

RULES AND REGULATIONS OF THE STATE REAL ESTATE COMMISSION

49 Pa. Code §§35.1 – 35.392 (Last Updated 12/15/2010)

(When referring to section numbers, use the number after the decimal point.

For example, §35.336 can be referred to as Section 336.)

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**SUBCHAPTER A.
[RESERVED]**

**SUBCHAPTER B.
GENERAL PROVISIONS**

§ 35.201. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act--The Real Estate Licensing and Registration Act (63 P. S. §§ 455.101--455.902).

Agency relationship--A fiduciary relationship between a broker or licensees employed by a broker and a consumer who becomes a principal.

Associate broker--An individual broker who is employed by another broker.

Branch office--Any fixed location in this Commonwealth, other than the main office, maintained by a broker or cemetery broker, devoted to the transaction of real estate business.

Broker--An individual or entity holding either a standard or reciprocal license, that, for another and for a fee, commission or other valuable consideration, does one or more of the following:

- (i) Negotiates with or aids a person in locating or obtaining for purchase, lease or acquisition of interest in real estate.
- (ii) Negotiates the listing, sale, purchase, exchange, lease, time share and similarly designated interests, financing or option for real estate.
- (iii) Manages real estate.
- (iv) Represents himself or itself as a real estate consultant, counsellor or house finder.
- (v) Undertakes to promote the sale, exchange, purchase or rental of real estate. This subparagraph does not apply to an individual or entity whose main business is that of advertising, promotion or public relations.
- (vi) Undertakes to perform a comparative market analysis.
- (vii) Attempts to perform one of the actions listed in subparagraphs (i)--(vi).

Broker of record--The individual broker responsible for the real estate transactions of a partnership, association or corporation that holds a broker's license.

Builder-owner salesperson--An individual holding either a standard or reciprocal license, who is a full-time employee of a builder-owner of single- and multi-family dwellings located in this Commonwealth and who is authorized, for and on behalf of, the builder-owner, to do one or more of the following:

- (i) List for sale, sell or offer for sale real estate of the builder-owner.
- (ii) Negotiate the sale or exchange of real estate of the builder-owner.
- (iii) Lease or rent, or offer to lease, rent or place for rent, real estate of the builder-owner.
- (iv) Collect or offer, or attempt to collect, rent for real estate of the builder-owner.

Bureau--The Bureau of Professional and Occupational Affairs of the Department.

Buyer agent--A licensee who enters into an agency relationship with a buyer/tenant.

Campground membership--An interest, other than in fee simple or by lease, which gives the purchaser the right to use a unit of real property for the purpose of locating a recreational vehicle, trailer, tent, tent trailer, pickup camper or other similar device on a periodic basis under a membership contract allocating use and occupancy rights between other similar users.

Campground membership salesperson--An individual holding either a standard or reciprocal license, who, either as an employee or an independent contractor, sells or offers to sell campground memberships under the active supervision of a broker. A licensed broker, salesperson or time-share salesperson does not need to possess a campground membership salesperson's license to sell campground memberships.

Cemetery--

- (i) A place for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault, columbarium or other receptacle.
- (ii) The term does not include a private family cemetery.

Cemetery associate broker--An individual cemetery broker employed by another cemetery broker or by a broker.

Cemetery broker--An individual or entity holding either a standard or reciprocal license, that is engaged as, or carrying on the business or acting in the capacity of, a broker exclusively within the limited field or branch of business that applies to cemetery lots, plots and mausoleum spaces or openings.

Cemetery company--An individual or entity that offers or sells to the public the ownership, or the right to use, a cemetery lot.

Cemetery salesperson--An individual holding either a standard or reciprocal license, employed by a broker or cemetery broker exclusively to perform the duties of a cemetery broker.

Commission--The State Real Estate Commission.

Comparative market analysis--A written analysis, opinion or conclusion by a contracted buyer's agent, transactional licensee or an actual or potential seller's agent relating to the probable sale price of a specified piece of real estate in an identified real estate market at a specified time, offered either for the purpose of determining the asking/offering price for the property by a specific actual or potential consumer or for the purpose of securing a listing agreement with a seller.

Consumer--An individual or entity who is the recipient of any real estate service.

Credit--A period of 15 hours of instruction.

Department--The Department of State of the Commonwealth.

Designated agent--One or more licensees designated by the employing broker, with the consent of the principal, to act exclusively as the agent or agents for the principal to the exclusion of all other licensees within the broker's employ.

Distance education--Real estate instruction delivered in an independent or instructor-led format during which the student and the instruction are separated by distance and sometimes time.

Dual agent--A licensee who acts as an agent for the buyer/tenant and seller/landlord in the same transaction.

Hour of instruction--A period of at least 50 minutes.

Independent learning--An interactive educational program, including computer-based technology courses, that provides no contact with an instructor.

Initial interview--The first substantive discussion between a licensee and a consumer about the consumer's real estate needs.

Instructor-led learning--An interactive educational program, including a classroom or simulated classroom, that provides significant ongoing contact from the instructor to the participant during the learning process.

Licensee--An individual or entity holding either a standard or reciprocal license, under the act. For purposes of the consumer notice in § 35.336(a)(relating to disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant), the term means a broker or salesperson.

Listing broker--A broker who has entered into a written agreement with a seller/landlord to market property as a seller's agent, dual agent or transaction licensee.

Main office--The fixed location other than a branch office of the broker or cemetery broker in this Commonwealth or another state devoted to the transaction of real estate business.

Manager of record--The individual rental listing referral agent responsible for the rental listing transactions of a partnership, association or corporation that holds a rental listing referral agent's license.

Nonexclusive buyer agency agreement--A nonexclusive agreement governed by a memorandum or contract wherein the buyer retains the right to employ multiple brokers to purchase or lease a property.

Open listing agreement--A nonexclusive listing agreement governed by a memorandum or contract wherein the seller retains the right to employ multiple brokers to sell or lease a property.

Principal--A consumer who has entered into an agency relationship with a broker or another licensee employed by the broker.

Principal place of business--The fixed location of the broker or cemetery broker in the state where the licensee holds the equivalent of a standard license.

Real estate--An interest or estate in land-whether corporeal or incorporeal, whether freehold or nonfreehold, whether the land is situated in this Commonwealth or elsewhere--including leasehold interests and time share and similarly designated interests.

Real estate education provider--A person or institution who offers real estate education regardless of whether the learning is instructor-led or independent, excluding colleges, universities or institutes of higher learning accredited by the Middle States Association of Colleges and Secondary Schools or equivalent accreditation.

Reciprocal license--A license issued to an individual or entity whose principal place of business for the provision of real estate services is outside of this Commonwealth and who holds a current license to provide real estate services from a state that either has executed a reciprocal agreement with the Commission or has qualifications for licensure which are substantially comparable to those required by the Commission.

Rental listing referral agent--

(i) An individual or entity that owns or manages a business which collects rental information for the purpose of referring prospective tenants to rental units or locations of rental units.

(ii) The term does not include an official or employee of a public housing authority that is created under State or Federal law.

Salesperson--An individual holding either a standard or reciprocal license, who is employed by a broker to do one or more of the following:

(i) Sell or offer to sell real estate, or list real estate for sale.

(ii) Buy or offer to buy real estate.

(iii) Negotiate the purchase, sale or exchange of real estate.

(iv) Negotiate a loan on real estate.

(v) Lease or rent real estate, or offer to lease or rent real estate or to place real estate for rent.

(vi) Collect rent for the use of real estate, or offer or attempt to collect rent for the use of real estate.

(vii) Assist a broker in managing property.

(viii) Perform a comparative market analysis.

Seller agent--A licensee who enters into an agency relationship with a seller/landlord.

Standard license--A license, other than a reciprocal license, issued to an individual or entity who has fulfilled the education/experience and examination requirements of the act.

Subagent--A licensee, not in the employ of the listing broker, who acts or cooperates with the listing broker in selling property as a seller's/landlord's agent and is deemed to have an agency relationship with the seller.

Time share--

(i) The right, however evidenced or documented, to use or occupy one or more units on a periodic basis according to an arrangement allocating use and occupancy rights of that unit or those units between other similar users. As used in this definition, the term "unit" is a building or portion thereof permanently affixed to real property and designed for separate occupancy or a campground membership or portion thereof designed for separate occupancy.

(ii) The term does not include a campground membership.

Time-share salesperson--An individual who, either as an employee or an independent contractor, sells or offers to sell time shares.

Transaction licensee--A licensee who, without entering into an agency relationship with the consumer, provides communication or document preparation services or performs other acts listed in the definition of "broker" or "salesperson."

§ 35.202. Exclusions from the act.

The following categories of individuals and entities are excluded from the act and this chapter:

- (1) An owner of real estate with respect to property owned or leased by the owner. In the case of a corporation or partnership, this exclusion does not extend to more than five of the partnership's partners or the corporation's officers, nor to the other employees of the partnership or corporation.
- (2) An employe of a public utility acting in the ordinary course of utility-related business under 66 Pa.C.S. § § 101—3315 (relating to the Public Utility Code), with respect to negotiating the purchase, sale or lease of real estate.
- (3) An officer or employe of a partnership or corporation whose principal business is the discovery, extraction, distribution or transmission of energy or mineral resources, if the purchase, sale or lease of real estate is a common and necessary transaction in the conduct of the principal business.
- (4) An attorney in fact who renders services under an executed and recorded power of attorney from an owner or lessor of real estate, if the power of attorney is not used to circumvent the intent of the act. The Commission will consider it a circumvention of the intent of the act for an owner or lessor of real estate to grant a power of attorney to a property manager for the sole purpose of avoiding the necessity of having the property managed by a real estate broker licensed under the act.
- (5) An attorney-at-law who receives a fee from his client for rendering services within the scope of the attorney-client relationship and does not hold himself out as a real estate broker.
- (6) A trustee in bankruptcy, administrator, executor, trustee or guardian who is acting under authority of a court order, will or trust instrument.
- (7) An elected officer or director of a banking institution, savings institution, savings bank, credit union or trust company operating under applicable Federal or State statutes when only the real estate of the banking institution, savings institution, savings bank, credit union or trust company is involved.
- (8) An officer or employe of a cemetery company who, as an incidental part of his principal duties and without remuneration therefore, shows lots in the company's cemetery to persons for use as family burial lots and who accepts deposits on the lots for a representative of the cemetery company legally authorized to sell them.
- (9) A cemetery company or cemetery owned or controlled by a bona fide church or religious congregation or fraternal organization or by an association created by a bona fide church or religious organization or fraternal organization.
- (10) An auctioneer licensed under The Auctioneers' License Act (63 P. S. § § 701—732) (Repealed) or The Auctioneer and Auction Licensing Act (63 P. S. § § 734.1—734.34) while performing authorized duties at a bona fide auction.
- (11) An individual who is employed by the owner of multifamily residential dwellings to manage or maintain the dwellings and who is not authorized by the owner to enter into leases on the owner's behalf, to negotiate terms and conditions of occupancy with current or prospective tenants, or to hold money belonging to the tenants other than on the owner's behalf. So long as the owner retains authority to make decisions, the individual may show apartments and provide information on rental amounts, building rules and regulations and leasing determinations.
- (12) An elected officer, director or employe of a banking institution, savings institution, savings bank, credit union or trust company operating under applicable Federal or State statutes when acting on behalf of the banking institution, savings institution, savings bank, credit union or trust company in performing appraisals or other evaluations of real estate in connection with a loan transaction.

§ 35.203. Fees.

The following fees are charged by the Commission:

Review of qualifications of candidate for broker or cemetery broker licensing examination	\$40
<i>Application for standard or reciprocal licensure of:</i>	
(i) Broker, cemetery broker or rental listing referral agent	\$75
(ii) Branch office	\$65
(iii) Associate broker, salesperson, cemetery associate broker, builder-owner salesperson, time-share salesperson, campground membership salesperson, or broker of record, partner or officer for a partnership, association or corporation.....	\$25
(iv) Cemetery salesperson	\$20
Application for registration of cemetery company	\$25
Initial standard or reciprocal licensure for broker, cemetery broker, branch office, rental listing referral agent, or broker of record, partner or officer for a partnership, association or corporation.....	\$94.50
Initial standard or reciprocal registration for cemetery company or initial licensure for associate broker, salesperson, cemetery associate broker, cemetery salesperson, builder-owner salesperson, time-share salesperson or campground membership salesperson	\$72
Biennial renewal of standard or reciprocal license of broker, cemetery broker, branch office, rental listing referral agent or broker of record, partner or officer for a partnership, association or corporation	\$126
Biennial renewal of cemetery company registration or license of associate broker, salesperson, cemetery associate broker, cemetery salesperson or campground membership salesperson	\$96
Biennial renewal of cemetery company registration or standard or reciprocal license of associate broker, salesperson, cemetery associate broker, cemetery salesperson, campground membership salesperson, builder-owner salesperson or time-share salesperson	\$64
Registration of promotional real estate	\$120
Annual renewal of registration of promotional real estate	\$113
Approval of real estate education provider	\$120
Reinspection of real estate education provider after first failure	\$65
Annual renewal of approval of real estate education provider ... \$375 plus \$15 for each satellite location, course and instructor	
Change of name or office location of broker, cemetery broker or rental listing referral agent	\$75
Change of name or address for cemetery company or change of employer, change of employer's name or change of employer's address for associate broker, cemetery associate broker, salesperson, cemetery salesperson, builder-owner salesperson, time-share salesperson, campground membership salesperson, or broker of record, partner or officer for a partnership, association or corporation	\$20
Reinspection after failure for change of name or office location of broker, cemetery broker or rental listing referral agent	\$55
Change of ownership or directorship of real estate education provider	\$75
Change of name of real estate education provider	\$45
Change of location of real estate education provider	\$70
Addition of satellite location or instructor for real estate education provider	\$20
Addition of course for real estate education provider	\$25
Certification of current status of licensure, registration or approval	\$15
Certification of history of licensure, registration or approval	\$40
Duplicate license	\$5
Late renewal of license ... In addition to the prescribed renewal fee, \$5 for each month or part of the month beyond the renewal date	

§ 35.204. Accuracy and veracity of papers filed with the Commission.

(a) An application, statement, character reference or other paper that is required to be filed by, or on behalf of, an applicant for examination, licensure, registration or approval under the act or this chapter will be subject to investigation by the Commission to confirm its accuracy and truthfulness.

(b) An applicant's knowing failure to provide accurate and truthful information in the application, or in the statements and papers that accompany the application, will be grounds for the Commission's denial of the application.

(c) A licensee's knowing failure to provide accurate and truthful information in connection with an application for examination, licensure, registration or approval under the act or this chapter will be grounds for disciplinary action against the licensee.

**SUBCHAPTER C.
LICENSURE**

LICENSURE REQUIREMENTS

§ 35.221. General requirements.

In addition to meeting the other requirements of this subchapter pertaining to the specific license sought, an applicant for a Pennsylvania real estate license shall submit the following to the Commission with the license application:

(1) The license fee prescribed in § 35.203 (relating to fees).

(2) Complete details of a conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed. In the case of an applicant that is a corporation, partnership or association, this requirement applies to each member of the partnership or association and to each officer of the corporation.

(3) Written consent that valid and binding service of process may be made on the applicant by serving the Chairperson of the Commission and the Secretary of the Commonwealth if the service of process cannot be made on the applicant under 231 Pa. Code (relating to rules of civil procedure) for actions at law or in equity arising out of the applicant's real estate activities in this Commonwealth.

§ 35.222. Licensure as a broker.

(a) An individual who wants to obtain a standard broker's license shall comply with § 35.221 (relating to general requirements) and:

(1) Have scored a passing grade on each part of the broker's licensing examination within 3 years prior to submission of a properly completed license application except that an applicant who has been actively licensed as a broker by another state within the last 5 years shall take and pass only the Pennsylvania portion of the examination. See § 35.271 (relating to examination for broker's license).

(2) Comply with §§ 35.241 and 35.242 (relating to general office requirement; and office of broker or cemetery broker).

(3) Submit a completed application to the Commission with recommendations attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence from:

(i) One real estate broker holding either a current standard or reciprocal license issued by the Commission.

(ii) Two persons unrelated to the applicant who own property in the county where the applicant resides or has a place of business.

(iii) Two persons unrelated to the applicant who own property in the county where the applicant previously resided, if the applicant changed his county of residence within 1 year prior to the submission of the application.

(b) An individual who wants to obtain a reciprocal broker's license shall comply with § 35.221 and:

(1) Possess a current broker's license issued by another state that agrees to issue a license to a standard Pennsylvania licensee without further requirement, or has qualifications for licensure substantially comparable to those required by the Commission.

When a reciprocal applicant applies from a state which would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

- (2) Comply with § 35.241 and § 35.242.
- (3) Submit a completed license application to the Commission with a verified statement that:
 - (i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either the Commonwealth or another state.
 - (ii) The applicant has reviewed, is familiar with and agrees to be bound by the act and this chapter.
 - (iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.
- (4) If the applicant will be acting as an associate broker, submit a sworn statement from the broker with whom the applicant desires to be affiliated:
 - (i) Attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence.
 - (ii) Certifying that the applicant will be actively supervised and trained by the broker.
- (5) Submit a certification from the real estate licensing authority of the other state:
 - (i) Confirming that the applicant's license is active and in good standing.
 - (ii) Describing any past disciplinary action taken by the licensing authority against the applicant.
 - (iii) Listing the applicant's office address and the name of the applicant's employing broker.
- (c) A partnership, association or corporation that wants to obtain a standard or reciprocal broker's license shall:
 - (1) Ensure that each member of the partnership or association, or each officer of the corporation, who intends to engage in the real estate business holds either a current standard or reciprocal license issued by the Commission as a salesperson or broker.
 - (2) Designate an individual who is licensed by the Commission as a broker to serve as broker of record.
 - (3) Comply with §§ 35.241 and 35.242.
 - (4) Submit a completed license application to the Commission.

§ 35.223. Licensure as salesperson.

- (a) An individual who wants to obtain a standard salesperson's license shall comply with § 35.221 (relating to general requirements) and:
 - (1) Have scored a passing grade on each part of the salesperson's licensing examination within 3 years prior to the submission of a properly completed license application except that an applicant who has been actively licensed as a broker or a salesperson by another state within the last 5 years shall take and pass only the Pennsylvania portion of the examination. See § 35.272 (relating to examination for salesperson's license).
 - (2) Submit a completed license application to the Commission with:
 - (i) A sworn statement from the broker with whom the applicant desires to be affiliated:
 - (A) Attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence.
 - (B) Certifying that he will actively supervise and train the applicant.
 - (ii) Official transcripts evidencing the acquisition of degrees or course credits required by § 35.272(a)(2).

(b) An individual who wants to obtain a reciprocal salesperson's license shall comply with § 35.221 and:

(1) Possess a current broker's or salesperson's license issued by another state that agrees to issue a license to a standard Pennsylvania licensee without further requirement or has qualifications for licensure which are substantially comparable to those required by the Commission. When a reciprocal applicant applies from a state which would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

(2) Submit a completed license application to the Commission with a verified statement that:

(i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either the Commonwealth or another state.

(ii) The applicant has reviewed, is familiar with and agrees to be bound by the act and this chapter.

(iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.

(3) Submit a certification from the real estate licensing authority of the other state:

(i) Confirming that the applicant's license is active and in good standing.

(ii) Describing any past disciplinary action taken by the licensing authority against the applicant.

(iii) Listing the applicant's office address and the name of the applicant's employing broker.

(4) Submit a sworn statement from a standard or reciprocal broker with whom the applicant will be affiliated:

(i) Attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence.

(ii) Certifying that the applicant will be actively supervised and trained by the broker.

§ 35.224. Licensure as cemetery broker.

(a) An individual who wants to obtain a standard cemetery broker's license shall comply with § 35.221 (relating to general requirements) and:

(1) Have scored a passing grade on each part of the salesperson's licensing examination within 3 years prior to submission of a properly completed license application except that an applicant who has been actively licensed as a cemetery broker by another state within the last 5 years shall take and pass only the Pennsylvania portion of the examination. See § 35.273 (relating to examination for cemetery broker's license).

(2) Comply with §§ 35.241 and 35.242 (relating to general office requirement; and office of broker or cemetery broker).

(3) Submit a completed application to the Commission with recommendations attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence from:

(i) One real estate broker holding either a current standard or reciprocal license issued by the Commission.

(ii) Two persons unrelated to the applicant who own property in the county where the applicant resides or has a place of business.

(iii) Two persons unrelated to the applicant who own property in the county where the applicant previously resided, if the applicant changed his county of residence within 1 year prior to the submission of the application.

(b) An individual who wants to obtain a reciprocal cemetery broker's license shall comply with § 35.221 and:

(1) Possess a current cemetery broker's license issued by a state that agrees to issue a license to a standard Pennsylvania licensee without further requirement or has qualifications for licensure which are substantially comparable to those required by the Commission. When a reciprocal applicant applies from a state that would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

(2) Comply with § 35.241 and § 35.242.

(3) Submit a completed license application to the Commission with a verified statement that:

(i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either this Commonwealth or another state.

(ii) The applicant has reviewed, is familiar with and agrees to be bound by the act and this chapter.

(iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.

(4) If the applicant will be acting as an associate cemetery broker, submit a sworn statement from the broker with whom the applicant will be affiliated:

(i) Attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence.

(ii) Certifying that the applicant will be actively supervised and trained by the broker.

(5) Submit a certification from the real estate licensing authority of the other state:

(i) Confirming that the applicant's license is active and in good standing.

(ii) Describing any past disciplinary action taken by the licensing authority against the applicant.

(iii) Listing the applicant's office address and the name of the applicant's employing broker.

(c) A partnership, association or corporation that wants to obtain a standard cemetery broker's license shall:

(1) Ensure that each member of the partnership, association or each officer of the corporation, who intends to engage in the real estate business possesses a standard license as a broker or cemetery broker issued by the Commission.

(2) Designate an individual who is licensed by the Commission as a broker or cemetery broker to serve as broker of record.

(3) Comply with §§ 35.241 and 35.242.

(4) Submit a complete license application to the Commission.

(d) A partnership, association or corporation that wants to obtain a reciprocal cemetery broker's license shall:

(1) Ensure that each member of the partnership, association or each officer of the corporation, who intends to engage in the real estate business possesses a standard or reciprocal license as a broker or cemetery broker issued by the Commission.

(2) Designate a broker or cemetery broker holding a standard or reciprocal license to serve as broker of record.

(3) Comply with §§ 35.241 and 35.242.

(4) Submit a complete license application to the Commission.

§ 35.225. Licensure as cemetery salesperson.

(a) An individual who wants to obtain a standard cemetery salespersons license shall comply with § 35.221 (relating to general requirements) and:

(1) Be 18 years of age or older.

(2) Submit a completed license application to the Commission with a sworn affidavit from the broker or cemetery broker with whom the applicant will be affiliated:

(i) Attesting to the applicant's good reputation for honesty, integrity, trustworthiness and competence.

(ii) Certifying that he will actively supervise and train the applicant.

(b) An individual who wants to obtain a reciprocal cemetery salesperson's license shall comply with § 35.221 and:

(1) Possess a current cemetery salesperson's license issued by a state that agrees to issue a license to a standard Pennsylvania licensee without further requirement or has qualifications for licensure which are substantially comparable to those required by the Commission. When a reciprocal applicant applies from a state that would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

(2) Submit a certification from the real estate licensing authority of the other state:

(i) Confirming that the applicant's license is active and in good standing.

(ii) Describing any past disciplinary action taken by the licensing authority against the applicant.

(iii) Listing the applicant's office address and the name of the applicant's employing broker.

(3) Submit a completed license application to the Commission with a verified statement that:

(i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either this Commonwealth or another state.

(ii) The applicant has reviewed, is familiar with and agrees to be bound by the act and this chapter.

(iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.

(4) Submit a sworn statement from the broker with whom the applicant will be affiliated:

(i) Attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence.

(ii) Certifying that the applicant will be actively supervised and trained by the broker.

§ 35.226. Licensure as builder-owner salesperson.

(a) An individual who wants to obtain a standard builder-owner salesperson's license shall comply with § 35.221 (relating to general requirements) and:

(1) Have scored a passing grade on each part of the salesperson's licensing examination within 3 years prior to submission of a properly completed license application except that an applicant who has been actively licensed as a broker, salesperson or builder-owner salesperson by another state within the last 5 years shall take and pass only the Pennsylvania portion of the examination. See § 35.274 (relating to examination for builder-owner salesperson's license).

(2) Submit a completed license application to the Commission with a sworn statement from a builder-owner:

(i) Attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence.

(ii) Certifying that he:

(A) Is a builder-owner of single or multifamily dwellings.

(B) Employs the applicant.

(b) An individual who wants to obtain a reciprocal license as a builder-owner salesperson shall comply with § 35.221 and:

(1) Possess a current builder-owner salesperson license issued by a state that agrees to issue a license to a standard Pennsylvania licensee without further requirement or has qualifications for licensure which are substantially comparable to those required by the Commission. When a reciprocal applicant applies from a state that would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

(2) Submit a certification from the real estate licensing authority of the other state:

(i) Confirming that the applicant's license is active and in good standing.

- (ii) Describing any past disciplinary action taken by the licensing authority against the applicant.
- (iii) Listing the applicant's office address and the name of the applicant's employing broker.
- (3) Submit a completed license application to the Commission with a verified statement that:
 - (i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either this Commonwealth or another state.
 - (ii) The applicant has reviewed, is familiar with and agrees to be bound by the act and this chapter.
 - (iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.
- (4) Submit a sworn statement from the builder-owner with whom the applicant will be affiliated:
 - (i) Attesting to the applicant's good reputation for honesty, trustworthiness, integrity and competence.
 - (ii) Certifying that the builder-owner is a builder-owner of single or multifamily dwellings and employs the applicant.

§ 35.227. Licensure as rental listing referral agent.

(a) An individual who wants to obtain a standard rental listing referral agent's license shall comply with § 35.221 (relating to general requirements) and:

(1) Have scored a passing grade on each part of the salesperson's examination within 3 years prior to submission of a properly completed license application except that an applicant who has been actively licensed as a broker, salesperson or rental listing referral agent by another state within the last 5 years shall take and pass only the Pennsylvania portion of the examination. See § 35.275 (relating to examination for rental listing referral agent's license).

(2) Comply with § 35.241 (relating to general office requirement).

(3) Submit a completed license application to the Commission.

(b) An individual who wants to obtain a reciprocal rental listing referral agent's license shall comply with § 35.221 and:

(1) Possess a current rental listing referral agent's license issued by a state that agrees to issue a license to a standard Pennsylvania licensee without further requirement or has qualifications for licensure which are substantially comparable to those required by the Commission. When a reciprocal applicant applies from a state that would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

(2) Submit a certification from the real estate licensing authority of the other state:

- (i) Confirming that the license is active and in good standing.
- (ii) Describing any past disciplinary action taken by the licensing authority against the applicant.
- (iii) Listing the applicant's office address and the name of the applicant's employing broker.

(3) Submit a completed license application to the Commission with a verified statement that:

(i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either this Commonwealth or another state.

(ii) The applicant has reviewed, is familiar with and agrees to be bound by the act and this chapter.

(iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.

(4) Comply with § 35.241 (relating to general office requirement).

(c) A partnership, association or corporation that wants to obtain a standard or reciprocal rental listing referral agent's license shall:

(1) Designate an individual who holds either a current standard or reciprocal license as a rental listing referral agent issued by the Commission to serve as manager of record.

(2) Comply with § 35.241.

(3) Submit a completed license application to the Commission.

§ 35.228. Licensure as campground membership salesperson.

(a) An individual who wants to obtain a standard campground membership salesperson's license shall comply with § 35.221 (relating to general requirements) and:

(1) Be 18 years of age or older.

(2) Have successfully completed the one-credit (15 hours), Commission-developed course titled Campground Membership Sales, provided the following conditions are met:

(i) The course was taken prior to onsite training.

(ii) The course was taught at an accredited college, university or institute of higher learning in this Commonwealth or a real estate education provider in this Commonwealth approved by the Commission.

(3) Have successfully completed 30 days of onsite training at a campground membership facility subject to the following conditions:

(i) The 30 days of onsite training shall be completed during a 90-day period within 3 years prior to the submission of a license application.

(ii) The trainee shall be actively supervised and trained by a broker.

(4) Submit a completed license application to the Commission with:

(i) An official transcript evidencing acquisition of the qualifying coursework or degree.

(ii) A sworn statement from the broker under whom the applicant received his onsite training certifying that he actively trained and supervised the applicant and providing other information regarding the onsite training as the Commission may require.

(b) An individual who wants to obtain a reciprocal campground membership salesperson's license shall comply with § 35.221 and:

(1) Possess a current campground membership salesperson's license issued by a state that agrees to issue a license to a standard Pennsylvania licensee without further requirement or has qualifications for licensure which are substantially comparable to those required by the Commission. When a reciprocal applicant applies from a state that would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

(2) Submit a certification from the real estate licensing authority of the other state:

(i) Confirming that the applicant's license is active and in good standing.

(ii) Describing any past disciplinary action taken by the licensing authority against the applicant.

(iii) Listing the applicant's office address and the name of the applicant's employing broker.

(3) Submit a completed license application to the Commission with a verified statement that:

(i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either the Commonwealth or another state.

(ii) The applicant has reviewed, is familiar with and agrees to be bound by the act and this chapter.

(iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.

(4) Submit a sworn statement from the broker from whom the applicant received his onsite training certifying that the broker actively trained and supervised the applicant and providing other information regarding the onsite training the Commission may require.

§ 35.229. Licensure as time-share salesperson.

(a) An individual who wants to obtain a standard time-share salesperson's license shall comply with § 35.221 (relating to general requirements) and:

(1) Be at least 18 years of age.

(2) Have successfully completed the two-credit (30 hours), Commission-developed course titled Time Share Sales, provided the following conditions are met:

(i) The course was taken prior to onsite training.

(ii) The course was taught at an accredited college, university or institute of higher learning in this Commonwealth or a real estate education provider in this Commonwealth approved by the Commission.

(3) Have successfully completed 30 days of onsite training at a time share facility subject to the following conditions:

(i) The 30 days of onsite training shall be completed during a 90-day period within 3 years prior to the submission of a license application.

(ii) The trainee shall be actively supervised and trained by a broker.

(4) Submit a completed license application to the Commission with:

(i) An official transcript evidencing acquisition of the qualifying coursework or degree.

(ii) A sworn statement from the broker under whom the applicant received his onsite training certifying that he actively trained and supervised the applicant and providing other information regarding the onsite training the Commission may require.

(b) An individual who wants to obtain a reciprocal time-share salesperson's license shall comply with § 35.221 and:

(1) Possess a current time-share salesperson's license issued by a state that agrees to issue a license to a standard Pennsylvania licensee without further requirement or has qualifications for licensure which are substantially comparable to those required by the Commission. When a reciprocal applicant applies from a state that would require a Pennsylvania licensee to complete additional education, experience or examination requirements, the reciprocal applicant shall complete equivalent requirements for licensure in this Commonwealth.

(2) Submit a certification from the real estate licensing authority of the other state:

(i) Confirming that the applicant's license is active and in good standing.

(ii) Describing any past disciplinary action taken by the licensing authority against the applicant.

(iii) Listing the applicant's office address and the name of the applicant's employing broker.

(3) Submit a completed license application to the Commission with a verified statement that:

(i) To the applicant's knowledge, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either this Commonwealth or another state.

(ii) The applicant has reviewed and is familiar with the act and the regulations and agrees to be bound by the act and regulations.

(iii) The applicant agrees to permit the disclosure of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any state in which the applicant is or has been licensed.

(4) Submit a sworn statement from the broker from whom the applicant received his onsite training certifying that he actively trained and supervised the applicant and providing other information regarding the onsite training the Commission may require.

OFFICES

§ 35.241. General office requirement.

(a) A broker, cemetery broker, or rental listing referral agent shall maintain a fixed office in this Commonwealth unless he maintains a fixed office in another jurisdiction where he is licensed.

(b) A broker, cemetery broker or rental listing referral agent may maintain more than one office in this Commonwealth. A branch office license is required for each additional office maintained by a broker or cemetery broker. See § 35.243 (relating to licensure of branch office).

§ 35.242. Office of broker or cemetery broker.

(a) The office of a broker or cemetery broker shall be devoted to the transaction of real estate business and be arranged to permit business to be conducted in privacy.

(b) If the office of a broker or cemetery broker is located in a private residence, the entrance to the office shall be separate from the entrance to the residence.

(c) The business name of the broker or cemetery broker, as designated on the license, shall be displayed prominently and in permanent fashion outside the office.

(d) A branch office operated by a broker or cemetery broker shall be in compliance with this section.

§ 35.243. Licensure of branch office.

(a) A broker or cemetery broker may not open a branch office in this Commonwealth without first obtaining a branch office license for that location from the Commission. A broker or cemetery broker who wants to obtain a Pennsylvania branch office license shall submit a completed license application to the Commission with the license fee prescribed in § 35.203 (relating to fees).

(b) A branch office license will be issued in the name under which the broker or cemetery broker is licensed to conduct business at the main office.

(c) A branch office license terminates automatically with the suspension, revocation or discontinuance, for whatever reason, of the license of the broker or cemetery broker to whom the branch office license was issued.

§ 35.244. Supervision and operation of office.

(a) The main or branch office of a broker shall be under the direction and supervision of a broker or associate broker.

(b) The main or branch office of a cemetery broker shall be under the direction and supervision of a broker, cemetery broker, associate broker or cemetery broker.

(c) A branch office may not be operated in a manner that permits, or is intended to permit, an employe to carry on the business of the office for the employe's sole benefit.

(d) The office of a rental listing referral agent shall be under the direction and supervision of a rental listing referral agent. A rental listing referral agent may not supervise more than one office.

§ 35.245. Display of licenses in office.

(a) Commencing with the 2006-2008 renewal period the current license of a broker, cemetery broker or rental listing referral agent and those licensees employed by or affiliated with that broker, cemetery broker or rental listing referral agent shall be maintained at the main office.

(b) A broker or cemetery broker shall maintain a list of licensees employed or affiliated with the broker or cemetery broker at the branch office out of which each licensee works.

§ 35.246. Inspection of office.

(a) *Routine inspections.* No more than four times a year during regular business hours, the Commission or its authorized representatives may conduct a routine inspection of the main office or branch office of a broker, cemetery broker or rental listing referral agent for the purpose of determining whether the office is being operated in compliance with the act and this chapter.

(b) *Special inspections.* In addition to the routine inspections authorized by subsection (a), the Commission or its authorized representatives may conduct a special inspection of a main or branch office:

(1) Upon a complaint or reasonable belief that the broker, cemetery broker or rental listing referral agent, or a licensed employe of a broker, cemetery broker or rental listing referral agent, has violated the act or this chapter.

(2) As a follow-up to a previous inspection that revealed the office's noncompliance with the act or this chapter.

(c) *Commission notice.* Prior to the start of a routine or special inspection, the Commission or its authorized representatives will advise the broker, cemetery broker, rental listing referral agent or other licensee who may be in charge of the office at the time of the inspection that the inspection is being made under this section and is limited in scope by this section.

(d) *Permissible Commission actions.* During the course of a routine or special inspection, the Commission or its authorized representatives will be permitted to:

(1) Examine the records of the office pertaining to:

(i) Real estate transactions or rental listing referrals.

(ii) The corporation, partnership or association that holds a broker's or cemetery broker's license.

(2) Inspect all areas of the office.

(3) Interview the broker, cemetery broker, rental listing referral agent and other licensed or unlicensed employes who work in the office.

(4) Obtain the broker's or cemetery broker's written authorization to the bank or depository where the broker or cemetery broker maintains his escrow account that it may release copies of the records of the account to the Commission or its authorized representatives.

STATUS OF LICENSURE

§ 35.251. Relicensure following revocation.

The Commission will not authorize relicensure of an individual whose license has been revoked for at least 5 years following the date revocation begins. After the 5-year period, the individual may petition the Commission for relicensure. The decision to permit relicensure is within the Commission's discretion. If relicensure is permitted, the individual shall comply with current requirements for licensure before the license is issued.

§ 35.252. Termination of business of deceased broker with sole proprietorship.

(a) Within 15 days following the death of a broker with a sole proprietorship, the deceased broker's estate shall notify the Commission that the estate has appointed another licensed broker to supervise the termination of the deceased broker's business. The appointment is subject to verification that the appointed broker has a current license.

(b) The appointed broker shall observe the following rules during the termination period:

(1) New listing agreements may not be entered into.

(2) Unexpired listing agreements may be promoted unless the seller or lessor elects to cancel the agreement. Unexpired listings will expire automatically 90 days after the broker dies and may not be renewed.

- (3) Pending agreements of sale or lease may proceed to consummation.
- (4) New licensees may not be hired.

§ 35.253. Replacement of broker of record due to death.

Within 15 days following the death of a broker of record, a partner or corporate officer shall file an application with the Commission designating another individual to serve as broker of record.

§ 35.254. Substitution of broker or broker of record due to illness or injury.

If a broker with a sole proprietorship or broker of record is unable to act as a broker/broker of record due to illness or injury, the broker's attorney or another with power of attorney for the broker in a sole proprietorship, a corporate officer or partner shall notify the Commission within 15 days that it has appointed another licensed broker to act as the interim broker/broker of record for the corporation, partnership or sole proprietorship until the broker/broker of record is able to resume his responsibilities.

§ 35.255. Reciprocal licenses.

(a) *Renewal.* In addition to completing the application and paying the fee, a licensee applying for renewal of a reciprocal license shall provide the Commission with a certification that the license is current and in good standing from the state where the licensee has his principal place of business.

(b) *Reactivation.* A licensee who fails to renew a reciprocal license may reactivate the license without being reexamined provided that he holds the equivalent of a current standard license in the state where the licensee has his principal place of business.

(c) *Conversion to standard license.* A reciprocal licensee who designates his principal place of business as in this Commonwealth or who fails to maintain a current standard license in the state of his principal place of business shall notify the Commission within 30 days of the change. To continue to practice in this Commonwealth at the end of the renewal period, the reciprocal licensee shall obtain a standard license in accordance with the applicable requirements of this chapter. Thereafter, the standard licensee shall comply with the requirements for a standard license, including completion of the continuing education requirement.

**SUBCHAPTER D.
LICENSING EXAMINATIONS**

§ 35.271. Examination for broker's license.

- (a) An individual who wants to take the broker's examination for a standard broker's license shall:
- (1) Be 21 years of age or older.
 - (2) Be a high school graduate or have passed a high school general education equivalency examination.
 - (3) Have worked at least 3 years as a licensed salesperson, with experience qualifications that the Commission considers adequate for practice as a broker, or possess at least 3 years of other experience, education, or both, that the Commission considers the equivalent of 3 years' experience as a licensed salesperson.
 - (4) Have acquired 16 credits, or 240 hours of instruction, in professional real estate education as determined by the Commission under subsection (b).
 - (5) Submit a completed examination application to the Commission or its designee with:
 - (i) Official transcripts evidencing the acquisition of course credits.
 - (ii) A detailed resume of real estate activities performed by the candidate while working as a salesperson and a sworn statement from the candidate's employing broker confirming that these activities were performed if the candidate is a licensed salesperson.

(iii) A complete description of work experience and education that the candidate considers relevant to the requirements of paragraph (3) if the candidate is not a licensed salesperson.

(iv) A certification from the real estate licensing authority of the jurisdiction in which the candidate is licensed stating that the candidate had an active license for each year that credits are claimed if the candidate is applying brokerage experience to satisfy the professional education requirement.

(v) The fee for review of the candidate's qualifications to take the examination prescribed in § 35.203 (relating to fees) and the fees for administration of the examination.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed coursework equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Two of the required 16 credits shall be in a Commission-developed or approved real estate office management course and 2 of the required 16 credits shall be in Commission-developed or approved law course. At least 6 of the remaining 12 credits shall be in 3 or more of the Commission-developed courses listed in this paragraph. The remaining 6 credits shall be in real estate courses but not necessarily those listed in this paragraph. A candidate may not apply credits used to qualify for the salesperson's examination toward fulfillment of the broker education requirement.

(3) To be counted toward the education requirement, a real estate course shall have been offered by:

(i) An accredited college, university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider outside this Commonwealth, that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located. The course transcript or certificate of completion shall state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider is located.

(iv) A real estate industry organization outside this Commonwealth, if the course is approved by the licensing jurisdiction of another state. The course transcript or certificate of completion shall state that the course is approved by the licensing jurisdiction which has approved it.

(4) A maximum of four credits will be allowed for each real estate course. A maximum of four credits will be allowed for each area of real estate study listed in paragraph (2).

(5) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

(6) Two credits will be allowed for each year of active practice the candidate has had a licensed broker in another state during the 10-year period immediately preceding the submission of the examination application.

(c) A reciprocal licensee who is converting that license to a standard broker's license is exempt from subsection (a) and is only required to pass the state portion of the examination.

§ 35.272. Examination for salesperson's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a standard salesperson's license shall:

- (1) Be 18 years of age or older.
- (2) Have successfully completed four credits, or 60 hours of instruction, in basic real estate courses as determined by the Commission under subsection (b).
- (3) Submit a completed examination application to the Commission or its designee with the examination fee.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

- (i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.
- (ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed coursework equivalent to a major in real estate.
- (iii) A juris doctor degree from an accredited law school.

(2) Credits will be allowed for each of the Commission-developed real estate courses--Real Estate Fundamentals and Real Estate Practice--when offered by:

- (i) An accredited college, university or institution of higher learning located outside this Commonwealth.
 - (ii) A real estate education provider in this Commonwealth approved by the Commission.
- (3) Credits will be allowed for acceptable basic real estate courses when offered by:
- (i) An accredited college, university or institution of higher learning located outside this Commonwealth.
 - (ii) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

(4) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

(c) A licensee who is converting a reciprocal license to a standard salesperson's license is exempt from the requirements in subsections (a) and (b) and is only required to pass the state portion of the examination.

§ 35.273. Examination for cemetery broker's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a standard cemetery broker's license shall:

- (1) Be 21 years of age or older.
- (2) Have worked at least 3 years as a licensed salesperson or cemetery salesperson, with experience qualifications that the Commission considers adequate for practice as a cemetery broker, or possess at least 3 years of other experience, education, or both, that the Commission considers the equivalent of 3 years' experience as a licensed salesperson or cemetery salesperson.
- (3) Have successfully completed four credits, or 60 hours of instruction, in basic real estate courses as determined by the Commission under subsection (b).
- (4) Submit a completed examination application to the Commission or its designee with:
 - (i) Official transcripts evidencing the acquisition of degrees or course credits.
 - (ii) A detailed resume of real estate activities performed by the candidate while working as a salesperson or cemetery salesperson, and a sworn statement from the candidate's employing broker confirming that these activities were performed if the candidate is a licensed salesperson or cemetery salesperson.

(iii) A complete description of work experience and education that the candidate considers relevant to the requirements of paragraph (2) if the candidate is not a licensed salesperson or cemetery salesperson.

(iv) The fee for review of the candidate's qualifications to take the examination prescribed in § 35.203 (relating to fees) and the fee for administration of the examination.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirements of subsection (a)(3):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of course work in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed course work equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Credits will be allowed for each of the Commission-developed real estate courses--Real Estate Fundamentals and Real Estate Practice--when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider approved by the Commission in this Commonwealth.

(3) Credits will be allowed for cemetery courses when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(4) Credits will be allowed for acceptable basic real estate courses when offered by:

(i) An accredited college, university or institute of higher learning located outside this Commonwealth.

(ii) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

(iii) A cemetery association outside this Commonwealth, if the course taught by the cemetery association is equivalent to a course taught by a real estate school in this Commonwealth approved by the Commission.

(5) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

(c) A reciprocal licensee who is converting a reciprocal license to a standard cemetery broker's license is exempt from subsection (a) and is only required to pass the state portion of the examination.

§ 35.274. Examination for builder-owner salesperson's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a standard builder-owner salesperson's license shall:

(1) Be 18 years of age or older.

(2) Be employed by a builder-owner who has a good reputation for honesty, trustworthiness, integrity and competence.

(3) Submit a completed examination application to the Commission or its designee with the examination fee.

(b) A reciprocal licensee who is converting a reciprocal license to a standard builder-owner salesperson's license is only required to pass the state portion of the examination.

§ 35.275. Examination for rental listing referral agent's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a standard rental listing referral agent's license shall:

(1) Be 18 years of age or older.

(2) Have successfully completed four credits, or 60 hours of instruction, in basic real estate courses as determined by the Commission under subsection (b).

(3) Submit a completed examination application to the Commission or its designee with the examination fee.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the requirements of subsection (a)(2):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed coursework equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Credits will be allowed for each of the Commission-developed real estate courses--Real Estate Fundamentals and Real Estate Practice--when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for acceptable basic real estate courses when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

(4) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

(c) A reciprocal licensee who is converting a reciprocal license to a standard rental listing referral agent's license is exempt from the requirements in subsections (a) and (b) and is only required to pass the state portion of the examination.

SUBCHAPTER E. STANDARD OF CONDUCT AND PRACTICE.

GENERAL ETHICAL RESPONSIBILITIES

§ 35.281. Putting contracts, commitments and agreements in writing.

(a) All contracts, commitments and agreements between a broker, or a licensee employed by the broker, and a principal or a consumer who is required to pay a fee, commission or other valuable consideration shall be in writing and contain the information specified in § 35.331 (relating to written agreements generally).

(b) The following are exceptions to subsection (a):

(1) Open listing agreements or nonexclusive buyer agency agreements may be oral if the seller/buyer or landlord/tenant is provided with a written memorandum stating the terms of the agreement.

(2) Transaction licensees or subagents cooperating with listing brokers are not required to obtain a written agreement from the seller/landlord.

(3) Transaction licensees or subagents who provide services to the buyer/tenant but are paid by the seller/landlord or listing broker shall provide, and have signed, a written disclosure statement describing the nature of the services to be performed and containing the information required by section 608 of the act (63 P. S. § 455.608).

(c) A licensee may perform services before an agreement is signed, but the licensee is not entitled to recover a fee, commission or other valuable consideration in the absence of a signed agreement.

§ 35.282. Misleading advice, assurances and representations.

(a) A licensee may not give assurances or advice concerning an aspect of a real estate transaction that he knows, or reasonably should be expected to know, is incorrect, inaccurate or improbable.

(b) A licensee may not knowingly be a party to a material false or inaccurate representation in a writing regarding a real estate transaction in which he is acting in a representative capacity.

§ 35.283. Disclosure of interest.

(a) A licensee may not participate in a real estate transaction involving property in which he has an ownership interest unless he first discloses his interest in writing to all parties concerned.

(b) A licensee may not represent, or purport to represent, more than one party to a real estate transaction without the written consent of all parties concerned.

(c) A broker who manages rental property may not accept a commission, rebate or profit on expenditures made for the lessor without the lessor's written consent.

(d) A licensee who provides financial services, title transfer and preparation, insurance, construction, repair or inspection services, may not require a consumer to use any of these services.

(e) If the consumer chooses to use any of the services in subsection (d), the licensee shall provide the consumer with a written disclosure of any financial interest, including, a referral fee or commission, that the licensee has in the service. This disclosure shall be made at the time the licensee first advises the consumer that an ancillary service is available or when the licensee first learns that the consumer will be using the service.

(f) A licensee has a continuing obligation to disclose to a principal any conflict of interest in a reasonably practicable period of time after the licensee learns or should have learned of the conflict of interest.

§ 35.284. Disclosures of business relationships.

(a) *Disclosure to consumers seeking to sell or purchase residential or commercial real estate.*

(1) Except as provided in subsection (e), a licensee shall provide the disclosure summary in § 35.336 (relating to disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant) to consumers seeking to purchase or sell real estate at the initial interview if the interview occurs in person.

(2) If the initial interview does not occur in person, the licensee shall provide the oral disclosure in § 35.339 (relating to the oral disclosure) at the initial interview and the written disclosure statement in § 35.336 no later than the earlier of:

(i) The first meeting that the licensee has in person with the consumer after the initial interview.

(ii) The time the licensee or any person working with the licensee first shows a property to the consumer.

(b) *Disclosure to tenants seeking to lease residential or commercial real estate.*

(1) Except as provided in subsection (e), a licensee who is working on behalf of the tenant shall provide the disclosure summary in § 35.336 as required in subsection (a).

(2) Except as provided in subsection (e), a licensee who is working on behalf of the owner shall provide the disclosure summary in § 35.337 (relating to disclosure summary for the lease of residential or commercial real estate when the licensee is working on behalf of the owner) to tenants seeking to lease residential or commercial property at the initial interview.

(c) *Disclosure to consumers seeking to sell time shares.* A licensee shall provide the disclosure summary in § 35.338 (relating to disclosure summary for time-share estates) to consumers seeking to purchase time-share estates at the initial interview.

(d) *Signed disclosure.* A licensee shall provide a copy of the signed disclosure to the consumers referenced in subsections (a)—(c) and shall retain the signed acknowledgment under § 35.286 (relating to retention and production of records). If a consumer refuses to sign the acknowledgment, the refusal shall be noted on the acknowledgment.

(e) *Exception.* The disclosures required under subsections (a) and (b) do not apply to transactions involving the sale or lease of commercial property, as defined in section 201 of the act (63 P.S. § 455.201), to consumers who are not individuals.

§ 35.284a. Disclosures required by the Real Estate Seller Disclosure Law.

(a) A licensee who represents sellers or a transaction licensee who has entered into an agreement with sellers shall:

(1) Advise sellers of their duty to disclose any known material defects with the property by completing a property disclosure statement that satisfies the requirements in 68 Pa.C.S. § 7304 (relating to disclosure form).

(2) Provide sellers with a property disclosure statement that meets or exceeds the disclosures set forth in § 35.335a (relating to seller property disclosure statement).

(3) Deliver the completed property disclosure statement or the property disclosure statement marked "refused" to the buyer, the licensee who represents the buyer or the transaction licensee who has entered into an agreement with the buyer prior to the execution of an agreement of sale.

(b) A licensee who represents buyers or a transaction licensee who has entered into an agreement with buyers shall:

(1) Advise buyers that sellers have a duty to provide a completed property disclosure statement.

(2) Assure that the completed property disclosure statement or the property disclosure statement marked "refused" was delivered to the buyer prior to the execution of an agreement of sale.

(c) Licensees described in subsections (a) and (b) are required to disclose, to the buyer in writing, all material defects that are not otherwise disclosed and of which the licensee has actual knowledge.

(d) Licensees described in subsections (a) and (b) are not required to conduct an independent investigation to confirm seller's disclosures on the property disclosure statement.

§ 35.285. Disclosure of real estate affiliations.

A licensee shall provide to the Commission or its representatives upon proper demand information regarding a franchisor, network or other parent real estate company with which the licensee is, or may become, affiliated.

§ 35.286. Retention and production of records.

(a) *Retention.* A broker or cemetery broker shall retain records pertaining to a real estate transaction for at least 3 years following consummation except for the following which shall be retained for 6 months:

(1) The acknowledgement portion of the consumer notice applicable to the sale or purchase of real estate in § 35.336 (relating to disclosure summary for the purchase or sale of residential or commercial real estate or the lease of residential or commercial real estate or lease of residential or commercial real estate when the licensee is working on behalf of the tenant) when there is not a real estate transaction.

(2) The acknowledgement portion of the consumer notice applicable to time shares in § 35.338 (relating to disclosure summary for time-share estates).

(3) The acknowledgement portion of the consumer notice applicable to leases in § 35.336 and § 35.337 (relating to disclosure summary for the lease of residential or commercial real estate when the licensee is working on behalf of the owner).

(4) The written disclosure statement establishing a subagent or transaction licensee relationship required by § 35.281(b)(3) (relating to putting contracts, commitments and agreements in writing).

(b) *Production of documents.*

(1) A broker or cemetery broker shall produce the records required in subsection (a) for examination by the Commission or its authorized representatives upon written request or pursuant to an office inspection under § 35.246 (relating to inspection of office).

(2) A corporation, partnership or association that holds a broker's or cemetery broker's license shall produce its corporate, partnership or association records for examination by the Commission or its authorized representatives upon written request or pursuant to an office inspection under § 35.246.

§ 35.287. Supervised property management assistance by salespersons.

A salesperson may assist in property management if the salesperson's work is supervised and controlled by the employing broker. The salesperson may not independently negotiate the terms of a lease nor execute a lease on behalf of the lessor.

§ 35.288. Duties when selling or leasing own real estate.

(a) A broker or salesperson who sells or leases his own real estate shall comply with the requirements of the act and this chapter.

(b) A broker or salesperson who is selling or leasing his own real estate shall disclose his licensed status to a prospective buyer or lessee before the buyer or lessee enters into an agreement of sale or lease. See § 35.304 (relating to disclosure of licensure when advertising own real estate).

§ 35.289. Valid list of rentals.

The list of rental units that a rental listing referral agent gives to a prospective tenant shall meet the desired specifications sought by the prospective tenant as set forth in the rental listing agreement. The rental listing referral agent shall verify the availability of the rental units no more than 4 days prior to the date the agent collects a fee from the prospective tenant.

§ 35.290. Reporting of crimes and disciplinary actions.

(a) A licensee shall notify the Commission of being convicted of, or pleading guilty or nolo contendere to, a felony or misdemeanor, within 30 days of the verdict or plea.

(b) A licensee shall notify the Commission of disciplinary action taken against him by the real estate licensing authority of another jurisdiction within 30 days of receiving notice of the disciplinary action.

§ 35.291. Posting of suspension notice.

A broker or cemetery broker whose license is suspended by the Commission shall return his license to the Commission and shall post a notice of the Commission's action at the main office and at branch offices. The notice, which will be provided by the Commission, shall be posted prominently on or near the public entrance to each office. Failure to post the notice constitutes grounds for further disciplinary action by the Commission.

§ 35.292. Duties of licensees generally.

(a) The following duties are owed to all consumers of real estate services and may not be waived:

- (1) Exercise reasonable professional skill and care.
- (2) Deal honestly and in good faith.
- (3) Present, in a reasonably practicable period of time, all offers, counteroffers, notices and communications to and from the parties in writing, unless the property is subject to an existing contract and the seller/landlord has agreed in a written waiver.
- (4) Comply with the Real Estate Seller Disclosure Act (68 P. S. § § 1021—1036).
- (5) Account for escrow and deposits funds as required by section 604(a)(5) of the act (63 P. S. § 455.604(a)(5)) and § § 35.321—35.328 (relating to escrow requirements).
- (6) Provide consumers with the information in section 608 of the act (63 P. S. § 455.608) at the initial interview.
- (7) Disclose, in a reasonably practicable period of time, all conflicts of interest and financial interests as required in § 35.283 (relating to disclosure of interest).
- (8) Advise the consumer to seek expert advice on matters about the transaction that are beyond the licensee's expertise.
- (9) Ensure that all services are provided in a reasonable, professional and competent manner.

- (10) Keep the consumer informed about the transaction and the tasks to be completed.
- (11) Provide assistance with document preparation.
- (12) Advise the consumer about compliance with laws pertaining to real estate transactions without rendering legal advice.
- (b) A licensee is not required to conduct an independent inspection of the property.
- (c) A licensee is not required to independently verify the accuracy or completeness of any representation made by the consumer to a transaction which the licensee reasonably believes to be accurate and reliable.
- (d) A licensee is not liable for the acts of a consumer unless the consumer is acting at the express direction of the licensee or as a result of a representation by a licensee reasonably relied on by the consumer.

ADVERTISING AND SOLICITATION

§ 35.301. Unauthorized advertising and solicitation.

- (a) A licensee may not advertise the sale or lease of real estate, or otherwise solicit prospective buyers or tenants for the real estate, without the authority of the seller or lessor or of the agent of the seller or lessor.
- (b) A rental listing referral agent may not publish information about a rental property if the lessor or property manager expressly states that the property is not to be included in lists prepared by rental listing referral agents.

§ 35.302. Harassment.

A licensee, whether acting on behalf of a prospective buyer or not, may not solicit—by personal contact, telephone, mail or advertising—the sale or other disposition of real estate with such frequency as to amount to clear harassment of the owner or other person who controls the sale or disposition of the real estate.

§ 35.303. Panic selling.

- (a) The Commission will regard an attempt by a licensee to bring about panic selling in order to profit from it as bad faith under section 604(a)(20) of the act (63 P. S. § 455.604(a)(20)). For purposes of this section, “panic selling” is frequent efforts to sell residential real estate in a particular neighborhood because of fear of declining real estate values when the fear is not based on facts relating to the intrinsic value of the real estate itself.
- (b) Proof of systematic solicitation of sales listings may be considered sufficient, but not conclusive, evidence of an attempt to bring about panic selling.

§ 35.304. Disclosure of licensure when advertising own real estate.

A licensee who sells or leases his own real estate shall disclose that he is a real estate licensee in advertisements for the property. This requirement does not apply if the property is listed with a real estate company.

§ 35.305. Business name on advertisements.

- (a) Brokerage companies, including sole proprietorships, cemetery companies and rental listing referral agencies shall advertise or otherwise hold *themselves* out to the public only under the business name designated on *their* license.
- (b) Individual brokers of record, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons and rental listing referral agents who wish to use and advertise nicknames (for example, Jack v. John or Margaret v. Peggy) shall include the names on their licensure applications or biennial renewal applications.
- (c) An advertisement by an associate broker, salesperson, cemetery associate broker or cemetery salesperson shall contain the business name and telephone number of the employing broker. The names and telephone numbers shall be of equal size.

§ 35.306. Advertisements of lotteries, contests, prizes, certificates, gifts and lots.

- (a) An advertisement by a licensee for the solicitation, sale or offering for sale of real estate that employs lotteries or contests or that offers prizes, certificates, gifts or free lots shall contain:
 - (1) A description of each prize, certificate, gift or lot offered.

(2) The prerequisites for receiving each prize, certificate, gift or lot offered.

(3) Limitation on the number of prizes, certificates, gifts or lots offered.

(4) The fair market value of each prize, certificate, gift or lot offered. If the advertisement is in a print medium, the statement of fair market value shall be in the same size type as the description of the prize, certificate, gift or lot offered. For purposes of this paragraph, “fair market value” is the price or value that a prospective buyer would expect to pay, or be charged for, if he were to acquire a similar item of like quality and quantity in a retail outlet that offers the item for sale to the general public.

(5) The odds of winning or receiving each prize, certificate, gift or lot offered. If the advertisement is in a print medium, the statement of odds shall be the same size type as the description of the prize, certificate, gift or lot, and shall appear immediately adjacent to the description.

(b) A licensee who solicits, sells or offers for sale real estate by using the mails or by offering prizes, certificates, gifts or lots shall maintain records that contain:

(1) The number and description of each prize, certificate, gift or lot distributed or awarded.

(2) The name and address of each person who received a prize, certificate, gift or lot.

(3) The name and address of each person who responded to the advertisement or solicitation but did not receive a prize, certificate, gift or lot.

(c) The Commission will regard the following as deceptive conduct within the meaning of section 604(a)(18) of the act (63 P.S. § 455.604(a)(18)):

(1) Failure to comply with subsection (a) or (b).

(2) Failure to disclose the possibility that a particular prize, certificate, gift or lot may not be distributed or awarded.

(3) Advertising the availability of a prize, certificate, gift or lot when it is not available for distribution or awarding.

(4) Giving a misleading description of a prize, certificate, gift or lot.

§ 35.307. Advertisements of sales volume, market position and numbers of offices.

(a) An advertisement by a broker about “sales volume” or “production” shall refer only to closed transactions. For purpose of this subsection, a “closed transaction” is either a listing sold or a sale made after a fully executed deed is delivered.

(b) An advertisement by a broker about his production or position in the “market” shall identify the municipality that the market comprises.

(c) An advertisement by a broker about the number of offices that he operates shall refer only to those offices that have been issued branch office licenses by the Commission.

§ 35.308. Relationship with educational institution.

A real estate company, franchise or network may promote, endorse, or advertise its association, affiliation or connection with a real estate school or with a college, university or institute of higher learning regarding its offering of real estate instruction. An association, affiliation or connection which includes an ownership interest shall be disclosed in all promotions, endorsements or advertisements. For purposes of this section, an ownership interest will be considered by the Commission to include proprietary or beneficial interests through which the real estate company, franchise or network earns or has the potential to earn income, or which produces a direct or indirect economic benefit.

PERMITTED RELATIONSHIPS

§ 35.311. Generally.

(a) A licensee and a consumer may enter into the relationship specified in sections 606.2—606.4 and 606.6 of the act (63 P.S. § § 455.606—455.606d and 455.606f).

(b) A broker may not extend or delegate the broker's agency relationship without the written consent of the principal.

(c) Compensation paid by a broker to another broker who assists in the marketing and sale/lease of a consumer's property does not create an agency relationship between the consumer and that other broker.

(d) A licensee in an agency relationship may not knowingly, during or following the termination of an agency relationship, reveal or use confidential information of the principal, except when one or more of the following apply:

- (1) The principal consented to the disclosure.
- (2) The information is disclosed to another licensee or third party acting solely on behalf of the principal.
- (3) The information is required to be disclosed under subpoena or court order.
- (4) The disclosure is necessary to prevent the principal from committing a crime.
- (5) The information is used by the licensee to defend in a legal proceeding against an accusation of wrongdoing.

§ 35.312. Duties of seller's agent.

(a) In addition to the duties required in § 35.292 (relating to duties of licensees generally), a seller's agent owes the additional duties of:

- (1) Loyalty to the seller/landlord by acting in the seller's/landlord's best interest.
- (2) Confidentiality, except that a licensee has a duty to reveal known material defects about the property.
- (3) Making a continuous and good faith effort to find a buyer/tenant for the property except when the property is subject to an existing agreement of sale/lease.
- (4) Disclosure to other parties in the transaction that the licensee has been engaged as a seller's agent.

(b) A licensee does not breach a duty to a seller/landlord by showing alternative properties to a prospective buyer/tenant or listing competing properties.

(c) A seller's agent may compensate other brokers as subagents if the seller/landlord agrees in writing. Subagents have the same duties and obligations to the seller/landlord as the seller's agent.

(d) A seller's agent may also compensate a buyer's agent and a transaction licensee who do not have the same duties and obligations to the seller/landlord as the seller's agent.

(e) Upon entering into a written agreement with the seller/landlord, each licensee employed by the broker will act as a seller's agent unless a licensee has been named, or is thereafter named, a designated agent under § 35.315 (relating to designated agency).

§ 35.313. Duties of buyer's agent.

(a) In addition to the duties required in § 35.292 (relating to duties of licensees generally), a buyer's agent owes the additional duties of:

- (1) Loyalty to the buyer/tenant by acting in the buyer's/tenant's best interest.
- (2) Confidentiality.
- (3) Making a continuous and good faith effort to find a property for the buyer/tenant except when the buyer/tenant is subject to an existing contract for sale/lease.
- (4) Disclosure to other parties in the transaction that the licensee has been engaged as a buyer's agent.

(b) A licensee does not breach a duty to a buyer/tenant by showing a property the buyer/tenant is interested in to other buyer/tenants.

(c) A buyer's agent represents the interests of the buyer/tenant even if paid by the seller/landlord.

(d) Upon entering into a written agreement with the buyer/tenant, each licensee employed by the broker will act as a buyer's agent unless a licensee has been named, or is thereafter named, a designated agent under § 35.315 (relating to duties of designated agency).

§ 35.314. Duties of dual agent.

(a) A licensee may act as a dual agent if both parties consent in writing.

(b) In addition to the duties required in § 35.292 (relating to duties of licensees generally), a dual agent owes the additional duties of:

(1) Taking no action that is adverse or detrimental to either party's interest in the transaction.

(2) Unless otherwise agreed in writing, making a continuous and good faith effort to find a buyer/tenant for the property and a property for the buyer/tenant except when the buyer/tenant or seller/landlord is subject to an existing contract.

(3) Confidentiality, except that a licensee is required to disclose known material defects about the property.

(c) A dual agent does not breach a duty to the seller/landlord by showing properties not owned by the seller/landlord to a prospective buyer/tenant or listing competing properties for sale/lease.

(d) A dual agent does not breach a duty to a buyer/tenant by showing a property the buyer/tenant is interested in to other prospective buyer/tenants.

§ 35.315. Duties of designated agent.

(a) A broker, with the written consent of the principal, may designate one or more licensees to act exclusively as the agent of the seller/landlord, and designate one or more licensees to act exclusively as the agent of the buyer/tenant in the same transaction.

(b) Designation may take place at any time. If designation takes place after the initial designation or after a written agreement has been entered into, the broker shall:

(1) Obtain the principal's consent, in writing, to the newly designated licensee.

(2) Obtain, when applicable, the principal's agreement to renounce any previous agency relationship with the other licensees employed by the broker.

(c) Regardless of when the designation takes place, the broker and the designated agents shall use reasonable care to ensure that confidential information is not disclosed or used.

(d) The licensees employed by the broker who are not designated have no agency relationship with either party in the transaction.

(e) Each licensee employed by the same broker who is a designated agent in the same transaction, owes the following additional duties, in addition to those required in § 35.292 (relating to duties of licensees generally):

(1) Loyalty to the principal with whom the designated agent is acting by working in that principal's best interest.

(2) Make a continuous and good faith effort to find a buyer/tenant for a principal who is a seller/landlord or to find a property for a principal who is the buyer/tenant except where the seller/landlord is subject to an existing contract for sale or lease or the buyer/tenant is subject to an existing contract to purchase or lease.

(3) Disclose to the principal prior to writing or presenting an offer to purchase that the other party to the transaction is represented by a designated agent also employed by the broker.

(4) Confirm that the broker is a dual agent in the transaction.

(f) In the transaction specified in subsection (e), the employing broker, as a dual agent, has the additional duties, in addition to those specified in § 35.292 and § 35.314 (relating to duties of dual agents), of:

(1) Taking reasonable care to protect any confidential information that has been disclosed to the designated licensees.

(2) Taking responsibility to direct and supervise the business activities of the designated licensees while taking no action that is adverse or detrimental to either party's interest in the transaction.

§ 35.316. Duties of transaction licensee.

In addition to the duties required in § 35.292 (relating to duties of licensees generally), a transaction licensee shall advise the consumer that the licensee:

- (1) Is not acting as an agent or advocate for the consumer and should not be provided with confidential information.
- (2) Owes the additional duty of limited confidentiality in that the following information may not be disclosed:
 - (i) The seller/landlord will accept a price less than the asking/listing price.
 - (ii) The buyer/tenant will pay a price greater than the price submitted in a written offer.
 - (iii) The seller/landlord or buyer/tenant will agree to financing terms other than those offered.

ESCROW REQUIREMENTS

§ 35.321. Duty to deposit money belonging to another into escrow account.

(a) Except as provided in subsection (b), a broker shall deposit money that the broker receives belonging to another into an escrow account in a Federally or State-insured bank or depository to be held pending consummation of the transaction or a prior termination thereof that does not involve a dispute between the parties to the transaction, at which time the broker shall pay over the full amount to the party entitled to receive it. If a broker is a partnership, association or corporation, its broker of record shall be responsible for ensuring that the escrow duty is performed.

(b) A broker is not required to hold in escrow rents that he receives as a property manager for a lessor. A broker shall deposit rents received into a rental management account that is separate from the broker's escrow and general business accounts.

(c) If a broker receives money belonging to another under an installment land purchase agreement, the transaction shall be considered consummated, for purposes of subsection (a), when the buyer has been afforded the opportunity, by means of the seller's written acknowledgement on or affixed to the agreement, to record the agreement, unless the agreement specifies otherwise.

(d) If a broker receives money belonging to another under an agreement of sale involving cemetery property, the transaction shall be considered consummated, for purposes of subsection (a), when the buyer receives a copy of the agreement of sale.

(e) If a broker receives a security deposit belonging to another under a lease agreement, the broker's duty to pay over the deposit for purposes of subsection (a), shall arise when the tenancy ends. If a sale of the leased premises or a change in a property management contract occurs during the term of the tenancy, the broker may transfer the security deposit from the broker's escrow account to the escrow account of the lessor or the lessor's broker upon notification in writing to each tenant from whom the broker received a deposit of the name and address of the banking institution in which the deposits will be held, and the amount of the deposits.

§ 35.322. Nonwaiver of escrow duty.

A broker's escrow duty may not be waived or altered by an agreement between the parties to the transaction, between the broker and the parties, or between the broker and other brokers who may be involved in the transaction.

§ 35.323. Responsibility for escrow in cobrokerage transactions.

(a) If a sales deposit is tendered by a buyer to the listing broker rather than to the selling broker, the listing broker shall assume the escrow duty.

(b) If a sales deposit is tendered by a buyer to the selling broker with the buyer having prior notice that the selling broker intends to deliver the deposit to the listing broker, the listing broker shall assume the escrow duty. The selling broker shall require the buyer to acknowledge in writing, prior to his signing the agreement of sale, that the prior notice contained the following information:

- (1) The name of the listing broker.

(2) That the selling broker's acceptance of the buyer's deposit is on behalf of the listing broker as subagent for the listing broker.

(3) That the listing broker is a licensed real estate broker who is required to hold the deposit in escrow.

(4) That the listing broker be designated as payee, if the buyer's deposit is in the form of a check.

(c) If a sales deposit is tendered by a buyer to the selling broker without the buyer having the prior notice in subsection (b), the selling broker shall assume the escrow duty.

§ 35.324. Deadline for depositing money into escrow account.

(a) Except as provided in subsection (b), a broker shall deposit money belonging to another into an escrow account by the end of the next business day following its receipt in the real estate office where the escrow records are maintained.

(b) If the money of another has been tendered to the broker in the form of a check under an offer to purchase or lease real estate, the broker may, with the written permission of both the buyer and the seller or the lessee and the lessor, refrain from depositing the money into an escrow account by the deadline in subsection (a) pending the seller's or lessor's acceptance of the offer. The broker shall deposit the check into an escrow account within 1 business day of the seller's or lessor's acceptance of the offer.

§ 35.325. Escrow account.

(a) An escrow account shall:

(1) Be maintained in a Federally- or State-insured bank or recognized depository.

(2) Designate the broker as trustee.

(3) Provide for the withdrawal of funds without prior notice.

(4) Be used exclusively for escrow purposes.

(b) The employing broker or broker of record of a partnership, association or corporation may give an employe written authority to deposit money into an escrow account and may give a licensed employe written authority to withdraw funds from the escrow account for payments that are properly chargeable to the account.

(c) If money is expected to be held in escrow for more than 6 months, the broker is encouraged to deposit the money into an interest-bearing escrow account. Interest earned on an escrow account shall be held and disbursed, pro rata, in the same manner as the principal amount, unless the parties to the transaction direct otherwise by agreement. A broker may not claim the interest earned on an escrow account, unless the broker is a lessor as provided in section 511.2 of the Landlord and Tenant Act (68 P. S. § 250.511b).

(d) A broker shall provide the Commission or its authorized representatives, upon written request or under an office inspection under § 35.246 (relating to inspection of office), a letter addressed to the bank or depository where the escrow account is maintained authorizing the release of records pertaining to the account.

§ 35.326. Prohibition against commingling or misappropriation.

(a) Except as provided in subsection (b), a broker may not commingle money that is required to be held in escrow—or interest earned on an escrow account—with business, personal or other funds.

(b) A broker may deposit business or personal funds into an escrow account to cover service charges assessed to the account by the bank or depository where the account is located or to maintain a minimum balance in the account as required by the regulations of the bank or depository.

(c) A broker may not misappropriate money that is required to be held in escrow—or interest earned on an escrow account—for business, personal or other purposes.

§ 35.327. Procedure when entitlement to money held in escrow is disputed.

If a dispute arises between the parties to a real estate transaction over entitlement to money that is being held in escrow by a broker, the broker shall retain the money in escrow until the dispute is resolved. If resolution of the dispute appears remote without legal action, the broker may, following 30 days' notice to the parties, petition the county court having jurisdiction in the matter to interplead the rival claimants.

§ 35.328. Escrow records.

A broker shall keep records of monies received by him that are required to be held in escrow and shall produce the records for examination by the Commission or its authorized representatives upon written request or pursuant to an office inspection under § 35.246 (relating to inspection of office). The records shall contain:

- (1) The name of the party from whom the broker received the money.
- (2) The name of the party to whom the money belongs.
- (3) The name of the party for whose account the money is deposited.
- (4) The date the broker received the money.
- (5) The date the broker deposited the money into the escrow account.
- (6) The date the broker withdrew the money from the escrow account.

REAL ESTATE DOCUMENTS

§ 35.331. Written agreements generally.

(a) A written agreement between a broker and a principal or between a broker and a consumer whereby the consumer is or may be committed to pay a fee, commission or other valuable consideration shall contain the following:

- (1) Notification that a Real Estate Recovery Fund exists to reimburse a person who has obtained a final civil judgment against a Commonwealth real estate licensee owing to fraud, misrepresentation or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting legal and equitable remedies. Details about the Fund may be obtained by calling the Commission at (717) 783-3658.
- (2) Notification that payments of money received by the broker on account of a sale—regardless of the form of payment and the person designated as payee (if payment is made by an instrument)—shall be held by the broker in an escrow account pending consummation of the sale or a prior termination thereof.
- (3) Notification that the broker's commission and the duration of the agreement have been determined as a result of negotiations between the broker, or a licensee employed by the broker, and the seller/landlord or buyer/tenant.
- (4) A description of the services to be provided and the fees to be charged.
- (5) Notification about the possibility that the broker or any licensee employed by the broker may provide services to more than one party in a single transaction, and an explanation of the duties owed to the other party and the fees which the broker may receive for those services.
- (6) Notification of the licensee's continuing duty to disclose in a reasonably practicable period of time any conflict of interest.
- (7) In an agreement between a broker and a seller/landlord, a statement regarding cooperation with subagents and buyers agents, a disclosure that a buyer agent, even if compensated by the listing broker or seller/landlord will represent the interests of the buyer/tenant and a disclosure of any potential for the broker to act as a dual agent.
- (8) In an agreement between a broker and a buyer/tenant, an explanation that the broker may be compensated based upon a percentage of the purchase price, the broker's policies regarding cooperation with listing brokers willing to pay buyer's brokers, a disclosure that the broker, even if compensated by the listing broker or seller/landlord will represent the interests of the buyer/tenant and a disclosure of any potential for the broker to act as a dual agent.

(b) To the extent that any of the information required in subsection (a) is set forth in the disclosure summaries in §§ 35.336—35.338 (relating to disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant; disclosure summary for the lease of residential or commercial real estate when the licensee is working on behalf of the owner; and disclosure summary for time-share estates), those provisions need not be repeated, but may be incorporated by reference.

§ 35.332. Exclusive listing agreements.

(a) An exclusive listing agreement may comprise one of the following:

- (1) The exclusive agency of the broker.
- (2) The exclusive right-to-sell or exclusive right-to-lease.

(b) An exclusive listing agreement shall contain, in addition to the requirements in § 35.331 (relating to written agreements generally), the following:

- (1) The sale or lease price.
- (2) The commission, fees or other compensation expected on the sale or lease price.
- (3) The duration of the agreement.
- (4) In the case of an exclusive right-to-sell agreement, a statement in bold face type that the broker earns a commission on the sale of the property during the listing period by whomever made, including the owner.
- (5) In the case of an exclusive right-to-lease agreement, a statement in bold print that the broker earns a commission on the lease of the property during the listing period by whomever made, including the lessor.

(c) An exclusive listing agreement may not contain:

- (1) A listing period exceeding 1 year.
- (2) An automatic renewal clause.
- (3) A cancellation notice to terminate the agreement at the end of the listing period set forth in the agreement.
- (4) Authority of the broker to execute a signed agreement of sale or lease for the owner or lessor.
- (5) An option by the broker to purchase the listed property.
- (6) Authority of the broker to confess judgment against the owner or lessor for the Commission in the event of a sale or lease.

§ 35.333. Agreements of sale.

(a) An agreement of sale, other than for a cemetery lot, mausoleum or cremation space or opening, shall contain:

- (1) The date of the agreement.
- (2) The names of the buyer and seller.
- (3) A description of the property and the interest to be conveyed.
- (4) The sale price.
- (5) The dates for payment and conveyance.
- (6) The zoning classification of the property, except if the property (or each parcel thereof, if subdividable) is zoned solely or primarily to permit single-family dwellings, together with a statement that the failure of the agreement of sale to contain the zoning classification of the property shall render the agreement voidable at the option of the buyer and, if voided, deposits tendered by the buyer shall be returned to the buyer without a requirement of court action.

(7) A statement identifying the capacity in which the broker, or a licensee employed by the broker is involved in the transaction and whether services have been provided to another party in the transaction.

(8) A provision that payments of money received by the broker on account of the sale—regardless of the form of payment and the person designated as payee (if payment is made by an instrument)—shall be held by the broker in an escrow account pending consummation of the sale or a prior termination thereof.

(9) The following statement:

“A Real Estate Recovery Fund exists to reimburse any person who has obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call (717) 783-3658.”

(10) A statement that access to a public road may require issuance of a highway occupancy permit from the Department of Transportation.

(11) In the case of an agreement of sale for the purchase of a time share or campground membership, a statement regarding the purchaser’s right of cancellation that is set forth conspicuously in bold face type of at least 10 point size immediately above the signature line for the purchaser and that is in substantially the following form:

“You, the purchaser, may cancel this purchase at any time prior to midnight of the fifth day following the date of this transaction. If you desire to cancel, you are required to notify the seller, in writing, at (insert address). Such notice shall be given by certified return receipt mail or by any other bona fide means of delivery which provides you with a receipt. Such notice shall be effective upon being postmarked by the United States Postal Service or upon deposit of the notice with any bona fide means of delivery which provides you with a receipt.”

(b) An agreement of sale that is conditioned upon the ability of the buyer to obtain a mortgage shall contain:

(1) The type of mortgage.

(2) The mortgage principal.

(3) The maximum interest rate of the mortgage.

(4) The minimum term of the mortgage.

(5) The deadline for the buyer to obtain the mortgage.

(6) The nature and extent of assistance that the broker will render to the buyer in obtaining the mortgage.

(c) The following terms shall be printed in bold face if made part of an agreement of sale:

(1) A provision relieving the seller from responsibility for defects involving the sale property, or a provision requiring the buyer to execute a release to that effect at the time of settlement, or a provision of similar import.

(2) A provision reserving to the builder-seller the right to change, or depart from, the building specifications for the sale property.

(d) An agreement of sale for a cemetery lot or plot or a mausoleum space or opening shall contain the requirements in subsection (a)(1)—(5) and (9).

§ 35.334. Statements of estimated cost and return.

(a) Before an agreement of sale is executed, the brokers involved in the transaction shall provide each party with a written estimate of reasonably foreseeable expenses associated with the sale that the party may be expected to pay, including, but not limited to:

(1) The broker’s commission.

(2) The mortgage payments and financing costs.

(3) Taxes and assessments.

(4) Settlement expenses.

(b) The estimates of costs required under subsection (a) shall be as accurate as may be reasonably expected of a person having knowledge of, and experience in, real estate sales.

(c) The following statement of estimated costs to the buyer at settlement is exemplary of the requirements of subsection (a):

STATEMENT OF ESTIMATED COSTS TO BUYER AT SETTLEMENT

Estimated Settlement Date _____

Property _____

Broker _____

Purchase Price	_____		
Payment on Account	_____		
Balance at Settlement		_____	
Estimated Closing Expenses			
Title Search and Insurance	_____		
Conveyancing or Preparation of Papers Charge	_____		
Recording Fees	_____		
Deed	_____		
Mortgage	_____	_____	
Mortgagee's Charges			
Appraisal Fee	_____		
Credit Report	_____		
Origination and Placement Fees	_____		
Mortgage Service Charge	_____		
Fire Insurance (\$ _____ for _____ years)			_____
Miscellaneous Charges			
Local Realty Transfer Tax	(_____ %)	_____	
Pennsylvania Realty Transfer Tax	(_____ %)	_____	
Notary Fees	_____		
Other Charges	_____		

Total Closing Expenses			_____
Costs for Rebates and Advances			
Rebates to Seller			
Insurance	_____		
Annual Taxes and Water-Sewer Rents	_____		
Advances by Buyer		_____	_____
Insurance	_____		
Taxes (Escrow)	_____		

Total Costs for Rebates and Advances			_____
Total Estimated Costs at Settlement			_____
Estimated Monthly Payments			_____
First Lien \$ _____ years at _____ %.			
Interest and Principal		_____	
Monthly FHA Mortgage		_____	
Insurance Premium		_____	
		\$ _____	
Real Estate Taxes		\$ _____	
Fire Insurance		\$ _____	
Water-Sewer Rents		\$ _____	
Total Estimated Monthly Payments			\$ _____

I/we have read and received a copy of the estimated settlement costs and estimated monthly carrying charges prior to the signing of an agreement of sale to purchase the property noted above.

I/we understand that the above costs are estimated and based on the best information available at this date and that they are subject to change, particularly in the case of the escrow charges such as taxes, water and sewage, rent and insurance.

WITNESS:

 _____(SEAL)
 Buyer
 _____(SEAL)
 Buyer

(d) The Following statement of estimated costs to the seller at settlement is exemplary of the requirements of subsection (a):

STATEMENT OF ESTIMATED COSTS TO SELLER AT SETTLEMENT

Estimated Settlement Date _____

Property _____

Broker _____

Purchase Price	_____	_____
Payment on Account	_____	_____
Balance		_____
Estimated Closing Expenses		
Penna. Realty Transfer Tax (_____%)	_____	
Local Realty Transfer Tax (_____%)	_____	
Federal Documentary	_____	
Stamps	_____	
Notary Fee	_____	
Mortgage Discount	_____	
Unpaid Annual Taxes	_____	
Broker's Commission	_____	
 Total Expenses		_____
Estimated Closing Credits Tax Refund	_____	
Estimated Net Charges		_____
Estimated Net Proceeds		_____

WITNESS:

 _____(SEAL)
 Buyer
 _____(SEAL)
 Buyer

§ 35.335. Rental listing referral agreements.

The agreement between a rental listing referral agent and a prospective tenant shall contain:

- (1) The rental specifications desired by the prospective tenant, such as location and rent.

(2) The following statement in bold print:

“We are a referral service only. We are not acting as real estate salespersons or brokers. We do not guarantee that the purchaser will find a satisfactory rental unit through our service. Our only purpose is to furnish the purchaser with lists of available rental units.”

§35.335a. Seller property disclosure statement.

The seller's property disclosure statement must, at a minimum, contain the following disclosures:

Seller's Property Disclosure Statement

Property address: _____
Seller: _____

A seller must disclose to a buyer all known material defects about property being sold that are not readily observable. This disclosure statement is designed to assist the seller in complying with disclosure requirements and to assist the buyer in evaluating the property being considered.

This statement discloses the seller's knowledge of the condition of the property as of the date signed by the seller and is not a substitute for any inspections or warranties that the buyer may wish to obtain. This statement is not a warranty of any kind by the seller or a warranty or representation by any listing real estate broker, any selling real estate broker or their agents. The buyer is encouraged to address concerns about the condition of the property that may not be included in this statement. This statement does not relieve the seller of the obligation to disclose a material defect that may not be addressed on this form.

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land. The fact that a structural element, system or subsystem is near, at or beyond the end of its normal useful life is not by itself a material defect.

(1) *Seller's expertise.* The seller does not possess expertise in contracting, engineering, architecture or other areas related to the construction and condition of the property and its improvements, except as follows: _____

(2) *Occupancy.* Do you, the seller, currently occupy this property? _____ yes _____ no
If "no," when did you last occupy the property? _____

(3) *Roof.*
(i) Date roof was installed: _____. Documented? _____ yes _____ no _____ unknown
(ii) Has the roof been replaced or repaired during your ownership? _____ yes _____ no
If "yes," were the existing shingles removed? _____ yes _____ no _____ unknown
(iii) Has the roof ever leaked during your ownership? _____ yes _____ no
(iv) Do you know of any problems with the roof, gutters or downspouts? _____ yes _____ no
Explain any "yes" answers that you give in this section: _____

(4) *Basements and crawl spaces (Complete only if applicable).*
(i) Does the property have a sump pump? _____ yes _____ no _____ unknown
(ii) Are you aware of any water leakage, accumulation or dampness within the basement or crawl space?
_____ yes _____ no If "yes," describe in detail _____

(iii) Do you know of any repairs or other attempts to control any water or dampness problem in the basement or crawl space? _____ yes _____ no If "yes," describe the location, extent, date and name of the person who did the repair or control effort: _____

(5) *Termites/wood destroying insects, dry rot, pests.*
(i) Are you aware of any termites/wood destroying insects, dry rot or pests affecting the property? _____ yes _____ no
(ii) Are you aware of any damage to the property caused by termites/wood destroying insects, dry rot or pests? _____ yes _____ no
(iii) Is your property currently under contract by a licensed pest control company? _____ yes _____ no
(iv) Are you aware of any termite/pest control reports or treatments for the property in the last five years?
_____ yes _____ no Explain any "yes" answers that you give in this section: _____

(6) *Structural items.*
(i) Are you aware of any past or present water leakage in the house or other structures? _____ yes _____ no

- (ii) Are you aware of any past or present movement, shifting, deterioration or other problems with walls, foundations or other structural components? _____ yes _____ no
- (iii) Are you aware of any past or present problems with driveways, walkways, patios or retaining walls on the property? _____ yes _____ no Explain any "yes" answers that you give in this section: _____

When explaining efforts to control or repair, please describe the location and extent of the problem and the date and person by whom the work was done, if known: _____

(7) *Additions/remodeling.* Have you made any additions, structural changes or other alterations to the property? _____ yes _____ no If "yes," please describe: _____

(8) *Water and sewage.*

- (i) What is the source of your drinking water? _____ public _____ community system
_____ well on property _____ other If "other," please explain: _____
- (ii) If your drinking water source is not public: _____
When was your water last tested? _____
What was the result of the test? _____
Is the pumping system in working order? _____ yes _____ no
If "no," please explain: _____
- (iii) Do you have a softener, filter or other purification system? _____ yes _____ no
If "yes," is the system: _____ leased _____ owned
- (iv) What is the type of sewage system? _____ public sewer _____ private sewer _____ septic tank
_____ cesspool _____ other If "other," please explain: _____
- (v) Is there a sewage pump? _____ yes _____ no If "yes," is it in working order? _____ yes _____ no
- (vi) If applicable, when was the septic system or cesspool last serviced? _____
- (vii) Is either the water or sewage system shared? _____ yes _____ no If "yes," please explain: _____
- (viii) Are you aware of any leaks, backups or other problems relating to any of the plumbing, water and sewage-related items? _____ yes _____ no If "yes," please explain: _____

(9) *Plumbing system.*

- (i) Type of plumbing: _____ copper _____ galvanized _____ lead _____ PVC _____ unknown
_____ other If "other," please explain: _____
- (ii) Are you aware of any problems with any of your plumbing fixtures (including, but not limited to: kitchen, laundry or bathroom fixtures, wet bars, hot water heater, etc.)? _____ yes _____ no
If "yes," please explain: _____

(10) *Heating and air conditioning.*

- (i) Type of air conditioning: _____ central electric _____ central gas _____ wall _____ none
- (ii) List any areas of the house that are not air conditioned: _____
- (iii) type of heating: _____ electric _____ fuel oil _____ natural gas _____ other
If "other," please explain: _____
- (iv) List any areas of the house that are not heated: _____
- (v) Type of water heating: _____ electric _____ gas _____ solar _____ other
If "other," please explain: _____
- (vi) Are you aware of any underground fuel tanks on the property? _____ yes _____ no
If "yes," please describe: _____
Are you aware of any problems with any item in this section? _____ yes _____ no
If "yes," please explain: _____

(11) *Electrical system.* Are you aware of any problems or repairs needed in the electrical system? _____ yes _____ no If "yes," please explain: _____

(12) *Equipment and appliances.*

The following items included in the sale are in need of repair or replacement: _____

(13) *Land (soils, drainage and boundaries).*

- (i) Are you aware of any fill or expansive soil on the property? _____ yes _____ no
- (ii) Are you aware of any sliding, settling, earth movement, upheaval, subsidence or earth stability

problems that have occurred on or that affect the property? _____ yes _____ no

NOTE TO BUYER: Some properties may be subject to mine subsidence damage. Maps of the counties and mines where mine subsidence damage may occur and mine subsidence insurance are available through the Department of Environmental Protection, Mine Subsidence Insurance Fund.

(iii) Are you aware of any existing or proposed mining, strip mining or any other excavations that might affect this property? _____ yes _____ no

(iv) To your knowledge, is this property or part of it located in a flood zone or wetlands area? _____ yes _____ no

(v) Do you know of any past or present drainage or flooding problems affecting the property? _____ yes _____ no

(vi) Do you know of any encroachments, boundary line disputes or easements? _____ yes _____ no

NOTE TO BUYER: Most properties have easements running across them for utility services and other reasons. In many cases, the easements do not restrict the ordinary use of the property, and the seller may not be readily aware of them. Buyers may wish to determine the existence of easements and restrictions by examining the property and ordering an abstract of title or searching the records in the Office of the Recorder of Deeds for the county before entering into an agreement of sale.

(vii) Are you aware of any shared or common areas (for example, driveways, bridges, docks, walls, etc.) or maintenance agreements? _____ yes _____ no Explain any "yes" answers that you give in this section: _____

(14) *Hazardous substances.*

(i) Are you aware of any underground tanks or hazardous substances present on the property (structure or soil), including, but not limited to, asbestos, polychlorinated byphenyls (PCBs), radon, lead paint, urea-formaldehyde foam insulation (UFFI), etc? _____ yes _____ no

(ii) To your knowledge, has the property been tested for any hazardous substances? _____ yes _____ no

(iii) Do you know of any other environmental concerns that might impact upon the property? _____ yes _____ no Explain any "yes" answers that you give in this section: _____

(15) *Condominiums and other homeowners associations (complete only if applicable).*

Type: _____ condominium* _____ cooperative _____ homeowners association _____ other

If "other," please explain: _____

NOTICE REGARDING CONDOMINIUMS AND COOPERATIVES:

According to section 3407 of the Uniform Condominium Act (68 Pa.C.S. § 3407) (relating to resales of units) and 68 Pa.C.S. § 4409 (relating to resales of cooperative interests), a buyer of a resale unit in a condominium or cooperative must receive a certificate of resale issued by the association in the condominium or cooperative. The buyer will have the option of canceling the agreement with return of all deposit moneys until the certificate has been provided to the buyer and for 5 days thereafter or until conveyance, whichever occurs first.

(16) *Miscellaneous.*

(i) Are you aware of any existing or threatened legal action affecting the property? _____ yes _____ no

(ii) Do you know of any violations of Federal, State or local laws or regulations relating to this property? _____ yes _____ no

(iii) Are you aware of any public improvement, condominium or homeowner association assessments against the property that remain unpaid or of any violations of zoning, housing, building safety or fire ordinances that remain uncorrected? _____ yes _____ no

(iv) Are you aware of any judgment, encumbrance, lien (for example, comaker or equity loan) or other debt against this property that cannot be satisfied by the proceeds of this sale? _____ yes _____ no

(v) Are you aware of any reason, including a defect in title, that would prevent you from giving a warranty deed or conveying title to the property? _____ yes _____ no

(vi) Are you aware of any material defects to the property, dwelling or fixtures which are not disclosed elsewhere on this form? _____ yes _____ no

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land.

Explain any "yes" answers that you give in this section: _____

The undersigned seller represents that the information set forth in this disclosure statement is accurate and complete to the best of the seller's knowledge. The seller hereby authorizes any agent for the seller to provide this information to prospective buyers of the property and to other real estate agents. The seller alone is responsible for the accuracy of the information

contained in this statement. The seller shall cause the buyer to be notified in writing of any information supplied on this form that is rendered inaccurate by a change in the condition of the property following the completion of this form.

SELLER _____ DATE _____

SELLER _____ DATE _____

SELLER _____ DATE _____

EXECUTOR, ADMINISTRATOR, TRUSTEE

The undersigned has never occupied the property and lacks the personal knowledge necessary to complete this disclosure statement.

DATE _____

RECEIPT AND ACKNOWLEDGMENT BY BUYER

The undersigned buyer acknowledges receipt of this disclosure statement. The buyer acknowledges that this statement is not a warranty and that, unless stated otherwise in the sales contract, the buyer is purchasing this property in its present condition. It is the buyer's responsibility to satisfy himself or herself as to the condition of the property. The buyer may request that the property be inspected, at the buyer's expense and by qualified professionals, to determine the condition of the structure or its components.

BUYER _____ DATE _____

BUYER _____ DATE _____

BUYER _____ DATE _____

§ 35.336. Disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant.

- (a) Licensees shall provide the consumer with the Consumer Notice at their initial interview.
- (b) Licensees shall retain a copy of the signed/refused acknowledgement for 6 months and provide the consumer a copy of the entire disclosure summary.
- (c) The Disclosure Summary must be entitled "Consumer Notice" and must be in the following format available from the Commission office upon request by phone, fax or internet:

CONSUMER NOTICE

THIS IS NOT A CONTRACT

In an effort to enable consumers of real estate services to make informed decisions about the business relationships they may have with real estate brokers and salespersons (licensees), the Real Estate Licensing and Registration Act (RELRA) requires that consumers be provided with this Notice at the initial interview.

* Licensees may enter into the following agency relationships with consumers:

Seller Agent

As a seller agent, the licensee and the licensee's company works exclusively for the seller/landlord and must act in the seller's/landlord's best interest, including making a continuous and good faith effort to find a buyer/tenant except while the property is subject to an existing agreement. All confidential information relayed by the seller/landlord must be kept confidential except that a licensee must reveal known material defects about the property. A subagent has the same duties and obligations as the seller agent.

Buyer Agent

As a buyer agent, the licensee and the licensee's company work exclusively for the buyer/tenant even if paid by the seller/landlord. The buyer agent must act in the buyer/tenant's best interest, including making a continuous and good faith effort to find a property for the buyer/tenant, except while the buyer is subject to an existing contract, and must keep all confidential information, other than known material defects about the property, confidential.

Dual Agent

As a dual agent, the licensee works for *both* the seller/landlord and the buyer/tenant. A dual agent may not take any action that is adverse or detrimental to either party but must disclose known material defects about the property. A licensee must have the written consent of both parties before acting as a dual agent.

Designated Agent

As a designated agent, the broker of the selected real estate company designates certain licensees within the company to act exclusively as the seller/landlord agent and other licensees within the company to act exclusively as the buyer/tenant agent in the transaction. Because the broker supervises all of the licensees, the broker automatically serves as a dual agent. Each of the designated licensees are required to act in the applicable capacity explained previously. Additionally, the broker has the duty to take reasonable steps to assure that confidential information is not disclosed within the company.

- * In addition, a licensee may serve as a Transaction Licensee.

A transaction licensee provides real estate services without having any agency relationship with a consumer. Although a transaction licensee has no duty of loyalty or confidentiality, a transaction licensee is prohibited from disclosing that:

- * The seller will accept a price less than the asking/listing price,
- * The buyer will pay a price greater than the price submitted in the written offer, and
- * The seller or buyer will agree to financing terms other than those offered.

Like licensees in agency relationships, transaction licensees must disclose known material defects about the property.

- * Regardless of the business relationship selected, all licensees owe consumers the duty to:
 - * Exercise reasonable professional skill and care which meets the practice standards required by the RELRA.
 - * Deal honestly and in good faith.
 - * Present, as soon as practicable, all written offers, counteroffers, notices and communications to and from the parties. This duty may be waived *by* the seller *where* the seller's property is under contract and the waiver is in writing.
 - * Comply with the Real Estate Seller Disclosure Law.
 - * Account for escrow and deposit funds.
 - * Disclose, as soon as practicable, all conflicts of interest and financial interests.
 - * Provide assistance with document preparation and advise the consumer regarding compliance with laws pertaining to real estate transactions.
 - * Advise the consumer to seek expert advice on matters about the transaction that are beyond the licensee's expertise.
 - * Keep the consumer informed about the transaction and the tasks to be completed.
 - * Disclose financial interest in a service, such as financial, title transfer and preparation services, insurance, construction, repair or inspection, at the time service is recommended or the first time the licensee learns that the service will be used.
- * The following contractual terms are *negotiable* between the licensee and the consumer and must be addressed in an agreement/disclosure statement:
 - * The duration of the licensee's employment, listing agreement or contract.
 - * The licensee's fees or commission.

DATE: _____
PRINT (CONSUMER)

PRINT (CONSUMER)

SIGNED (COMSUMER)
ADDRESS (OPTIONAL):
PHONE NUMBER (OPTIONAL):

SIGNED (CONSUMER)
ADDRESS (OPTIONAL):
PHONE NUMBER (OPTIONAL):

I CERTIFY THAT I HAVE PROVIDED THIS NOTICE:

DATE: _____
PRINT (LICENSEE)

SIGNED (LICENSEE)

§ 35.338. Disclosure summary for time-share estates.

The disclosure summary for time-share estates shall be in the following format:

**CONSUMER NOTICE
THIS IS NOT A CONTRACT**

(LICENSEE) HEREBY STATES THAT WITH RESPECT TO THIS PROPERTY, (DESCRIBE PROPERTY) I AM ACTING IN THE FOLLOWING CAPACITY: (CHECK ONE)

- (I) OWNER OF THE PROPERTY;
- (II) A DIRECT EMPLOYEE OF THE OWNER; OR
- (III) AN AGENT OF THE OWNER PURSUANT TO A PROPERTY MANAGEMENT OR EXCLUSIVE LEASING OR SELLING AGREEMENT.

I ACKNOWLEDGE THAT I HAVE RECEIVED THIS NOTICE:

DATE: _____
PRINT (CONSUMER)

PRINT (CONSUMER)

SIGNED (COMSUMER)
ADDRESS (OPTIONAL):
PHONE NUMBER (OPTIONAL):

SIGNED (CONSUMER)
ADDRESS (OPTIONAL):
PHONE NUMBER (OPTIONAL):

I CERTIFY THAT I HAVE PROVIDED THIS NOTICE:

DATE: _____
PRINT (LICENSEE)

SIGNED (LICENSEE)

§ 35.339. Oral disclosure.

The disclosure shall be read verbatim:

“THE REAL ESTATE LAW REQUIRES THAT I PROVIDE YOU WITH A WRITTEN CONSUMER NOTICE THAT DESCRIBES THE VARIOUS BUSINESS RELATIONSHIP CHOICES THAT YOU MAY HAVE WITH A REAL ESTATE LICENSEE. SINCE WE ARE DISCUSSING REAL ESTATE WITHOUT YOU HAVING THE BENEFIT OF THE CONSUMER NOTICE, I HAVE THE DUTY TO ADVISE YOU THAT ANY INFORMATION YOU GIVE ME AT THIS TIME IS NOT CONSIDERED TO BE CONFIDENTIAL, AND ANY INFORMATION YOU GIVE ME WILL NOT BE CONSIDERED CONFIDENTIAL UNLESS AND UNTIL YOU AND I ENTER INTO A BUSINESS RELATIONSHIP. AT OUR FIRST MEETING I WILL PROVIDE YOU WITH A WRITTEN CONSUMER NOTICE WHICH EXPLAINS THOSE BUSINESS RELATIONSHIPS AND MY CORRESPONDING DUTIES TO YOU.”

§ 35.340. Comparative market analysis.

A comparative market analysis shall contain the following statement printed conspicuously and without change on the first page:

This analysis has not been performed in accordance with the Uniform Standards of Professional Appraisal Practice which requires valuers to act as unbiased, disinterested third parties with impartiality, objectivity and independence and without accommodation of personal interest. It is not to be construed as an appraisal and may not be used as such for any purpose.

**SUBCHAPTER F.
REAL ESTATE EDUCATION PROVIDERS
APPROVAL OF REAL ESTATE EDUCATION PROVIDERS**

§ 35.341. Approval of real estate education provider.

A real estate education provider shall obtain the Commission’s approval before commencing operations in this Commonwealth. To obtain approval from the Commission, the real estate education provider shall:

- (1) Be owned by persons who possess good moral character, or, if the owner is a corporation, have officers and directors who meet this requirement.
- (2) Have a name that is acceptable to the Commission.
- (3) Have a director of operations who meets the requirements of § 35.342 (relating to approval of director).
- (4) Designate a person or entity to serve as custodian of records if the real estate education provider were to terminate operations.
- (5) Post a surety bond of \$10,000 to the Commonwealth for the protection of the contractual rights of the real estate education provider’s students.
- (6) Submit a completed real estate education provider approval application to the Commission with:
 - (i) A completed real estate education provider owner application with:
 - (A) A resume of the applicant’s experience in owning, administrating or teaching in, a college or university or as a real estate education provider.
 - (B) Two letters of reference from responsible persons relating to the applicant’s integrity and to the applicant’s previous experience, if any, in the administration of an educational program.
 - (C) Certified copies of court documents related to a conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed.
 - (ii) A completed real estate education provider director application with:

(A) Credentials evidencing the qualifications required of the applicant under § 35.342.

(B) Certified copies of court documents related to conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed.

(iii) A fictitious name registration, if the real estate education provider has a fictitious name.

(iv) A certificate of incorporation, if the real estate education provider is a corporation.

(v) A copy of the surety bond required under paragraph (5).

(vi) A copy of the student enrollment agreement.

(vii) A copy of the school transcript.

(viii) A statement of the prerequisites for admission.

(ix) A statement of policy regarding refund of tuition and other fees.

(x) The approval fee prescribed in § 35.203 (relating to fees).

(xi) For the main school location and each proposed satellite location, a sketch or photograph of the real estate education provider's sign.

§ 35.342. Approval of real estate educational director.

- (a) A real estate education provider shall obtain the Commission's approval of its director before commencing operations in this Commonwealth. The applicant for director shall have a combination of experience in teaching, supervision and educational administration which, in the opinion of the Commission, will enable the applicant to competently administer a real estate education program in areas that include, but are not limited to, the following: evaluation of instructor performance; evaluation of curriculum and specific course content; analysis of course examinations; and management of records and facilities.
- (b) The Commission may provisionally approve an otherwise qualified applicant for director who lacks sufficient background in teaching, supervision or educational administration. A provisionally approved director shall obtain the requisite qualifications in the time and manner prescribed by the Commission.
- (c) An approved real estate education provider shall obtain the Commission's approval before changing directors. The prospective director shall submit to the Commission the information required by § 35.341(6)(ii) (relating to approval of real estate education provider)
- (d) If the director dies, withdraws or is terminated, an approved real estate education provider will not lose its approved status, nor will be required to terminate operations within the Commonwealth provided that:
 - (1) The real estate education provider shall submit the name of an interim director to the Commission within 15 days of the death, withdrawal or termination of the director.
 - (2) The interim director is authorized to operate for up to 90 days following the death, withdrawal or termination of the director. Thereafter, continued operation is contingent upon approval of a director under subsection (a) or (b).
 - (3) No changes may be made to the curriculum, testing or facilities until the new director is approved by the Commission.

§ 35.343. Renewal of real estate education provider approval.

An approved real estate education provider shall renew its approval annually. To obtain renewal of approval, a real estate education provider shall submit a completed renewal of approval application to the Commission with:

- (1) A notarized certification of compliance with this chapter signed by the director.
- (2) A copy of the \$10,000 surety bond showing coverage for the upcoming renewal period.

(3) The fee for renewal of approval prescribed in § 35.203 (relating to fees).

§ 35.344. Withdrawal of real estate education provider or director approval.

(a) The Commission may, following notice and hearing under 2 Pa.C.S. § § 501—508 (relating to practice and procedure of Commonwealth agencies), withdraw the approval of a real estate education provider that it finds guilty of:

- (1) Having acquired the Commission’s approval by misrepresentation.
- (2) Failing to maintain compliance with § 35.341 (relating to approval of real estate education provider).
- (3) Violating a requirement of § § 35.351—35.363 (relating to administration of real estate education providers).

(b) The Commission may, following notice and hearing under 2 Pa.C.S. § § 501—508, withdraw the approval of a director that it finds guilty of:

- (1) Any conduct in connection with the administration of a real estate education provider which demonstrates bad faith, dishonesty, untrustworthiness or incompetency.
- (2) Failing to maintain compliance with §35.341 (related to approval of real estate education provider).
- (3) Having had a real estate license revoked or suspended by the Commission or by a real estate licensing authority of another jurisdiction.
- (4) Having been convicted of, or having pled guilty or nolo contendere to a felony.
- (5) Having been convicted of , or having pled guilty or nolo contendere to a misdemeanor related to the practice of real estate, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense.

ADMINISTRATION OF REAL ESTATE EDUCATION PROVIDERS

§ 35.351. Duty of director.

The director for a real estate education provider is responsible for day-to-day administration, including evaluation of instructor performance, evaluation of curriculum and specific course content, analysis of course examinations, management of records and facilities and otherwise assuring compliance with § § 35.352—35.363.

§ 35.351a. (Reserved).

§ 35.352. Location and facilities.

(a) A real estate education provider shall have a main location that contains its administrative offices, its records, and a telephone with a listed number for the real estate education provider’s exclusive use.

(b) The location where classes are taught shall:

- (1) Be suitable for classroom space.
- (2) Not share office space, instruction space or a common space with a real estate franchise, network or organization. This paragraph does not apply to a real estate trade association or to a contractual arrangement between a real estate licensee and a real estate education provider to provide continuing education courses.
- (3) Be in conformance with applicable building, fire safety and sanitary requirements imposed by State, county and municipal governments.

§ 35.353. Selection of instructors.

(a) *Qualified instructors.*

A real estate education provider shall employ instructors who are qualified to teach the courses for which the instructors have been hired. The real estate education provider may consider an individual qualified to teach a course if the individual satisfies one of the following criteria:

- (1) Possesses an undergraduate, graduate or postgraduate degree in the subject matter of the course to be taught.
 - (2) Has 3 years of practical or teaching experience in a profession, trade or occupation directly related to the subject matter of the course to be taught.
- (b) *Proof of qualifications.* A real estate education provider shall maintain documentation substantiating the instructor's education and experience.

§ 35.354. Prohibited forms of advertising and solicitation.

(a) A real estate education provider may not:

(1) Hold itself out under a name other than the name approved for it by the Commission under § 35.341 (relating to approval of real estate education provider).

(2) Hold itself out as being recommended or endorsed by the Commission, the Department of Education or other agency of the Commonwealth, except that the real estate education provider may advertise that it has been approved by the Commission to provide instruction in real estate courses and that credits earned in certain named courses will be accepted by the Commission toward fulfillment of the professional education prerequisite for taking the Pennsylvania real estate licensing examinations.

(3) Hold itself out to be an educational institution that conforms to the standards and requirements prescribed for colleges and universities by the Department of Education, unless the real estate education provider meets those standards and requirements.

(4) Make a guarantee of employment, conditional or unconditional, to a student or prospective student.

(5) Guarantee that successful completion of its curriculum will result in the student's passing a real estate licensing examination.

(6) Promote the business of a real estate licensee or a real estate organization, franchise or network.

(7) Recruit students for employment or affiliation with a real estate licensee or a real estate organization, franchise or network.

(8) Solicit students for membership in a real estate organization, franchise or network.

(9) Permit an instructor or guest lecturer while on the real estate education provider's premises to wear any identification relating to the name of a real estate licensee or a real estate organization, franchise or network.

(10) Solicit enrollments by means of advertisements in the employment columns of newspapers and other publications.

(11) Engage in advertising that is false, misleading, deceptive or degrading to the dignity of the real estate profession.

(b) A real estate education provider may not allow its main or satellite locations to be used by others for the solicitation or recruitment of students for employment or affiliation with a real estate licensee or a real estate organization, franchise or network. Students shall be informed of this prohibition through a written statement which shall contain the following:

“No recruiting for employment opportunities for any real estate brokerage firm is allowed in this class. Any recruiting should be promptly reported to the State Real Estate Commission by calling this number: 1-800-822-2113.”

§ 35.355. Prospectus materials.

(a) A real estate education provider shall provide copies of catalogs, bulletins, pamphlets and other prospectus materials to the Commission upon request. Prospectus materials shall state the following in clear and unambiguous terms:

(1) Admission requirements.

(2) Curriculum, including a specification of courses that meet the Commission's requirements for prelicensure education or continuing education.

(3) Tuition and other fees, and the refund policy in the event of cancellation.

(4) Completion requirements.

(b) Prospectus materials for courses shall be directed towards the general licensee population without regard to the licensees' affiliation with a particular educational institution or a particular real estate organization, franchise or network.

§ 35.356. Tuition and other fees.

A real estate education provider shall charge tuition that bears a reasonable relationship to the quality and quantity of instructional services rendered. If additional fees are charged for books, supplies and other materials needed for coursework, the real estate education provider shall itemize the fees and the books, supplies and materials, upon payment therefor, shall become the property of the student.

§ 35.357. Student enrollment agreements.

A real estate education provider shall require each of its students to enter into a student enrollment agreement. The agreement shall:

(A) Itemize the tuition and other fees and the services and materials to be received from them.

(B) State the real estate education provider's policy regarding the refund of tuition and fees if the student were to withdraw or be dismissed or if the school were to terminate operations before the end of the academic year.

(C) Contain the Bureau's toll-free telephone number, 1(800) 822-2113, that the student may call to obtain information about filing a complaint against the real estate education provider.

§ 35.358. Administration of curriculum.

(a) Real estate education providers shall observe the following standards in the administration of prelicensure and continuing education curriculum:

(1) Instructor-led learning may not exceed 7 1/2 clock hours of instruction per day. For purposes of this section, a clock hour is defined as a 60-minute period comprising 50 minutes of instruction and a 10-minute break. A student may not be required to attend class for more than 90 consecutive minutes without a break.

(2) The substantive content of the course, as evidenced by the course outline, text and other instructional materials, shall adequately reflect the stated purpose of the course, as evidenced by the course title and course description. Instruction in a Commission required course shall conform to the content or outline developed by the Commission for the course.

(3) Unless the course is taught by means of distance education, a student shall be physically present during at least 80% of the classroom instruction for a prelicensure course and during at least 90% of the classroom instruction for a continuing education course, to receive credit. The real estate education provider shall be responsible for verifying student attendance.

(4) Courses delivered by distance education, in addition to meeting the content requirements in §35.384 (relating to qualifying courses), shall have the delivery method approved by the Association of Real Estate License Law Officials or another certifying body with similar approval standards approved by the Commission.

(b) In addition to the requirements in subsection (a), a real estate education provider shall observe the following standards in the administration of its prelicensure curriculum:

(1) A prelicensure course shall be assigned one credit for every 15 clock hours of instruction.

(2) A prelicensure course shall be graded by proctored examination, except when a student's handicap or disability would make grading by examination impractical.

§ 35.359. Course transcripts.

(a) *Preliminary*. Within 30 days after a course has been taught, a real estate education provider shall provide each student in the course with an official course transcript that contains the information in § 35.360(a)(5) (relating to records) and is signed by the director.

(b) *Continuing education*. Effective with the renewal period commencing June 1, 2004, within 30 days after a continuing education course has ended, the continuing education provider shall provide the Commission with a roster in a format approved

by the Commission, listing each licensee who satisfactorily completed/taught the course. Continuing education providers shall be required to issue course transcripts/certificates of instruction to students only upon request.

§ 35.360. Records.

(a) A real estate education provider shall maintain complete and accurate records in the following areas:

(1) *Financial.* The real estate education provider's assets and liabilities and the sources and amounts of its income.

(2) *Physical plant.* For the main location and for each satellite location, the following:

(i) Copies of documentation showing compliance with applicable building, fire safety and sanitary requirements imposed by state, county or municipal governments.

(ii) A copy of the lease or rental agreement, if the real estate education provider does not own the building being used.

(3) *Personnel.* The qualifications of each instructor and the documentary evidence of those qualifications. See § 35.353 (relating to selection of instructors).

(4) *Curriculum.* For each course the real estate education provider has offered, the following:

(i) The course title.

(ii) The course prerequisites.

(iii) The course objectives.

(iv) The course outline.

(v) The requirements for successful completion of the course.

(vi) Copies of texts and other instructional materials used in teaching the course.

(vii) The supplies required of students for the course.

(viii) The course schedule.

(ix) Copies of published descriptions of the course.

(x) The course instructor.

(5) *Scholastic.* An academic transcript for each student which shall contain:

(i) The real estate education provider's name and Commission approval number.

(ii) The location at which the course was taught.

(iii) The name of the student.

(iv) The course title.

(v) The date that the student completed the course.

(vi) The number of hours of the course.

(vii) The student's final grade in the course, if an examination is required for the course.

(viii) The date that the transcript was issued.

(ix) The course instructor.

(6) *Attendance.*

- (b) A real estate education provider shall store its records at its main location. Upon termination of operations, a real estate education provider shall transfer its records to the designated custodian of records. The real estate education provider shall notify the Commission whenever it changes the custodian of records.
- (c) A real estate education provider shall produce its records for examination by the Commission or its representatives upon written request or pursuant to an inspection under § 35.362 (relating to inspection of real estate education providers).
- (d) A real estate education provider shall make copies of a student's scholastic and attendance records available to the student upon request.
- (e) A real estate education provider shall retain attendance and scholastic records as follows:
- (1) Continuing education records shall be maintained for 4 years.
 - (2) All other records shall be retained for 10 years.

§ 35.361. Display of documents and approved name.

- (a) A real estate education provider's certificate of approval shall be displayed prominently at the real estate education provider's main location.
- (b) A real estate education provider's approved name shall be displayed prominently at each location where courses are taught.
- (c) An alphabetical list of the real estate education provider's satellite locations shall be displayed prominently at the real estate education provider's main location.

§ 35.362. Inspection of real estate education providers.

- (a) *Routine inspections.* No more than four times a year while classes are in session, the Commission or its authorized representatives may conduct a routine inspection of the main location or satellite location of a real estate education provider for the purpose of determining whether the real estate education provider is in compliance with § § 35.351—35.363 (relating to administration of real estate education providers).
- (b) *Special inspections.* In addition to the routine inspections authorized by subsection (a), the Commission or its authorized representatives may conduct a special inspection of a real estate education provider's main location or satellite location:
- (1) Upon a complaint or reasonable belief that the real estate education provider is not in compliance with § § 35.351—35.363.
 - (2) As a follow-up to a previous inspection that revealed the real estate education provider's noncompliance with § § 35.351—35.363.
- (c) *Scope of inspection.* Prior to the start of a routine or special inspection, the Commission or its authorized representatives will advise the real estate education provider, director or other person in charge at the time of the inspection that the inspection is being made under this section and is limited in scope by this section.
- (d) During the course of a routine or special inspection or investigation, the Commission or its authorized representatives will be permitted to:
- (1) Examine real estate education provider records.
 - (2) Inspect all areas of the real estate education provider's premises.
 - (3) Monitor the performance of instructors in classrooms.
 - (4) Interview the real estate education provider, director and other administrative personnel, instructors and students.

§ 35.363. Termination of operations.

A real estate education provider that desires to terminate operations shall submit to the Commission, within 60 days of the planned termination, a termination plan that includes the following:

- (1) The date of termination.
- (2) The date that real estate education provider records will be transferred to the designated records custodian.
- (3) The procedure for refunding tuition and allocating credits to currently enrolled students.

**SUBCHAPTER G.
PROMOTIONAL LAND SALES**

§ 35.371. General requirements.

(a) A broker, developer or subdivider referred to in this subchapter as “applicant,” who proposes to engage in sales of a promotional nature in this Commonwealth of property located outside of this Commonwealth shall submit to the Commission, for its approval before doing so, full particulars regarding the property and proposed terms of sale, and they and their salesmen shall comply with rules and regulations, restrictions and conditions pertaining thereto as the Commission may impose. Expenses reasonably incurred by the Commission in investigating and inspecting the property and proposed sale thereof in this Commonwealth shall be borne by the applicant. No broker, developer or salesman may refer to the Commission or to an official or employe of the Commission in selling, offering for sale or advertising, or otherwise promoting the sale, mortgage or lease of the property, nor make representation that the property has been inspected or approved or otherwise passed upon by the Commission, or by a State official, department or employe.

(b) An applicant approved to engage in sales set forth in this chapter shall notify the Commission at least 10 days in advance of the date, time and place of efforts to sell or advertise through parties or reception or other group media.

§ 35.372. Nonresident requirements.

(a) A nonresident applicant shall also file an irrevocable consent that suits and actions may be commenced against the applicant in the proper court of a county of this Commonwealth in which a cause of action may arise, or in which plaintiff may reside, by the service of a process or pleadings authorized by the laws of the Commonwealth on the Commission in Harrisburg, Pennsylvania. The consent shall stipulate and agree that the service of process or pleadings on the Commission shall be taken and held in all courts to be as valid and binding as if service had been made upon the applicant personally within this Commonwealth.

(b) If process or pleadings are served upon the Commission, they shall be by duplicate copy, one of which shall be filed in the office of the Commission and the other immediately forwarded by certified mail to the main office of the applicant against which the process or pleadings are directed.

§ 35.373. Offering statements.

(a) The Commission also requires the applicant to prepare and deliver at its own expense, to each prospective purchaser in this Commonwealth an offering statement which shall be revised annually. The offering statement shall be approved by the Commission and shall contain a detailed description, price and terms of the offer as well as financial information disclosing assets and liabilities of the applicant. The offering statement shall also inform prospective purchasers of the following:

- (1) Tax liabilities.
- (2) Basis for guarantees.
- (3) Public transportation facilities.
- (4) Terrain details.
- (5) Climate.
- (6) Proposed and existing improvements.
- (7) Roads.
- (8) Water supply.
- (9) Public utilities.
- (10) An objectionable condition of air, sight or terrain.

- (11) Sewage disposal facilities.
- (12) Recreational and community facilities.
- (13) The distances to a nearby populated area.

(b) The offering statement shall also set forth on the front page in large bold face type or italics, the following statement:

“The State Real Estate Commission’s requirements of this broker, developer or subdivider does not constitute approval of the land being offered for sale or lease. The State Real Estate Commission has not in any way passed upon the merits of such offer.”

§ 35.374. Review and approval of documents.

The following information and documents shall be furnished annually to the Commission in report form for its review and approval:

- (1) Name of owner, including the following:
 - (i) Names and addresses of the owners or partners.
 - (ii) Lists of the officers and holders of 10% or more of total subscribed or issued stock of the corporation.
 - (iii) Copy of most recent certified audit of records including financial statements.
- (2) Names of subsidiary organizations or companies.
- (3) Name of development.
- (4) Address of development.
- (5) Addresses of administrative offices.
- (6) Representative of the Commonwealth, including a list of the sales offices and personnel in this Commonwealth.
- (7) Status of property, including the following:
 - (i) Owner of the land.
 - (ii) Whether land is free and clear.
 - (iii) If land is mortgaged, whether the mortgage is assignable, including the following:
 - (A) Whether individual lots can be released.
 - (B) Cost per lot.
 - (iv) Whether there are judgments against or unpaid taxes due on the land.
 - (v) Whether abstracts or title policies will be furnished.
 - (vi) Copy of type of deed used.
 - (vii) Whether deeds are issued in fee simple.
 - (viii) Whether there is additional charge for issuing a deed.
- (8) Improvements completed, including the following:
 - (i) Paved streets.
 - (ii) Sidewalks.
 - (iii) Street lights.

- (iv) Public utilities.
- (v) Whether improvements are paid for.
- (vi) Tax rates.
- (vii) If no improvements, plans for completion.
- (viii) If FHA approved, copy of approval.

(9) Whether bond has been posted with a governmental authority to guarantee completion of promised improvements, including the following:

- (i) Specification for what purpose.
- (ii) Amount.
- (iii) Name of bonding company.
- (iv) How this bond will protect the purchasers from the Commonwealth.
- (v) Certified copy of the bonds used.

(10) Sewage, including the following:

- (i) Sanitary sewers.
- (ii) Storm sewers.
- (iii) Whether water mains or individual wells are necessary.
- (iv) Whether septic tanks are necessary.
- (v) If septic tanks are necessary, whether they are authorized by appropriate government authorities.
- (vi) Whether level of land and type of soil is suitable for septic tanks.

(11) Drainage, including the following:

- (i) Whether land is dry.
- (ii) Copy of the drainage plan of the engineer.
- (iii) Depth of water table.
- (iv) Depth of average well.

(12) Zoning restrictions, including the following:

- (i) Copy of topographical map.
- (ii) Copy of State Board of Health Percolation Test one hole per 5 acres where septic tanks are used.

(13) Advertising, including the following:

- (i) Size of lots offered.
- (ii) Price and terms of sale.
- (iii) Whether these lots are large enough for building purposes that would comply with zoning requirements.
- (iv) If and where plot is recorded.

(14) Location, including the following:

- (i) Aerial photo showing exact area with at least 1 mile of bordering properties.
- (ii) How far property is presently from the following:
 - (A) Highway.
 - (B) Incorporated town.
 - (C) Major shopping center.
 - (D) Industrial area including type and size.
 - (E) Transportation including bus and train.
 - (F) Schools—public, trade, parochial or private.
 - (G) Lighted streets.
 - (H) Type of pavement and curbs.
 - (I) Fire protection.
 - (J) Garbage and trash removal.
 - (K) Police protection.
 - (L) Airport and airlines operated therefrom.
- (15) Current selling price of lots in adjoining area and owners of these lots.
- (16) Financial arrangements, including the following:
 - (i) Whether the down payment will be placed in escrow and terms of release of the down payment.
 - (ii) Type of financing obtainable and percent of interest charged.
 - (iii) Closing costs, specifying for what.
 - (iv) Specific listing of carrying charges.
 - (v) Types of contracts used.

§ 35.375. Affidavit of consent to service of jurisdiction.

The following affidavit of consent to service of jurisdiction is exemplary of the requirements of § 35.372 (relating to nonresident requirements):

AFFIDAVIT OF CONSENT TO SERVICE OF JURISDICTION

That the undersigned _____ (give legal designation of applicant, individual, partnership, corporation) does hereby irrevocably consent that any action brought against the above named applicant in the proper court of any county of the State of Pennsylvania or in which the plaintiff in such action may reside and that in the event proper service of process cannot be had upon such applicant in any such proceeding in such county, service of any process may be made therein by the sheriff of such county by the service of any process or pleadings authorized by the Laws of Pennsylvania on the Real Estate Commission, hereby stipulating and agreeing that such service of such process or pleadings on said Chairman shall be taken and held in all courts to be valid and binding as if due process had been made upon said applicant in the State of Pennsylvania.

President _____

Secretary _____

Corporate Seal

Witness _____

Personally appeared _____ before me the undersigned notary public in and for the above named county and state, the day and date above named, and acknowledged the execution of the foregoing instrument to be the voluntary act and deed of such applicant for the purpose therein set forth (if applicant is an individual, strike out the following) and that they are the President and Secretary, respectively, of such corporation and are duly authorized to execute the foregoing instrument.

(Seal)

State Of _____ SS

COUNTY OF _____

**SUBCHAPTER H.
CONTINUING EDUCATION**

§ 35.381. (Reserved).

§ 35.382. Requirement.

(a) *Condition precedent to renewal of current standard license.* A broker or salesperson holding a standard license who desires to renew a current license shall, as a condition precedent to renewal, complete 14 hours of Commission-approved continuing education during the preceding license period. The continuing education shall be completed by the May 31 renewal deadline.

(b) *Condition precedent to reactivation and renewal of noncurrent standard license.* A broker or salesperson holding a standard license who desires to reactivate and renew a noncurrent license shall, as a condition precedent to reactivation and renewal, complete 14 hours of Commission-approved continuing education during the 2-year period preceding the date of submission of the reactivation application. A broker or salesperson holding a standard license may not use the same continuing education coursework to satisfy the requirements of this subsection and subsection (a).

(c) *Exception.* The continuing education requirement does not apply to reciprocal license holders or cemetery brokers, cemetery salespersons, builder-owner salespersons, timeshare salespersons, campground membership salespersons and rental listing referral agents who hold standard licenses.

(d) *Documentation.* A licensee shall provide the Commission with information necessary to establish the licensee's compliance with this subchapter.

§ 35.383. Waiver of continuing education requirement.

(a) The Commission may waive all or part of the continuing education requirement of § 35.382 (relating to requirement) upon proof that the standard license holder seeking the waiver is unable to fulfill the requirement because of illness, emergency or hardship. The following are examples of situations in which hardship waivers will be granted.

(1) A standard license holder who seeks to renew a current license that was initially issued within 6 months of the biennial license period for which renewal is sought will be deemed eligible, on the basis of hardship, for a full waiver of the continuing education requirement.

(2) A standard license holder who seeks to renew a current license that was reactivated from noncurrent status within 6 months of the biennial license period for which renewal is sought will be deemed eligible, on the basis of hardship, for a full waiver of the continuing education requirement.

(3) A standard license holder who is a qualified continuing education instructor will be deemed eligible, for the waiver of 1 hour of continuing education for each hour of actual classroom instruction in an approved continuing education topic that the

instructor is qualified to teach. Duplicate hours of instruction in the same topic during the same biennial license period will not be considered for waiver purposes.

(b) Requests to waive the continuing education requirement must be filed with the Commission on or before March 31 of the renewal year unless the applicant proves to the satisfaction of the Commission that it was impracticable to do so.

§ 35.384. Qualifying courses.

(a) Except as provided in subsection (b), a licensee shall complete 14 hours of continuing education in acceptable courses in a minimum of 2-hour increments. A standard license holder shall satisfy the continuing education requirement by doing one of the following:

(b) The Commission may, for a given biennial license period and with adequate notice to standard license holders, require that all or part of the 14 hours be completed in required topics.

(c) Acceptable courses include the following:

- (1) Real estate ethics.
- (2) Laws affecting real estate.
- (3) Real estate financing and mathematics.
- (4) Real estate valuation and evaluation.
- (5) Property management.
- (6) Land use and zoning.
- (7) Income taxation as applied to real property.
- (8) Ad valorem tax assessment and special assessments.
- (9) Consumer protection and disclosures.
- (10) Agency relationships.
- (11) Landlord-tenant laws.
- (12) Environmental issues in real estate.
- (13) Antitrust issues in real estate.
- (14) Current litigation related to real estate.
- (15) Legal instruments related to real estate transactions.
- (16) Legalities of real estate advertising.
- (17) Developments in building construction techniques, materials and mechanical systems.
- (18) Real estate investment analysis.
- (19) Management of real estate brokerage operations.
- (20) Property development.
- (21) Real estate securities and syndication.
- (22) Real property exchange.
- (23) Broker courses encompassing supervisory duties and standards of conduct and practice contained in Subchapter E (relating to standards of conduct and practice).

(24) Marketing promotion and advertising of real estate inventory.

(25) Use of technology in delivering real estate services.

(d) Unacceptable courses include: mechanical office and business skills; for example, typing, speed writing, preparation of advertising copy, development of sales promotional devices, word processing, calculator and computer operation and office management and related internal operations procedures that do not have a bearing on the public interest.

§ 35.385. Continuing education providers.

The following providers may offer instruction for continuing education:

(1) An accredited college, university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth.

(2) A real estate education provider in this Commonwealth approved by the Commission.

(3) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

§ 35.386. (Reserved).

§ 35.387. (Reserved).

§ 35.388. (Reserved).

§ 35.389. (Reserved).

§ 35.390. (Reserved).

§ 35.391. (Reserved).

§ 35.392. (Reserved).