the renewal requirements are not completed within 30 days of the expiration date noted on the proprietary school approval, the proprietary school shall no longer offer board-approved courses.
- D. The application for an original prelicense education instructor certificate shall be \$190.
- E. The renewal fee for a prelicense instructor certificate expiring every two years from the last day of the month in which it was issued shall be \$75.

- F. If the requirements for renewal of an instructor certificate, including receipt of the fee by the board, are not completed within 30 days of the expiration date on the certificate, a reinstatement fee of \$110 is required. A certificate may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the certificate may not be reinstated under any circumstances and the applicant must meet all requirements and apply as a new applicant.
- G. The board in its discretion may deny renewal of a certificate for the same reasons it may deny initial approval.

#### Historical Notes

Derived from VR585-01-1 §7.3, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 14, Issue 6, eff. January 8, 1998; Volume 15, Issue 5, eff. January 1, 1999; Volume 15, Issue 18, eff. July 1, 1999; Volume 19, Issue 12, eff. April 1, 2003; Volume 20, Issue 23, eff. September 1, 2004; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-380. Posting school certificate of approval and instructor certificates.**

Copies of school certificates of approval, and instructor certificates, if applicable, must be available at the location a course is taught.

#### Historical Notes

Derived from VR585-01-1 §7.4, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999.

#### **18 VAC 135-20-390. Withdrawal of approval.**

The board may withdraw approval of any school, course or instructor for the following reasons:

1. The school, instructors, courses, or subjects no longer meet the standards established by the board.
2. The school or instructor solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.
3. The school or instructor distributes to any person copies of examination questions, or otherwise communicates to any person examination questions,

without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

4. The school, through an agent or otherwise, advertises its services in a fraudulent, deceptive or misrepresentative manner.
5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

#### Historical Notes

Derived from VR585-01-1 §7.5, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 24, Issue 11, eff. April 1, 2008.

#### **18 VAC 135-20-400. Course content of real estate principals and practices.**

The following shall be included in the four-semester-hour or six-quarter-hour course which shall not have less than sixty class hours:

1. Economy and social impact of real estate
2. Real estate market and analysis
3. Property rights
4. Contracts
5. Deeds
6. Mortgages and deeds of trust
7. Types of mortgages
8. Leases
9. Liens
10. Home ownership
11. Real property and title insurance
12. Investment
13. Taxes in real estate
14. Real estate financing
15. Brokerage and agency contract responsibilities
16. Real estate marketing
17. Real property management
18. Search, examination and registration of title
19. Title closing
20. Appraisal of residential and income producing property
21. Planning subdivision developments and condominiums
22. Regulatory statutes
23. Housing legislation
24. Fair housing statutes

25. Real Estate Board regulations

Historical Notes

Derived from VR585-01-1 §7.6, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999.

**18 VAC 135-20-410. Broker Courses.**

- A. Brokerage shall be a required specific course with three semester hours or six quarter hours, but not less than 45 class hours, constituting a complete course.
- B. "Related subjects," as referred to in § 54.1-2105 of the Code of Virginia, shall be real estate related and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.
- C. No more than 45 class hours of broker-related courses shall be accepted in lieu of specific broker courses set forth in § 54.1-2105 of the Code of Virginia.
- D. Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course with a cover letter requesting approval.

Historical Notes

Derived from VR585-01-1 §7.7, eff. July 15, 1987; amended, Virginia Register Volume 5, Issue 23, eff. October 1, 1989; Volume 7, Issue 14, eff. May 15, 1991; Volume 8, Issue 13, eff. May 15, 1992; Volume 11, Issue 18, eff. June 28, 1995; Volume 15, Issue 5, eff. January 1, 1999; Volume 19, Issue 12, eff. April 1, 2003.

## NOTICE

Included in this booklet are relevant excerpts from the *Code of Virginia*. Please note that the Virginia General Assembly is responsible for creating and amending the *Code*, not the Real Estate Board. The version contained herein contains all changes, if any, that have been made by the General Assembly through the 2008 session. Any changes made during the 2008 session became effective April 1, 2008, unless otherwise noted. It is your responsibility to stay informed of revisions to the regulations and the statutes governing your profession or occupation. Please consult the General Assembly or your local library for annual changes.

### TITLE 54.1, CHAPTER 21

#### § [54.1-2100](#). Definitions.

As used in this chapter:

"Distance learning" means instruction delivered by an approved provider through a medium other than a classroom setting. Such courses shall be those offered by an accredited university, college, community college, high school offering adult distributive education courses, other school or educational institution, or real estate professional association or related entities.

"Real estate broker" means any person or business entity, including, but not limited to, a partnership, association, corporation or limited liability company, who, for compensation or valuable consideration (i) sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, including units or interest in condominiums, cooperative interest as defined in § [55-426](#), or time-shares in a time-share program even though they may be deemed to be securities, or (ii) leases or offers to lease, or rents or offers for rent, any real estate or the improvements thereon for others.

(Code 1950, § 54-730; 1974, c. 409; 1982, c. 440; 1984, c. 283; 1988, c. 765; 1996, c. 993; 2001, c. 548; 2007, c. 809.)

#### **§ [54.1-2101](#). Real estate salesperson defined.**

For the purposes of this chapter, "real estate salesperson" means any person, or business entity of not more than two persons unless related by blood or marriage, who for compensation or valuable consideration is employed either directly or indirectly by, or affiliated as an independent contractor with, a real estate broker, to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase, sale or exchange of real estate, or to lease, rent or offer for rent any real estate, or to negotiate leases thereof, or of the improvements thereon.

(Code 1950, § 54-731; 1974, c. 685; 1978, c. 138; 1984, c. 201; 1988, c. 765; 1992, c. 84; 1996, c. 993.)

#### **§ [54.1-2101.1](#). Preparation of real estate contracts by real estate licensees.**

Notwithstanding any rule of court to the contrary, any person licensed under this chapter may prepare written contracts for the sale, purchase, option, exchange, or rental of real estate provided the preparation of such contracts is incidental to a real estate transaction in which the licensee (i) is involved and (ii) does not charge a separate fee for preparing the contracts.

(1997, cc. 200, 231.)

#### **§ [54.1-2102](#).**

Repealed by Acts 1992, c. 84.

#### **§ [54.1-2103](#). Exemptions from chapter.**

A. The provisions of this chapter shall not apply to:

1. Any person, partnership, association or corporation, or their regular employees, who as owner or lessor perform any of the acts enumerated in §§ [54.1-2100](#) and [54.1-2101](#) with reference to property owned or leased by them, where the acts are performed in the regular course of or incident to the management of the property and the investment therein;
  2. Any person acting without compensation as attorney-in-fact under a power of attorney issued by a property owner solely for the purpose of authorizing the final performance required of such owner under a contract for the sale, lease, purchase, or exchange of real estate;
  3. Service rendered by an attorney-at-law in the performance of his duties as such;
  4. A person acting as a receiver, trustee in bankruptcy, administrator or executor, or any person selling real estate under order of any court;
  5. A trustee acting under a trust agreement, deed of trust, or will, or the regular salaried employees thereof;
  6. Any corporation managing rental housing when the officers, directors, and members in the ownership corporation and the management corporation are the same and the management corporation manages no other property for other persons, partnerships, associations, or corporations;
  7. Any existing tenant of a residential dwelling unit who refers a prospective tenant to the owner of the unit or to the owner's duly authorized agent or employee and for the referral receives, or is offered, a referral fee from the owner, agent or employee;
  8. Any auctioneer licensed in accordance with Chapter 6 (§ [54.1-600](#) et seq.) of this title selling real estate at public auction when employed for such purpose by the owner of the real estate and provided the bidding at such auction is held open for no longer than forty-eight hours. An auctioneer shall not advertise that he is authorized to sell real estate. An auctioneer may advertise for sale at public auction any real estate when employed to do so as herein provided, and may advertise that he is authorized to auction real estate at public auction.
  9. —Expired.]
- B. The provisions of this chapter shall not prohibit the selling of real estate (i) by an attorney-at-law in the performance of his duties as such, (ii) by a receiver, trustee in bankruptcy, administrator or executor, a special commissioner or any person selling real estate under order of court, or (iii) by a trustee acting under the trust agreement, deed of trust or will, or the regular salaried employees thereof.
- C. The provisions of this chapter shall not apply to any salaried person employed by a licensed real estate broker for and on behalf of the owner of any real estate or the improvements thereon which the licensed broker has contracted to manage for the owner if the actions of such salaried employee are limited to (i) exhibiting residential units on such real estate to prospective tenants, if the employee is employed on the premises of such real estate; (ii) providing prospective tenants with factual information about the lease of residential real estate; (iii) accepting applications for lease of such real estate; and (iv) accepting security deposits and rentals for such

real estate. Such deposits and rentals shall be made payable to the owner or the broker employed by such owner. The salaried employee shall not negotiate the amounts of such security deposits or rentals and shall not negotiate any leases on behalf of such owner or broker.

D. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be construed to require a person to be licensed in accordance with this chapter if he would be otherwise exempt from such licensure.

(Code 1950, § 54-734; 1972, c. 324; 1973, cc. 487, 527; 1975, c. 238; 1980, c. 127; 1982, cc. 633, 682; 1988, c. 765; 1992, c. 84; 1993, cc. 816, 899; 1995, c. 227; 1998, cc. 261, 262.)

**§ 54.1-2104. Real Estate Board; membership; chairman; seal.**

The Real Estate Board shall be composed of nine members as follows: seven members who have been licensed real estate brokers or salespersons for at least five consecutive years before their appointment and two citizen members. For purposes of implementation of these provisions, one licensee and one citizen member of the Board shall be appointed effective July 1, 1992, and one licensee and one citizen member appointed effective July 1, 1994. The terms of Board members shall be four years.

The Board shall elect a chairman from its membership.

The Board shall adopt a seal by which it shall authenticate its proceedings.

(Code 1950, §§ 54-737, 54-738, 54-739, 54-744; 1956, c. 145; 1981, c. 447; 1984, c. 201; 1985, c. 448; 1988, cc. 42, 765; 1992, c. 809.)

**§ 54.1-2105. General powers of Real Estate Board; regulations; educational and experience requirements for licensure.**

A. The Board may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations.

B. The Board shall adopt regulations establishing minimum educational requirements as conditions for licensure. Board regulations relating to initial licensure shall include the following requirements:

1. Every applicant for an initial license as a real estate salesperson shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed a course in the principles of real estate that carried an academic credit of at least four semester hours, but not less than 60 hours of classroom, correspondence, or other distance learning instruction, offered by an accredited university, college, community college, high school offering adult distributive education courses, or other school or educational institution offering an equivalent course.

2. Every applicant for an initial license as a real estate broker shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed not less than 12 semester hours of classroom or correspondence or other distance learning instruction in real estate courses offered by an accredited university, college, community college, or other school or educational institution offering equivalent courses.

C. The Board may waive any requirement under the regulations relating to education or experience when the broker or salesperson is found to have education or experience equivalent to that required. No regulation imposing educational requirements for initial licensure beyond those specified by law shall apply to any person who was licensed prior to July 1, 1975, and who has been continuously licensed since that time, except that licensure as a salesperson prior to such time shall not exempt a salesperson who seeks to be licensed as a broker from the educational requirements established for brokers.

D. The Board shall establish criteria to ensure that prelicensure and broker licensure courses meet the standards of quality deemed by the Board to be necessary to protect the public interests. For correspondence and other distance learning instruction offered by an approved provider, such criteria may include appropriate testing procedures. The Board may establish procedures to ensure the quality of the courses.

Noncollegiate institutions shall not be authorized to grant collegiate semester hours for academic credit.

The specific content of the real estate courses shall be in real estate brokerage, real estate finance, real estate appraisal, real estate law, and such related subjects as are approved by the Board.

(Code 1950, § 54-740; 1974, c. 663; 1977, c. 3; 1980, c. 571; 1981, c. 117; 1984, cc. 201, 283; 1985, c. 116; 1988, cc. 9, 765; 1989, c. 244; 1991, c. 576; 1992, cc. 65, 446, 624, 717; 1995, c. 125; 1996, cc. 890, 903; 1997, c. 389; 1998, c. 268; 2000, c. 759; 2003, cc. 998, 1027; 2006, cc. 61, 627; 2007, c. 809.)

**§ 54.1-2105.01. Educational requirements for all salespersons within one year of licensure.**

A. (Effective July 1, 2008) The Board shall establish guidelines for an educational curriculum of at least 30 hours of classroom, or correspondence or other distance learning, instruction, in specified areas, which shall be required of all salespersons within one year of issuance of a license by the Board. Failure of a new licensee to complete the 30-hour curriculum within one year of obtaining a real estate salesperson's license shall result in the license being placed on inactive status by the Board until the curriculum has been completed.

B. To establish the guidelines required by this section, the Board shall establish an industry advisory group to focus on the following three practice tracks: (i) residential real estate, (ii) commercial real estate, and (iii) property management. The industry advisory group shall consist of licensed real estate salespersons and real estate brokers, and meet at the direction of the Board, at least annually, to update the guidelines in each of the three educational practice tracks. The Board shall review and may approve educational curriculum developed by an approved

school or other provider of real estate education authorized by this chapter. The industry advisory group shall serve at no cost to the Board.

C. The guidelines in each of the three practice tracks for new licensees shall include topics that new licensees need to know in their respective practices, including, but not limited to, contract writing, handling customer deposits, listing property, leasing property, agency, current industry issues and trends, property owners' and condominium association law, landlord-tenant law, Board regulations, and such other topics as designated by the Board. The continuing education requirements of this section for new licensees shall be in lieu of the continuing education requirements otherwise specified in this chapter and Board regulations.

(2007, c. 809.)

**§ 54.1-2105.02. Regulation of real estate education providers and courses.**

A. The Board may regulate any school that is established to offer real estate courses except such schools as are regulated by another state agency. Such authority shall include, but not be limited to, qualification of instructors, approval of course curricula, and requirement that such schools submit evidence of financial responsibility to ensure that these schools protect the public health, safety, and welfare.

B. Board regulations shall include a procedure for processing applications of educational institutions, real estate professional associations, or related entities, to provide continuing education courses, which procedure, at a minimum, shall (i) provide for a broad range of subject matters suitable for the continuing education of licensed professionals in a multifamily residential and commercial office, as well as single-family residential, sales, leasing and property management; (ii) acknowledge, in writing, receipt of such applications within 10 calendar days after receipt; and (iii) provide written notification to the applicant, within 75 calendar days of receipt of the application, whether the application has been approved or disapproved, and if disapproved, the reasons therefor. In addition, the Board shall prepare a comprehensive listing of courses, pre-approved by the Board, related to the professional competency requirements for the multifamily residential and commercial office industries.

Board regulations shall include criteria for evaluating and approving continuing education course credits and for awarding credit hours for such courses, as well as procedures for ensuring the quality of real estate courses. The Board shall approve recommended course titles, content, and hours of continuing education credit developed and published by national professional real estate trade associations, unless the Board determines in writing that such titles, content, or credit hours should not be approved and specifies the reasons therefor.

(2007, c. 809.)

**§ 54.1-2105.03. Continuing education; relicensure of brokers and salespersons.**

A. Board regulations shall include educational requirements as a condition for relicensure of brokers and salespersons to whom active licenses have been issued by the Board beyond those now specified by law as conditions for licensure.

1. (Effective July 1, 2008) Brokers to whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than 24 hours of classroom or correspondence or other distance learning instruction during each licensing term. Of the total 24 hours, the curriculum shall include:

- a. A minimum of eight required hours to include at least three hours of ethics and standards of conduct, two hours of fair housing, and the remaining three hours of legal updates and emerging trends, real estate agency, and real estate contracts;
- b. A minimum of eight hours of courses relating to supervision and management of real estate agents and the management of real estate brokerage firms as are approved by the Board; and
- c. Eight hours of general elective courses as are approved by the Board.

The fair housing requirements shall include an update on current cases and administrative decisions under fair housing laws. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in fair housing shall not be required; instead, such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The Board shall approve a continuing education curriculum of not less than two hours, and as of July 1, 2007, every applicant for relicensure as an active broker shall complete at a minimum one two-hour continuing education course on limited service agency prior to renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Board that certifies that he has taken a two-hour continuing education course on limited service agency between July 1, 2006, and June 30, 2007, offered by a school approved by the Board, which, in the determination of the Board, covered substantially the information in a continuing education course approved by the Board subsequent to July 1, 2007, the licensee may receive credit for the two hours of continuing education. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in limited service agency shall not be required. A licensee who takes one two-hour continuing education class on limited service agency shall satisfy the requirements for continuing education and may but shall not be required to take any further continuing education on limited service agency.

2. Salespersons to whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than 16 hours of classroom or correspondence or other distance learning instruction during each licensing term. Of the total 16 hours, the curriculum shall include:

- a. A minimum of eight required hours to include at least three hours of ethics and standards of conduct, two hours of fair housing, and the remaining three hours of legal updates and emerging trends, real estate agency, and real estate contracts; and
- b. Eight hours of general elective courses as are approved by the Board.

The fair housing requirements shall include an update on current cases and administrative decisions under fair housing laws. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing

term, training in fair housing shall not be required; instead, such licensee shall receive training in other applicable federal and state discrimination laws and regulations.

The Board shall approve a continuing education curriculum of not less than two hours, and as of July 1, 2007, every applicant for relicensure as an active salesperson shall complete at a minimum one two-hour continuing education course on limited service agency prior to renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Board that certifies that he has taken a two-hour continuing education course on limited service agency between July 1, 2006, and June 30, 2007, offered by a school approved by the Board, which, in the determination of the Board, covered substantially the information in a continuing education course approved by the Board subsequent to July 1, 2007, the licensee may receive credit for the two hours of continuing education. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in limited service agency shall not be required. A licensee who takes one two-hour continuing education class on limited service agency shall satisfy the requirements for continuing education and may but shall not be required to take any further continuing education on limited service agency.

3. For correspondence and other distance learning instruction offered by an approved provider, the Board shall establish the appropriate testing procedures to verify completion of the course and require the licensee to file a notarized affidavit certifying compliance with the course requirements. The Board may establish procedures to ensure the quality of the courses. The Board shall not require testing for continuing education courses completed through classroom instruction.

B. Every applicant for relicensure as an active salesperson or broker shall complete the continuing education requirements prior to each renewal or reinstatement of his license. The continuing education requirement shall also apply to inactive licensees who make application for an active license. Notwithstanding this requirement, military personnel called to active duty in the armed forces of the United States may complete the required continuing education within six months of their release from active duty.

(2007, c. 809.)

**§ [54.1-2105.04](#). Education requirements; reactivation of licenses; waiver.**

A. Board regulations shall include remedial educational requirements for any salesperson or broker who has been inactive for more than three years. The regulations shall require the applicant to meet the educational requirements for a salesperson or broker in effect at the time either becomes active.

B. When the license has been inactive for more than three years, the Board may waive the educational requirements for reactivation of a license under the following conditions: (i) during the time the license has been inactive, the holder of such inactive license has been engaged in an occupation whereby the knowledge of real estate would be retained or (ii) the holder of such license is a member or the spouse of a member of the armed forces of the United States who has been permanently assigned outside Virginia for a portion of the time the license has been

inactive, and the holder of the inactive license remained current in the field of real estate and demonstrates this fact to the satisfaction of the Board.

C. The Board or its agent shall require proof of identity prior to an applicant taking the state examination.

(2007, c. 809.)

**§ [54.1-2105.1](#). Other powers and duties of the Real Estate Board.**

In addition to the provisions of §§ [54.1-2105.01](#) through [54.1-2105.04](#), the Board shall:

1. Administer the provisions of Chapter 29 (§ [55-528](#) et seq.) of Title 55;
2. Develop and disseminate an association annual report form for use in accordance with §§ [55-79.93:1](#), [55-504.1](#), and [55-516.1](#);
3. Develop a residential property disclosure statement form for use in accordance with the provisions of Chapter 27 (§ [55-517](#) et seq.) of Title 55; and
4. Develop and disseminate a one-page form to accompany association disclosure packets required pursuant to § [55-512](#), which form shall summarize the unique characteristics of property owners' associations generally and shall make known to prospective purchasers the unusual and material circumstances affecting a lot owner in a property owners' association, including, but not limited to, the obligation of a lot owner to pay regular annual or special assessments to the association, and the penalty for failure or refusal to pay such assessments; the purposes for which such assessments may be used; and the importance the declaration of restrictive covenants and other governing documents play in association living.

(1993, c. 958; 2000, c. 759; 2007, cc. 265, 809.)

**§ [54.1-2105.2](#). Cease and desist orders for unlicensed activity; civil penalty.**

A. Notwithstanding any other provision of law, the Board may issue an order requiring any person to cease and desist from acting as a real estate broker or salesperson when such person is not licensed by the Board in accordance with this chapter. The order shall be effective upon its entry and shall become final unless such person files an appeal with the Board in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) within 21 days of the date of entry of the order.

B. If the person fails to cease and desist the unlicensed activity after entry of an order in accordance with subsection A, the Board may refer the matter for enforcement pursuant to § [54.1-306](#).

C. Any person engaging in unlicensed activity shall be subject to further proceedings before the Board and the Board may impose a civil penalty not to exceed \$1,000 for any real estate transaction or the compensation received from any such real estate transaction, whichever is greater. Any penalties collected under this section shall be paid to the Literary Fund after deduction of the administrative costs of the Board in furtherance of this section.

(2005, c. 437.)

§ [54.1-2106](#).

Repealed by Acts 1996, c. 993.

§ [54.1-2106.1](#). **Licenses required.**

A. No business entity, other than a sole proprietorship, shall act, offer to act, or advertise to act, as a real estate firm without a real estate firm license from the Board. Such firm may be granted a license in a fictitious name. No business entity shall be granted a firm license unless (i) every member or officer who actively participates in the firm brokerage business holds a license as a real estate broker and (ii) every employee or independent contractor who acts as a salesperson for such business entity holds a license as a real estate salesperson or broker. An individual holding a broker's license may operate a real estate brokerage firm which he owns as a sole proprietorship without any further licensure by the Board, although such individual shall not operate in a fictitious name. A non-broker-owned sole proprietorship shall obtain a license from the Board.

B. No individual shall act as a broker without a real estate broker's license from the Board. An individual who holds a broker's license may act as a salesperson for another broker. A broker acting as a salesperson may be an owner, member, or officer of a business entity salesperson as defined in subsection C.

C. No individual shall act as a salesperson without a salesperson's license from the Board. A business entity may act as a salesperson with a separate business entity salesperson's license from the Board. No business entity shall be granted a business entity salesperson's license unless every owner or officer who actively participates in the brokerage business of such entity holds a license as a salesperson or broker from the Board. The Board shall establish standards in its regulations for the names of business entity salespersons when more than one licensee is an owner or officer.

(1996, c. 993; 1998, c. 265; 1999, cc. 82, 105.)

§ [54.1-2107](#). **Certain action to constitute real estate broker or salesperson.**

One act for compensation or valuable consideration of buying or selling real estate of or for another, or offering for another to buy or sell or exchange real estate, or leasing, or renting, or offering to rent real estate, except as specifically excepted in § [54.1-2103](#), shall constitute the person, firm, partnership, copartnership, association or corporation, performing, offering or attempting to perform any of the acts enumerated above, a real estate broker or real estate salesperson.

(Code 1950, § 54-732; 1984, c. 201; 1988, c. 765.)

§ [54.1-2108](#). **Protection of escrow funds, etc., held by broker.**

No licensee or any agent of the licensee shall divert or misuse any funds held in escrow or otherwise held by him for another. Where escrow funds or other funds are held by the licensee or his agents and the Real Estate Board or its agents have reason to believe that the licensee is not able to adequately protect the interests of persons involved, or his conduct threatens their interests, the Board shall file a petition with any court of record having equity jurisdiction over the licensee or any of the funds held by him stating the facts upon which it relies. The court may temporarily enjoin further activity by the licensee and take such further action as shall be necessary to conserve, protect and disburse the funds involved, including the appointment of a receiver. If a receiver is appointed his expenses and a reasonable fee as determined by the court shall be paid by the licensee. If the court finds him unable to make such payment, the Board shall determine whether the expenses and fees shall be paid from the Virginia Real Estate Transaction Recovery Fund or from funds received by the Board. Such determination shall be made within thirty days of the Board's receipt of the court-approved receiver invoices. If the court finds that the licensee was without fault and that he is found not to have violated any provisions of this chapter or of the regulations of the Board, then the receiver's expenses and fees shall be paid by the Board. Such payments shall be paid from funds received by the Board.

(1973, c. 487, § 54-764.5; 1988, c. 765; 1997, c. 82; 1998, c. 29.)

**§ [54.1-2109](#). Death or disability of a broker.**

Upon the death or disability of a licensed real estate broker who was engaged in a proprietorship or who was the only licensed broker in a corporation or partnership, the estate, an adult family member, or an employee of the licensee may be granted approval by the Real Estate Board to carry on the business of the deceased or disabled broker for 180 days following the death or disability of the broker solely for the purpose of concluding the business of the deceased or disabled broker. In the event no such person is available or suitable, the Board may appoint any other suitable person to terminate the business within 180 days.

(1984, c. 283, § 54-731.3; 1988, c. 765.)

**§ [54.1-2110](#). Resident broker to maintain place of business in Virginia.**

Every resident real estate broker shall maintain a place of business in this Commonwealth.

(Code 1950, § 54-733; 1981, c. 34; 1988, c. 765.)

**§ [54.1-2111](#). Consent to suits and service of process by nonresidents; manner of service.**

A. Every nonresident applicant shall file with the Real Estate Board an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county or city of this Commonwealth in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this Commonwealth on the Director of the Department of Professional and Occupational Regulation. The consent shall stipulate that such service of process or pleadings on the Director shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant in the Commonwealth of Virginia.

B. Any process or pleadings served upon the Director shall be filed by the Director in his office and a copy thereof immediately forwarded by registered mail to the main office of the licensee at the last known address.

(Code 1950, §§ 54-773, 54-774; 1988, c. 765; 1993, c. 499.)

**§ [54.1-2112](#). Definitions.**

As used in this article, unless the context requires a different meaning:

"Act" means the Virginia Real Estate Transaction Recovery Act.

"Balance of the fund" means cash, securities that are legal investments for fiduciaries under the provisions of subdivisions (1), (2), and (4) of § [26-40](#), and repurchase agreements secured by obligations of the United States government or any agency thereof, and shall not mean accounts receivable, judgments, notes, accrued interest, or other obligations payable to the fund.

"Board" means the Real Estate Board.

"Claimant" means any person with an unsatisfied judgment against a regulant, who has filed a verified claim under this act.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Fund" means the Virginia Real Estate Transaction Recovery Fund.

"Improper or dishonest conduct" includes only the wrongful and fraudulent taking or conversion of money, property or other things of value or material misrepresentation or deceit.

"Regulant" means a person, partnership, association, corporation, agency, firm or any other entity licensed by the Real Estate Board as a real estate broker or real estate salesperson.

(1977, c. 69, § 54-765.2; 1984, cc. 266, 283; 1985, c. 448; 1987, c. 555; 1988, c. 765; 1992, c. 348; 1993, c. 499.)

**§ [54.1-2113](#). Establishment and maintenance of fund, duty of Director, assessments of regulants.**

A. Each initial regulant at the time of licensure shall be assessed twenty dollars, which shall be specifically assigned to the fund. Initial payments may be incorporated in any application fee payment and transferred to the fund by the Director within thirty days.

B. All assessments, except initial assessments, for the fund shall be deposited, within three work days after their receipt by the Director, in one or more federally insured banks, savings and loan associations or savings banks located in the Commonwealth. Funds deposited in banks, savings and loan associations or savings banks, to the extent in excess of insurance afforded by the Federal Deposit Insurance Corporation or other federal insurance agency, shall be secured under the Security for Public Deposits Act (§ [2.2-4400](#) et seq.). The deposit of these funds in federally insured banks, savings institutions or savings banks located in the Commonwealth shall not be

considered investment of such funds for purposes of this section. Funds maintained by the Director may be invested in securities that are legal investments for fiduciaries under the provisions of § [26-40.01](#). The Director shall maintain in his office an accurate record of all transactions involving the fund, which records shall be open for inspection and copying by the public during the normal business hours of the Director.

C. The minimum balance of the fund shall be \$400,000. Whenever the Director determines that the balance of the fund is or will be less than such minimum balance, the Director shall immediately inform the Board. At the same time, the Director may recommend that the Board transfer a fixed amount of interest earnings to the fund to bring the balance of the fund to the amount required by this subsection. Such transfer of interest shall be considered by the Board within thirty days of the notification of the Director.

D. If available interest earnings are insufficient to bring the balance of the fund to the minimum amount required by this section, or if a transfer of available interest earnings to the fund has not occurred, the Board shall assess each regulant within thirty days of notification by the Director, a sum sufficient to bring the balance of the fund to the required minimum amount. The Board may order an assessment of regulants at any time in addition to any required assessment. No regulant shall be assessed a total amount of more than twenty dollars during any biennial license period or part thereof, the biennial period expiring on June 30 of each even-numbered year. Assessments of regulants made pursuant to this subsection may be issued by the Board (i) after a determination made by it or (ii) at the time of license renewal.

E. At the close of each fiscal year, whenever the balance of the fund exceeds \$2,000,000, the amount in excess of \$2,000,000 shall be transferred to the Virginia Housing Partnership Revolving Fund. Except for transfers pursuant to this subsection, there shall be no transfers out of the fund, including transfers to the general fund, regardless of the balance of the fund.

F. If the Board determines that all regulants will be assessed concurrently, notice to the regulants of such assessments shall be by first-class mail, and payment of such assessments shall be made by first-class mail to the Director within forty-five days after the mailing to regulants of such notice.

If the Board determines that all regulants will be assessed in conjunction with license renewal, notice to the regulants may be included with the license renewal notice issued by the Board. The assessment shall be due with the payment of the license renewal fees. No license shall be renewed or reinstated until any outstanding assessments are paid.

G. If any regulant fails to remit the required payment mailed in accordance with subsection F within forty-five days of the mailing, the Director shall notify the regulant by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within thirty days after mailing the second notice, the license shall be automatically suspended. The license shall be restored only upon the actual receipt by the Director of the delinquent assessment.

H. The costs of administering the act shall be paid out of interest earned on deposits constituting the fund. The remainder of the interest, at the discretion of the Board, may (i) be used for

providing research and education on subjects of benefit to real estate regulants or members of the public, (ii) be transferred to the Virginia Housing Partnership Revolving Fund, or (iii) accrue to the fund in accordance with subsection C.

(1977, c. 69, § 54-765.3; 1982, c. 6; 1984, c. 266; 1987, c. 555; 1988, c. 765; 1990, c. 3; 1992, cc. 348, 810; 1997, c. 82; 2007, c. 791.)

**§ [54.1-2114](#). Recovery from fund generally.**

A. Whenever any person is awarded a final judgment in any court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity for improper or dishonest conduct as defined in the act, and the improper or dishonest conduct occurred during a period when the individual or entity was a regulant and occurred in connection with a transaction involving the sale, lease, or management of real property by the regulant acting in the capacity of a real estate broker or real estate salesperson and not in the capacity of a principal, or on his own account, the person to whom such judgment was awarded may file a verified claim with the Director for a directive ordering payment from the fund of the amount unpaid upon the judgment, subject to the following conditions:

1. If any action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board in the manner prescribed by law. Included in such service shall be an affidavit stating all acts constituting improper or dishonest conduct. The provisions of § [8.01-288](#) shall not be applicable to the service of process required by this subdivision.
2. A copy of any pleading or document filed subsequent to the initial service of process in the action against a regulant shall be provided to the Board. The claimant shall submit such copies to the Board by certified mail, or the equivalent, upon his receipt of the pleading or document.
3. For judgments entered on or after July 1, 1996, the verified claim shall be filed with the Director no later than twelve months after the judgment becomes final.
4. The claimant shall not himself be (i) a regulant, (ii) the personal representative of a regulant, (iii) the spouse or child of the regulant against whom the judgment was awarded, nor the personal representative of such spouse or child, or (iv) any lending or financial institution nor anyone whose business involves the construction or development of real property.
5. The claimant shall have made an investigation to determine whether or not the judgment debtor is possessed of real or personal property or other assets which are available to be sold or otherwise applied in satisfaction of the judgment and shall file an affidavit that an investigation has been made. Satisfactory evidence of the results of subdivision 6 below shall be submitted with this affidavit.
6. The investigation shall include but shall not be limited to (i) the conducting of debtor interrogatories and (ii) the investigation of any listings held by the regulant and any commissions due thereby.
7. The investigation shall not have disclosed such real or personal property or other assets available to be so sold or applied, or the investigation shall have disclosed certain of such assets,

which shall be described in detail, and the claimant shall have taken all legally available actions and proceedings for such sale or application, and the amount so realized shall have been insufficient to satisfy the judgment, which amount shall be stated together with the balance remaining due on the judgment after the sale or application.

8. If the judgment debtor has filed bankruptcy, the claimant shall file with the proper bankruptcy court a complaint under 11 U.S.C. § 523 (a) and obtain an order determining dischargeability of the debt.

B. The Department shall promptly consider the application, affidavit, and investigation of the claim. If it appears that a prima facie case has been made for payment of the claim, the Department shall provide the regulant with a notice offering the opportunity to be heard at an informal fact-finding conference pursuant to § [2.2-4019](#) of the Administrative Process Act (§ [2.2-4000](#), et seq.). Such notice shall state that if the regulant does not request an informal fact-finding conference within 30 days, with three days added in instances where the notice is sent by mail, the Department shall present the claim to the Board with a recommendation to pay the verified claim.

C. If the Board finds that there has been compliance with the statutory conditions to which reference is made in this section, the Board shall issue a directive ordering payment to the claimant from the fund the amount unpaid on the judgment, subject to the limitations set forth in § [54.1-2116](#). The claimant shall be notified in writing of the findings of the Board. The Board's findings shall be considered a "case decision" and judicial review of these findings shall be in accordance with § [2.2-4025](#) of the Administrative Process Act (§ [2.2-4000](#) et seq.). Notwithstanding any other provision of law, the Board shall have the right to appeal a decision of any court which is contrary to any distribution recommended or authorized by it.

(1977, c. 69, § 54-765.4; 1984, c. 266; 1987, c. 555; 1988, c. 765; 1996, c. 115; 2006, c. 723.)

#### **§ [54.1-2115](#). Investigations.**

Upon receipt of the notice of proceedings against the regulant the Board may cause its own investigation to be conducted.

(1987, c. 555, § 54-765.4:1; 1988, c. 765.)

#### **§ [54.1-2116](#). Limitations upon recovery from fund; certain actions not a bar to recovery.**

A. The aggregate of claims by claimants against the fund based upon unpaid judgments arising out of the improper or dishonest conduct of one regulant in connection with a single transaction involving the sale, lease, or management of real property, is limited to \$50,000. If a claim has been made against the fund, and the Board has reason to believe that there may be additional claims against the fund arising out of the same transaction, the Board may withhold any payment(s) from the fund for a period of not more than one year. After such one-year period, if the aggregate of claims arising out of the same transaction exceeds \$50,000, such \$50,000 shall be prorated by the Board among the claimants and paid from the fund in proportion to the amounts of their judgments against the regulant remaining unpaid.

B. The maximum claim of one claimant against the fund based upon an unpaid judgment arising out of the improper or dishonest conduct of one regulant in connection with a single transaction involving the sale, lease, or management of real property, shall be limited to \$20,000, regardless of the number of claimants and regardless of the amount of the unpaid judgment of the claimant.

C. The aggregate of claims against the fund based upon unpaid judgments arising out of the improper or dishonest conduct of one regulant in connection with more than a single transaction involving the sale, lease, or management of real property is limited to \$100,000 during any biennial license period, the biennial periods expiring on June 30 of each even-numbered year. If a claim has been made against the fund, and the Board has reason to believe that there may be additional claims against the fund from other transactions involving the same regulant, the Board may withhold any payment(s) from the fund involving such regulant for a period of not more than one year. After the one-year period, if the aggregate of claims against the regulant exceeds \$100,000, such \$100,000 shall be prorated by the Board among the claimants and paid from the fund in proportion to the amounts of their judgments against the regulant remaining unpaid.

D. Excluded from the amount of any unpaid judgment upon which a claim against the fund is based shall be any sums included in the judgment which represent interest, or punitive or exemplary damages. The claim against the fund may include court costs and attorneys' fees.

E. If, at any time, the amount of the fund is insufficient to satisfy any claims, claim, or portion thereof filed with the Board and authorized by the act, the Board shall, when the amount of the fund is sufficient to satisfy some or all of such claims, claim, or portion thereof, pay the claimants in the order that such claims were filed with the Board.

F. Failure of a claimant to comply with the provisions of subdivisions 1 and 2 of subsection A of § [54.1-2114](#) and the provisions of § [54.1-2117](#) shall not be a bar to recovery under this act if the claimant is otherwise entitled to such recovery.

(1977, c. 69, § 54-765.5; 1987, c. 555; 1988, c. 765.)

**§ [54.1-2117](#). Participation by Board in proceedings.**

Upon service of process as provided in subdivision A 1 of § [54.1-2114](#), the Board, the Director, or duly authorized representatives of the Board, shall then have the right to request leave of court to intervene.

(1977, c. 69, § 54-765.6; 1987, c. 555; 1988, c. 765.)

**§ [54.1-2118](#). Payment of claim; assignment of claimant's rights to Board.**

The Director shall, subject to the provisions of § [54.1-2116](#), pay to the claimant from the fund such amount as shall be directed by the Board upon the execution and delivery to the Director by such claimant of an assignment to the Board of the claimant's rights against the regulant to the extent that such rights were satisfied from the fund.

(1977, c. 69, § 54-765.7; 1987, c. 555; 1988, c. 765.)

**§ [54.1-2119](#). Revocation of license of regulant upon payment from fund.**

Upon payment by the Director to a claimant from the fund as provided in § [54.1-2118](#), the Board shall immediately revoke the license of the regulant whose improper or dishonest conduct, as defined in the act, resulted in payment from the fund. The regulant whose license was so revoked shall not be eligible to apply for a license as a real estate broker or real estate salesperson until he has repaid in full the amount paid from the fund on his account, plus interest at the judgment rate of interest from the date of payment from the fund.

(1977, c. 69, § 54-765.8; 1984, c. 266; 1987, c. 555; 1988, c. 765.)

**§ [54.1-2120](#). No waiver by Board of disciplinary action against regulant.**

Nothing contained in this article shall limit the authority of the Board to take disciplinary action against any regulant for any violation of this chapter or Board regulations, nor shall the repayment in full by a regulant of the amount paid from the fund on such regulant's account nullify or modify the effect of any disciplinary proceeding against such regulant for any such violation.

(1977, c. 69, § 54-765.9; 1978, c. 129; 1987, c. 555; 1988, c. 765.)

**§ [54.1-2130](#). Definitions.**

As used in this article:

"Agency" means every relationship in which a real estate licensee acts for or represents a person by such person's express authority in a real estate transaction, unless a different legal relationship is intended and is agreed to as part of the brokerage relationship. Agency includes representation of a client as a standard agent or a limited service agent. Nothing in this article shall prohibit a licensee and a client from agreeing in writing to a brokerage relationship under which the licensee acts as an independent contractor or which imposes on a licensee obligations in addition to those provided in this article. If a licensee agrees to additional obligations, however, the licensee shall be responsible for the additional obligations agreed to with the client in the brokerage agreement. A real estate licensee who enters into a brokerage relationship based upon a written brokerage agreement that specifically states that the real estate licensee is acting as an independent contractor and not as an agent shall have the obligations agreed to by the parties in the brokerage agreement, and such real estate licensee and its employees shall have no obligations under §§ [54.1-2131](#) through [54.1-2135](#) of this article.

"Brokerage agreement" means the agreement by which a real estate licensee represents a client in a brokerage relationship.

"Brokerage relationship" means the contractual relationship between a client and a real estate licensee who has been engaged by such client for the purpose of procuring a seller, buyer, option, tenant, or landlord ready, able, and willing to sell, buy, option, exchange or rent real estate on behalf of a client.

"Client" means a person who has entered into a brokerage relationship with a licensee.

"Common source information company" means any person, firm, or corporation that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

"Customer" means a person who has not entered into a brokerage relationship with a licensee but for whom a licensee performs ministerial acts in a real estate transaction. Unless a licensee enters into a brokerage relationship with such person, it shall be presumed that such person is a customer of the licensee rather than a client.

"Designated agent" or "designated representative" means a licensee who has been assigned by a principal or supervising broker to represent a client when a different client is also represented by such principal or broker in the same transaction.

"Dual agent" or "dual representative" means a licensee who has a brokerage relationship with both seller and buyer, or both landlord and tenant, in the same real estate transaction.

"Licensee" means real estate brokers and salespersons as defined in Article 1 (§ [54.1-2100](#) et seq.) of Chapter 21 of this title.

"Limited service representative" means a licensee who acts for or represents a client with respect to real property containing from one to four residential units, pursuant to a brokerage agreement that provides that the limited service representative will not provide one or more of the duties set forth in subdivision A 2 of §§ [54.1-2131](#), [54.1-2132](#), [54.1-2133](#), and [54.1-2134](#), inclusive. A limited service representative shall have the obligations set out in the brokerage agreement, except that a limited service representative shall provide the client, at the time of entering the brokerage agreement, copies of any and all disclosures required by federal or state law, or local disclosures expressly authorized by state law, and shall disclose to the client the following in writing: (i) the rights and obligations of the client under the Virginia Residential Property Disclosure Act (§ [55-517](#) et seq.); (ii) if the client is selling a condominium, the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the condominium resale certificate required by § [55-79.97](#); and (iii) if the client is selling a property subject to the Property Owners' Association Act (§ [55-508](#) et seq.), the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the association disclosure packet required by § [55-512](#). A limited service representative may act as the agent or representative of the client only by so providing in writing in the brokerage agreement. If the brokerage agreement does not so state, the limited service representative shall be deemed as acting as an independent contractor of the client.

"Ministerial acts" means those routine acts which a licensee can perform for a person which do not involve discretion or the exercise of the licensee's own judgment.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in this article and any additional obligations agreed to by the parties in the brokerage agreement.

(1995, cc. 741, 813; 2006, c. 627.)

**§ [54.1-2131](#). Licensees engaged by sellers.**

A. A licensee engaged by a seller shall:

1. Perform in accordance with the terms of the brokerage relationship;
2. Promote the interests of the seller by:
  - a. Conducting marketing activities on behalf of the seller in accordance with the brokerage agreement. In so doing, the licensee shall seek a sale at the price and terms agreed upon in the brokerage relationship or at a price and terms acceptable to the seller; however, the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract of sale, unless agreed to as part of the brokerage relationship or as the contract of sale so provides;
  - b. Assisting in the drafting and negotiating of offers and counteroffers, amendments, and addenda to the real estate contract pursuant to § [54.1-2101.1](#) and in establishing strategies for accomplishing the seller's objectives;
  - c. Receiving and presenting in a timely manner written offers and counteroffers to and from the seller and purchasers, even when the property is already subject to a contract of sale; and
  - d. Providing reasonable assistance to the seller to satisfy the seller's contract obligations and to facilitate settlement of the purchase contract.
3. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the seller consents in writing to the release of such information;
4. Exercise ordinary care;
5. Account in a timely manner for all money and property received by the licensee in which the seller has or may have an interest;
6. Disclose to the seller material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and
7. Comply with all requirements of this article, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this article.

B. Licensees shall treat all prospective buyers honestly and shall not knowingly give them false information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. As used in this section, the term "physical condition of the property" shall refer to the physical condition of the land and any improvements thereon, and shall not refer to: (i) matters outside the boundaries of the land or relating to adjacent or other properties in proximity thereto, (ii) matters relating to governmental land use regulations, and (iii) matters relating to

highways or public streets. Such disclosure shall be conspicuous and printed either in bold lettering or all capitals, and shall be underlined or in a separate box. A licensee shall not be liable to a buyer for providing false information to the buyer if the false information was provided to the licensee by the seller or was obtained from a governmental entity or from a person licensed, certified, or registered to provide professional services in the Commonwealth, upon which the licensee relies, and the licensee did not (i) have actual knowledge that the information was false or (ii) act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law. Nothing in this article shall limit in any way the provisions of the Virginia Residential Property Disclosure Act (§ [55-517](#) et seq.).

C. A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a buyer or potential buyer by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate the licensee's brokerage relationship with the seller unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage or agency relationship with such buyer or potential buyer.

D. A licensee engaged by a seller does not breach any duty or obligation owed to the seller by showing alternative properties to prospective buyers, whether as clients or customers, or by representing other sellers who have other properties for sale.

E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.

(1995, cc. 741, 813; 2006, c. 627.)

**§ [54.1-2132](#). Licensees engaged by buyers.**

A. A licensee engaged by a buyer shall:

1. Perform in accordance with the terms of the brokerage relationship;

2. Promote the interests of the buyer by:

a. Seeking a property of a type acceptable to the buyer and at a price and on terms acceptable to the buyer; however, the licensee shall not be obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase property unless agreed to as part of the brokerage relationship;

b. Assisting in the drafting and negotiating of offers and counteroffers, amendments, and addenda to the real estate contract pursuant to § [54.1-2101.1](#) and in establishing strategies for accomplishing the buyer's objectives;

c. Receiving and presenting in a timely manner all written offers or counteroffers to and from the buyer and seller, even when the buyer is already a party to a contract to purchase property; and

d. Providing reasonable assistance to the buyer to satisfy the buyer's contract obligations and to facilitate settlement of the purchase contract.

3. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the buyer consents in writing to the release of such information;

4. Exercise ordinary care;

5. Account in a timely manner for all money and property received by the licensee in which the buyer has or may have an interest;

6. Disclose to the buyer material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

7. Comply with all requirements of this article, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this article.

B. Licensees shall treat all prospective sellers honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law. In the case of a residential transaction, a licensee engaged by a buyer shall disclose to a seller whether or not the buyer intends to occupy the property as a principal residence. The buyer's expressions of such intent in the contract of sale shall satisfy this requirement and no cause of action shall arise against any licensee for the disclosure or any inaccuracy in such disclosure, or the nondisclosure of the buyer in this regard.

C. A licensee engaged by a buyer in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to the seller, or prospective seller, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate the licensee's brokerage relationship with the buyer unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such seller.

D. A licensee engaged by a buyer does not breach any duty or obligation to the buyer by showing properties in which the buyer is interested to other prospective buyers, whether as clients or customers, by representing other buyers looking at the same or other properties, or by representing sellers relative to other properties.

E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.

(1995, cc. 741, 813; 2006, c. 627.)

**§ 54.1-2133. Licensees engaged by landlords to lease property.**

A. A licensee engaged by a landlord shall:

1. Perform in accordance with the terms of the brokerage relationship;

2. Promote the interests of the landlord by:

a. Conducting marketing activities on behalf of the landlord pursuant to the brokerage agreement with the landlord. In so doing, the licensee shall seek a tenant at the rent and terms agreed in the brokerage relationship or at a rent and terms acceptable to the landlord; however, the licensee shall not be obligated to seek additional offers to lease the property while the property is subject to a lease or a letter of intent to lease under which the tenant has not yet taken possession, unless agreed as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

b. Assisting the landlord in drafting and negotiating leases and letters of intent to lease, and presenting in a timely manner all written leasing offers or counteroffers to and from the landlord and tenant pursuant to § [54.1-2101.1](#), even when the property is already subject to a lease or a letter of intent to lease; and

c. Providing reasonable assistance to the landlord to finalize the lease agreement.

3. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the landlord consents in writing to the release of such information;

4. Exercise ordinary care;

5. Account in a timely manner for all money and property received by the licensee in which the landlord has or may have an interest;

6. Disclose to the landlord material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

7. Comply with all requirements of this article, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this article.

B. Licensees shall treat all prospective tenants honestly and shall not knowingly give them false information. A licensee engaged by a landlord shall disclose to prospective tenants all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. As used in this section, the term "physical condition of the property" shall refer to the physical condition of the land and any improvements thereon, and shall not refer to: (i) matters outside the boundaries of the land or relating to adjacent or other properties in proximity thereto, (ii) matters relating to governmental land use regulations, and (iii) matters relating to highways or public streets. Such disclosure shall be conspicuous and printed either in bold lettering or all capitals, and shall be underlined or in a separate box. A licensee shall not be liable to a tenant for providing false information to the tenant if the false information was provided to the licensee by the landlord or was obtained from a governmental entity or from a person licensed, certified, or registered to provide professional services in the Commonwealth, upon which the licensee relies, and the licensee did not (i) have actual knowledge that the information was false or (ii) act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law. Nothing in this

subsection shall limit the right of a prospective tenant to inspect the physical condition of the property.

C. A licensee engaged by a landlord in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a tenant, or potential tenant, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate the licensee's brokerage relationship with the landlord unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such tenant or potential tenant.

D. A licensee engaged by a landlord does not breach any duty or obligation owed to the landlord by showing alternative properties to prospective tenants, whether as clients or customers, or by representing other landlords who have other properties for lease.

E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.

(1995, cc. 741, 813; 2006, c. 627.)

**§ [54.1-2134](#). Licensees engaged by tenants.**

A. A licensee engaged by a tenant shall:

1. Perform in accordance with the terms of the brokerage relationship;

2. Promote the interests of the tenant by:

a. Seeking a lease at a rent and with terms acceptable to the tenant; however, the licensee shall not be obligated to seek other properties for the tenant while the tenant is a party to a lease or a letter of intent to lease exists under which the tenant has not yet taken possession, unless agreed to as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

b. Assisting in the drafting and negotiating of leases, letters of intent to lease, and rental applications, and presenting, in a timely fashion, all written offers or counteroffers to and from the tenant and landlord pursuant to § [54.1-2101.1](#), even when the tenant is already a party to a lease or a letter of intent to lease;

c. Providing reasonable assistance to the tenant to finalize the lease agreement.

3. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the tenant consents in writing to the release of such information;

4. Exercise ordinary care;

5. Account in a timely manner for all money and property received by the licensee in which the tenant has or may have an interest;

6. Disclose to the tenant material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

7. Comply with all requirements of this article, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this article.

B. Licensees shall treat all prospective landlords honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this article or applicable law.

C. A licensee engaged by a tenant in a real estate transaction may provide assistance to the landlord or prospective landlord by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection A shall not be construed to violate the licensee's brokerage relationship with the tenant unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the landlord or prospective landlord.

D. A licensee engaged by a tenant does not breach any duty or obligation to the tenant by showing properties in which the tenant is interested to other prospective tenants, whether as clients or customers, by representing other tenants looking for the same or other properties to lease, or by representing landlords relative to other properties.

E. Licensees shall disclose brokerage relationships pursuant to the provisions of this article.

(1995, cc. 741, 813; 2006, c. 627.)

**§ 54.1-2135. Licensees engaged to manage real estate.**

A. A licensee engaged to manage real estate shall:

1. Perform in accordance with the terms of the property management agreement;

2. Exercise ordinary care;

3. Disclose in a timely manner to the owner material facts of which the licensee has actual knowledge concerning the property;

4. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the owner consents in writing to the release of such information;

5. Account for, in a timely manner, all money and property received in which the owner has or may have an interest; and

6. Comply with all requirements of this article, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this article.

B. Except as provided in the property management agreement, a licensee engaged to manage real estate does not breach any duty or obligation to the owner by representing other owners in the management of other properties.

C. A licensee may also represent the owner as seller or landlord if they enter into a brokerage relationship that so provides; in which case, the licensee shall disclose such brokerage relationships pursuant to the provisions of this article.

(1995, cc. 741, 813.)

**§ [54.1-2136](#). Preconditions to brokerage relationship.**

Prior to entering into any brokerage relationship provided for in this article, a licensee shall advise the prospective client of (i) the type of brokerage relationship proposed by the broker and (ii) the broker's compensation and whether the broker will share such salary or compensation with another broker who may have a brokerage relationship with another party to the transaction.

(1995, cc. 741, 813.)

**§ [54.1-2137](#). Commencement and termination of brokerage relationships.**

A. The brokerage relationships set forth in this article shall commence at the time that a client engages a licensee and shall continue until (i) completion of performance in accordance with the brokerage relationship or (ii) the earlier of (a) any date of expiration agreed upon by the parties as part of the brokerage relationship or in any amendments thereto, (b) any mutually agreed upon termination of the relationship, (c) a default by any party under the terms of the brokerage relationship, or (d) a termination as set forth in subsection D of § [54.1-2139](#).

B. Brokerage relationships shall have a definite termination date; however, if a brokerage relationship does not specify a definite termination date, the brokerage relationship shall terminate ninety days after the date the brokerage relationship was entered into.

C. Except as otherwise agreed to in writing, a licensee owes no further duties to a client after termination, expiration, or completion of performance of the brokerage relationship, except to (i) account for all moneys and property relating to the brokerage relationship and (ii) keep confidential all personal and financial information received from the client during the course of the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the client consents in writing to the release of such information.

(1995, cc. 741, 813.)

**§ [54.1-2138](#). Disclosure of brokerage relationship.**



**§ [54.1-2138.1](#). Limited service representative, contract disclosure required.**

A. A licensee may act as a limited service representative only pursuant to a written brokerage agreement in which the limited service representative (i) discloses that the licensee is acting as a limited service representative; (ii) provides a list of the specific services that the licensee will provide to the client; and (iii) provides a list of the specific duties of a standard agent set out in subdivision A 2 of § [54.1-2131](#), subdivision A 2 of § [54.1-2132](#), subdivision A 2 of § [54.1-2133](#), or subdivision A 2 of § [54.1-2134](#), as applicable, that the limited service representative will not provide to the client. Such disclosure shall be conspicuous and printed either in bold lettering or all capitals, and shall be underlined or in a separate box. In addition, a disclosure that contains language that complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

"By entering into this brokerage agreement, the undersigned do hereby acknowledge their informed consent to the limited service representation by the licensee and do further acknowledge that neither the other party to the transaction nor any real estate licensee representing the other party is under any legal obligation to assist the undersigned with the performance of any duties and responsibilities of the undersigned not performed by the limited service representative."

B. A licensee engaged by one client to a transaction and dealing with an unrepresented party or with a party represented by a limited service representative and who, without additional compensation, provides such other party information relative to the transaction or undertakes to assist such other party in securing a contract or with such party's obligations thereunder, shall not incur liability for such actions except in the case of gross negligence or willful misconduct. A licensee does not create a brokerage relationship by providing such assistance or information to the other party to the transaction. A licensee dealing with a client of a limited service representative may enter into an agreement with that party for payment of a fee for services performed or information provided by that licensee. Such payment shall not create a brokerage relationship; however, the licensee providing such services or information for a fee shall be held to the ordinary standard of care in the provision of such services or information.

(2006, c. 627.)

**§ [54.1-2139](#). Disclosed dual or designated representation authorized.**

A. A licensee may act as a dual representative only with the written consent of all clients to the transaction. Such written consent and disclosure of the brokerage relationship as required by this article shall be presumed to have been given as against any client who signs a disclosure as provided in this section.

B. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

DISCLOSURE OF DUAL REPRESENTATION

The undersigned do hereby acknowledge disclosure that:

The licensee .....

(Name of Broker, Firm or Salesperson as applicable)

represents more than one party in this real estate transaction as indicated below:

..... Seller(s) and Buyer(s)

..... Landlord(s) and Tenant(s).

The undersigned understands that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

.....	.....
Date	Name (One Party)
.....	.....
Date	Name (One Party)
.....	.....
Date	Name (Other Party)
.....	.....
Date	Name (Other Party)

C. No cause of action shall arise against a dual representative for making disclosures of brokerage relationships as provided by this article. A dual representative does not terminate any brokerage relationship by the making of any such allowed or required disclosures of dual representation.

D. In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual representation thereby terminating the brokerage relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction nor to limit the licensee from

representing the client who refused the dual representation in other transactions not involving dual representation.

E. A principal or supervising broker may assign different licensees affiliated with the broker as designated representatives to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of such designated representatives shall not constitute dual representation if a designated representative is not representing more than one client in a particular real estate transaction; however, the principal or broker who is supervising the transaction shall be considered a dual representative as provided in this article. Designated representatives may not disclose, except to the affiliated licensee's broker, personal or financial information received from the clients during the brokerage relationship and any other information that the client requests during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents in writing to the release of such information.

F. Use of designated representatives in a real estate transaction shall be disclosed in accordance with the provisions of this article. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with such disclosure requirement:

DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES

The undersigned do hereby acknowledge disclosure that:

The licensee .....

(Name of Broker and Firm)

represents more than one party in this real estate transaction as indicated below:

..... Seller(s) and Buyer(s)

..... Landlord(s) and Tenant(s).

The undersigned understands that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.



company. However, nothing contained in this article shall be construed to prevent a common source information company from requiring, as a condition of participation in or use of such common source information, that licensees providing information through such company disclose the nature of the brokerage relationship with the client, including, but not limited to, whether the licensee is acting as (i) an independent contractor, (ii) a limited service representative, or (iii) a transaction broker, facilitator or in some other capacity as provided in the brokerage agreement. A common source information company may, but shall not be obligated to, require disclosure of a standard agency relationship, and may adopt rules providing that absent any disclosure, a licensee providing information through such company may be assumed to be acting as a standard agent. A common source information company shall have the right, but not the obligation, to make information about the nature of brokerage relationships available to its participants and to settlement service it provides including, without limitation, title insurance companies, lenders, and settlement agents.

(1995, cc. 741, 813; 2006, c. 627.)

**§ [54.1-2142](#). Liability; knowledge not to be imputed.**

A. A client is not liable for (i) a misrepresentation made by a licensee in connection with a brokerage relationship, unless the client knew or should have known of the misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or (ii) the negligence, gross negligence or intentional acts of any broker or broker's licensee.

B. A broker who has a brokerage relationship with a client and who engages another broker to assist in providing brokerage services to such client shall not be liable for (i) a misrepresentation made by the other broker, unless the broker knew or should have known of the other broker's misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or (ii) the negligence, gross negligence or intentional acts of the assisting broker or assisting broker's licensee.

C. Clients and licensees shall be deemed to possess actual knowledge and information only. Knowledge or information among or between clients and licensees shall not be imputed.

D. Nothing in this article shall limit the liability between or among clients and licensees in all matters involving unlawful discriminatory housing practices.

E. Except as expressly set forth in this section, nothing in this article shall affect a person's right to rescind a real estate transaction or limit the liability of (i) a client for the misrepresentation, negligence, gross negligence or intentional acts of such client in connection with a real estate transaction, or (ii) a licensee for the misrepresentation, negligence, gross negligence or intentional acts of such licensee in connection with a real estate transaction.

(1995, cc. 741, 813.)

**§ [54.1-2143](#). Real estate board regulations to be consistent.**

Any regulations adopted by the Virginia Real Estate Board shall be consistent with this article, and any such regulations existing as of the effective date of this article shall be modified to comply with the provisions of this article.

(1995, cc. 741, 813.)

**§ [54.1-2144](#). Common law abrogated.**

The common law of agency relative to brokerage relationships in real estate transactions to the extent inconsistent with this article shall be expressly abrogated.

(1995, cc. 741, 813.)

**§ [54.1-2145](#). Article does not limit antitrust laws.**

Nothing in this article shall be construed to limit, modify, impair, or supercede the applicability of any federal or state antitrust laws.

(2006, c. 627.)