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Chapter RL 24

CONDUCT AND ETHICAL PRACTICES FOR REAL ESTATE LICENSEES

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Note: Chapter REB 15 as it existed on February 29, 1980 was repealed and a new chapter REB 15 was created effective March 1, 1980. Renumbered from chapter REB 15, effective March 1, 1983.

RL 24.01 Authority and intent. (1) The rules in this chapter are adopted pursuant to ss. 227.11, 452.01, 452.07, 452.133, 452.138, 452.139 and 452.14, Stats.

(2) The intent of the department in adopting the rules in this chapter is to establish minimum standards of conduct for real estate licensees and to define that conduct which may result in board discipline pursuant to s. 452.14, Stats.

(3) If a licensee violates rules in this chapter, the licensee has demonstrated incompetency to act as a broker, salesperson or time–share salesperson in such manner as to safeguard the interests of the public under s. 452.14 (3) (i), Stats. However, the term "incompetency" is not limited in its meaning to violations of this chapter.

(4) If a licensee violates the rules set forth in s. RL 24.075, the licensee has engaged in improper, fraudulent or dishonest dealing as used in s. 452.14 (3) (k), Stats. However, the terms "improper, fraudulent or dishonest dealing" are not limited in their meaning to violations of s. RL 24.075.

History: Cr. Register, February, 1980, No. 290, eff. 3–1–80; renum. (3) to be (5), (3) renum. from REB 15.02 (2) and cr. (4), Register, December, 1980, No. 300, eff. 1–1–81; renum. from REB 15.01 and am. (2) to (4), Register, February, 1983, No. 326, eff. 3–1–83; am. (1) and (3), r. (5) (intro.) and (d), renum. (5) (a) to (c) to be RL 24.025, RL 24.03 (2) (b) and (c), Register, January, 1987, No. 373, eff. 2–1–87; correction in (4) made under s. 13.93 (2m) (b) 4., Stats., Register, May, 1988, No. 389; am. Register, April, 1995, No. 472, eff. 5–1–95.

RL 24.02 Definitions. (1) "Adverse fact" means any of the following:

(a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:

1. Significantly and adversely affecting the value of the property.

2. Significantly reducing the structural integrity of improvements to real estate.

3. Presenting a significant health risk to occupants of the property.

(b) Information that indicates that a party to a transaction is not able to or does not intend to meet his or her obligations under a contract or agreement made concerning the transaction.

(2) "Agency agreement" means a written agreement between a broker and a client under s. 452.135 (1), Stats.

(3) "Brokerage service" means any service described under s. 452.01 (2) (a) to (g), Stats., provided by a broker to another person.

Note: Section 452.01 (2) (d) to (g), Stats., will no longer exist on July 1, 2006.

(4) "Builder" means any person engaged in the business of constructing speculation homes or contract homes.

(5) "Buyer broker" means a licensee having an agency relationship with a buyer in relation to a particular transaction.

(6) "Client" means a party to a transaction who has an agency agreement with a broker for brokerage services.

(7) "Commonly controlled corporation" means one of 2 or more corporations in which the same person or persons own stock in each of the corporations, possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporations.

(8) "Contract home" means a home built by a builder under contract with a buyer.

(9) "Customer" means a party to a transaction who is provided brokerage services by a broker but who is not a client.

(10) "Effectively controlled" means having the power or authority to cause the transfer of an interest in real estate for oneself or another but does not include the authority conferred by a real estate listing contract.

(12) "Material adverse fact" means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party's decision to enter into a contract or agreement concerning a transaction or affects or would affect the party's decision about the terms of such a contract or agreement.

(13) "Party" means a person seeking to sell, exchange, buy or rent an interest in real estate, a business or a business opportunity. "Party"includes a person who seeks to grant or accept an option to buy, sell or rent an interest in real estate, a business or a business opportunity.

(14) "Qualified third party" means a federal, state or local governmental agency, or any person whom the broker, salesperson or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report described in s. 452.23 (2) (b), Stats.

(15) "Secured lender" means an individual or organization originating a loan in a real estate or business opportunity transaction secured by real estate or by the assets of a business or a business opportunity.

(16) "Real estate practice" means engaging in conduct which requires a license under ch. 452, Stats.

(17) "Speculation home" means a home built by a builder to be placed on the market without a prior contract with a buyer.

(18) "Transaction" means the sale, exchange, purchase or rental of, or the granting or acceptance of an option to sell, exchange, purchase or rent, an interest in real estate, a business or a business opportunity.

History: Cr. Register, February, 1980, No. 290, eff. 3–1–80; renum. (1) to be (5), renum. (2) to be REB 15.01 (3), cr. (1) to (4) and (6), Register, December, 1980, No. 300, eff. 1–1–81; renum. from REB 15.02, Register, February, 1983, No. 326, eff. 3–1–83; renum. (4) to (6) to be (7) to (9) under s. 13.93 (2m) (b) 1., Stats., Register, September, 1990, No. 417; renum. (1) to (3) to be (2), (4) and (6), cr. (1), (3) and (5), Register, September, 1990, No. 417, eff. 10–1–90; am. (1), Register, January, 1992,

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No. 433, eff. 2–1–92; am. (1), Register, July, 1993, No. 451, eff. 8–1–93; r. and recr. (1), renum. (2) to (4) to be (4), (5), (7), (6) and (7) to be (8) and (10), (8) to be (11) and am., (a) to be (17), r. (5), cr. (2), (3), (6), (9), (12) to (16), (18), Register, April, 1995, No. 472, eff. 5–1–95; am. (7), r. (11), Register, July, 1998, No. 511, eff. 8–1–98.

RL 24.025 Agency. (1) RESPONSIBILITIES RELATING TO A CLIENT AND OTHERS. Licensees shall represent the interests of their client as an agent. Licensees owe all parties the duties under s. 452.133 (1), Stats.

Note: Section 452.133, Stats., establishes a duty owed by licensees to all parties to keep confidential any information obtained by the licensee that he or she knows a reasonable party would want to be kept confidential, unless the information must be disclosed by law or disclosure is authorized by the affected party.

(2) AGREEMENTS. Licensees may not provide brokerage services to a client or a customer without an agency agreement authorizing those brokerage services. A licensee who acts as a subagent may do so under the agency agreement of the principal agent and the subagent is not required to have a separate agreement.

History: Renum. from RL 24.01 (5) (a) and am., Register January, 1987, No. 373, eff. 2–1–87; r. and recr. Register, April, 1995, No. 472, eff. 5–1–95.

RL 24.03 Competent services. (1) DISCRIMINATION PROHIBITED. Licensees may not discriminate against, nor deny equal services to, nor be a party to any plan or agreement to discriminate against any person in any manner unlawful under applicable federal, state or local fair housing law.

Note: The primary references for federal and state fair housing laws are the 1988 amendments to the Federal Housing Act (Title VII of the Civil Rights Act of 1968) and Chapter 106, Subchapter II, Stats.

(2) COMPETENCE REQUIRED. (a) Licensees shall not provide services which the licensee is not competent to provide unless the licensee engages the assistance of one who is competent. Any person engaged to provide such assistance shall be identified and that person's contribution shall be described.

(b) Licensees shall act to protect the public against fraud, misrepresentation and unethical practices.

(c) Licensees shall be knowledgeable regarding laws, public policies and current market conditions on real estate matters and assist, guide and advise the buying or selling public based upon these factors.

(d) Licensees are not required to have the technical knowledge, skills or training possessed by competent third party inspectors and investigators of real estate and related areas.

Note: Paragraph (d) recognizes that licensees are not required to have the knowledge, skills or training possessed by, for example, persons such as home inspectors, plumbers, electricians or land surveyors.

History: Cr. Register, February, 1980, No. 290, eff. 3–1–80; am. (1), Register, March, 1981, No. 303, eff. 4–1–81; renum. from REB 15.03, Register, February, 1983, No. 326, eff. 3–1–83; am. (1), renum. (2) to be (2) (a), (2) (b) and (c) renum. from RL 24.01 (5) (b) and (c) and am., Register, January, 1987, No. 373, eff. 2–1–87; am. (1), cr. (2) (d), Register, July, 1993, No. 451, eff. 8–1–93.

RL 24.04 Advertising. (1) FALSE ADVERTISING. Licensees shall not advertise in a manner which is false, deceptive, or misleading.

(2) DISCLOSURE OF NAME. (a) Except for advertisements for the rental of real estate owned by the broker, a broker shall in all advertising disclose the broker's name exactly as printed on the broker's license or disclose a trade name previously filed with the department, as required by s. RL 23.03, and in either case clearly indicate that the broker is a business concern and not a private party.

(b) Except for advertisements for the rental of real estate owned by the licensee, a licensee employed by a broker shall advertise under the supervision of and in the name of the employing broker.

(c) A licensee may advertise the occasional sale of real estate owned by the licensee or the solicitation of real estate for purchase by the licensee without complying with pars. (a) and (b), provided that the licensee clearly identifies himself, herself or itself as a real estate licensee in the advertisement.

(3) ADVERTISING WITHOUT AUTHORITY PROHIBITED. Brokers shall not advertise property without the consent of the owner.

(4) ADVERTISED PRICE. Brokers shall not advertise property at a price other than that agreed upon with the owner; however, the price may be stated as a range or in general terms if it reflects the agreed upon price.

History: Cr. Register, February, 1980, No. 290, eff. 3–1–80; am. (4), Register, March, 1981, No. 303, eff. 4–1–81; renum. from REB 15.04 and am. (2), Register, February, 1983, No. 326, eff. 3–1–83; renum. (2) to be (2) (a) and am., cr. (2) (b) and (c), Register, January, 1987, No. 373, eff. 2–1–87; am. (2) (c), Register, April, 1995, No. 472, eff. 5–1–95.

RL 24.05 Self–dealing. (1) DUAL COMPENSATION. A licensee acting as an agent in a real estate or business opportunity transaction may not accept any fee or compensation related to the transaction from any person, other than the licensee's client, without prior written consent from all parties to the transaction.

(2) DISCLOSURE OF INTEREST. A licensee acting as an agent in a real estate or business opportunity transaction may not act in the transaction on the licensee's own behalf, on behalf of the licensee's immediate family or firm, or on behalf of any other organization or business entity in which the licensee has an interest without the prior written consent of all parties to the transaction. For the purpose of this subsection, a licensee may obtain the written consent in the offer to purchase, option, lease or other transaction contract.

(3) REFERRAL OF SERVICES. A licensee acting as an agent in a real estate or business opportunity transaction may not recommend or suggest to a party to the transaction the services of another individual or entity from which the licensee may receive compensation for a referral or in which the licensee has an interest, other than referrals to other licensees for real estate services under s. 452.19, Stats., unless the licensee, prior to or at the time of the referral, discloses the fact that he or she may receive compensation for the referral or that he or she has an interest in the individual or entity providing the services.

(4) DISCLOSURE OF PROFITS. A licensee acting as a principal in a real estate or business opportunity transaction shall not accept any commission, rebate, or profit on expenditures made by any other party to the transaction without the written consent of the party. The written consent shall be provided no later than the party's execution of the offer to purchase, option, exchange agreement, lease or other contract creating an interest in the real estate or business opportunity.

(5) DISCLOSURE OF LICENSURE. (a) A licensee acting as a principal in a real estate or business opportunity transaction shall disclose his, her, or its license status and intent to act in the transaction as a principal at the earliest of all of the following:

1. The first contact with the other party or an agent representing the other party where information regarding the other party or the transaction is being exchanged.

2. A showing of the property.

3. Any other negotiation with the seller or the listing broker.

(b) The disclosure under this subsection shall be made to the other party in a transaction or to an agent representing the other party.

History: Cr. Register, February, 1980, No. 290, eff. 3–1–80; renum. (3) and (4) to be (4) and (5), cr. (3), Register, December, 1980, No. 300, eff. 1–1–81; am. (5), Register, March, 1981, No. 303, eff. 4–1–81; renum. from REB 15.05, Register, February, 1983, No. 326, eff. 3–1–83; am. (1) and (5), Register, June, 1988, No. 390, eff. 7–1–88; r. and recr. Register, July, 1993, No. 451, eff. 8–1–93; am. (1), (2), (3), (5), Register, April, 1995, No. 472, eff. 5–1–95; **renum. (5) to be (5) (a) (intro.), cr. (5) (a) 1. to 3., and (b), Register, January, 2001, No. 541, eff. 2–1–01.**

RL 24.06 Unauthorized practice of law. (1) UNAUTHORIZED PRACTICE OF LAW PROHIBITED. Licensees shall not engage in activities that constitute the unauthorized practice of law.

(2) LEGAL COUNSEL NOT TO BE DISCOURAGED. Licensees shall not discourage any person from retaining an attorney.

History: Cr. Register, February, 1980, No. 290, eff. 3–1–80; renum. from REB 15.06, Register, February, 1983, No. 326, eff. 3–1–83.

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RL 24.07 Inspection and disclosure duties. **(1)** INSPECTION OF REAL ESTATE. (a) *General requirement.* A licensee, when engaging in real estate practice which involves real estate improved with a structure, shall conduct a reasonably competent and diligent inspection of accessible areas of the structure and immediately surrounding areas of the property to detect observable, material adverse facts. A licensee, when engaging in real estate practice which involves vacant land, shall, if the vacant land is accessible, conduct a reasonably competent and diligent inspection of the vacant land to detect observable material adverse facts.

(b) *Listing broker.* When listing real estate and prior to execution of the listing contract, a licensee shall inspect the real estate as required by sub. (1), and shall make inquiries of the seller on the condition of the structure, mechanical systems and other relevant aspects of the property as applicable. The licensee shall request that the seller provide a written response to the licensee's inquiry.

(c) *Other licensees.* Licensees, other than listing brokers, shall inspect the real estate as required by sub. (1) prior to or during the showing of the property, unless the licensee is not given access for a showing.

(d) *Specific conduct regarding inspections.* A reasonably competent and diligent inspection of real estate improved with a structure does not require the operation of mechanical equipment; the opening of panels, doors or covers for access to mechanical systems; or the moving of furniture, boxes or other property; nor does it require a licensee to observe areas of the property for which entry presents an unreasonable risk of injury or areas accessible only by ladder, by crawling or other equivalent means of access. A licensee is not required to retain third party inspectors or investigators to complete a reasonably competent and diligent inspection. A reasonably competent and diligent inspection of vacant land does not require an observation of the entire property, but shall include, if given access, an observation of the property from at least one point on or adjacent to the property.

(2) DISCLOSURE OF MATERIAL ADVERSE FACTS. A licensee may not exaggerate or misrepresent facts in the practice of real estate. A licensee, when engaging in real estate practice, shall disclose to each party, in writing and in a timely fashion, all material adverse facts that the licensee knows and that the party does not know or cannot discover through a reasonably vigilant observation, unless the disclosure of the material adverse fact is prohibited by law. This provision is not limited to the condition of the property, but includes other material adverse facts in the transaction.

Note: Certain "material adverse facts", as defined in s. RL 24.02 (12), may not be disclosed by law. For example, unless specifically authorized by a seller, a licensee may not disclose to a potential buyer the actual minimum sales price the seller will accept. See s. 452.133 (1) (d), Stats.

(3) DISCLOSURE OF INFORMATION SUGGESTING MATERIAL ADVERSE FACTS. A licensee, when engaging in real estate practice, who becomes aware of information suggesting the possibility of material adverse facts to the transaction, shall be practicing competently if the licensee discloses to the parties the information suggesting the possibility of material adverse facts to the transaction in writing and in a timely fashion, recommends the parties obtain expert assistance to inspect or investigate for possible material adverse facts to the transaction, and, if directed by the parties, drafts appropriate inspection or investigation contingencies. This provision is not limited to the condition of the property, but includes other material adverse facts to the transaction, including but not limited to defects and conditions included within the report form under s. 709.03, Stats. A licensee is not required to retain third party inspectors or investigators to perform investigations of information suggesting the possibility of a material adverse fact to the transaction.

(4) DISCLOSURE OF SIDE AGREEMENTS. A licensee, when engaging in real estate practice, who becomes aware of the fact that a party to the transaction has not disclosed that party's entire agreement regarding the transaction to that party's secured lender, shall disclose this fact, in writing and in a timely manner, to the party's secured lender.

(5) RELIANCE UPON THIRD PARTY INSPECTIONS AND INVESTIGATIONS. If a licensee or a party in a transaction engages the services of a qualified third party to conduct a property inspection or investigation of material facts, the licensee may rely on the results of the inspection or investigation providing the licensee obtains a written report of the inspection or investigation and delivers a copy of the report to all interested parties in a timely manner.

(6) INCONSISTENCIES. If a licensee's reasonably competent and diligent inspection reveals facts materially inconsistent with or materially contradictory to the seller's statements provided under sub. (1) (a), or the inspection or investigation report of a third party, the inconsistency shall be disclosed in writing and in a timely manner to the parties.

(7) FALSE INFORMATION. Licensees shall not knowingly give false information about another licensee or property listed with another licensee.

(8) DISCLOSURE OF AGENCY. (a) *General requirements.* 1. Prior to providing brokerage services to a party, each licensee shall provide a copy of the agency disclosure form required under s. 452.135, Stats. If the services are for the sale of real estate used or intended to be used principally for one to 4 family residential purposes, the licensee shall, at the time the disclosure is provided, request the party to acknowledge in writing the receipt of a copy of the disclosure form.

2. Licensees acting as agents of potential buyers of real estate used or intended to be used principally for one to 4 family residential purposes, who are negotiating directly with the seller or who are aware that the owner of the real estate has granted another licensee the exclusive right to sell, shall notify the seller or the listing broker, as applicable, of the licensee's buyer agency relationship at the earlier of all of the following:

a. The first contact with the seller or the listing broker where information regarding the seller or transaction is being exchanged.

b. A showing of the property.

c. Any other negotiation with the seller or the listing broker.

3. A change in a licensee's representation that makes the initial disclosure incomplete, misleading or inaccurate requires that a new disclosure be given, as in s. 452.135, Stats.

4. Prior to offering subagency listing brokers or their salespeople shall request the seller's authorization to permit other brokers to act as subagents in the sale of property or business opportunity. This authorization shall be stated in the listing contract.

(b) *Listing contracts.* 1. Listing brokers or their salespeople shall explain the responsibilities of seller's agents, buyer's agents and subagents to the seller before entering into a listing contract.

2. No listing broker or listing broker's salesperson may permit other brokers to act as subagents in the sale of a property or business opportunity unless the listing broker or salesperson has received the seller's authorization in the listing contract.

(c) *Offers to purchase and option contracts.* Licensees shall reconfirm, in the offer to purchase or option contract, whom the licensee represents as an agent in a real estate or business opportunity transaction.

(d) *Subagency arrangements.* A listing broker shall provide an agency disclosure to the seller and to buyers if negotiations are being conducted directly with the buyer and not through a subagent or buyer's agent. Buyer's brokers shall provide an agency disclosure to the buyer and to the seller if negotiations are being conducted directly with the seller and not through a subagent or listing broker. Subagents of listing brokers and buyer's agents shall provide an agency disclosure to the customer they are working with but not to their client. Listing brokers and buyer's brokers

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are not required to provide an agency disclosure to the customers of their subagents.

(e) *Listings for lease and property management contracts.* Licensees entering into listings for lease or property management contracts with property owners shall provide to their clients the disclosure form required under s. 452.135, Stats. A licensee shall also provide an agency disclosure form to prospective tenants when the licensee is actually negotiating the terms of a lease on behalf of the owner. A licensee is not required to provide an agency disclosure form to a prospective tenant in situations when the licensee does not negotiate the terms of a lease, such as when the rental unit is only being shown to the prospective tenant or a completed and "non−negotiable" lease is presented to a prospective tenant.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; emerg. r. (2), eff. 10−14−80; cr. (3), Register, December, 1980, No. 300, eff. 1−1−81; r. (2), Register, March, 1981, No. 303, eff. 4−1−81; renum. from REB 15.07, Register, February, 1983, No. 326, eff. 3−1−83; cr. (2), Register, January, 1987, No. 373, eff. 2−1−87; am. (1), r. and recr. (2), cr. (4), Register, June, 1988, No. 390, eff. 7−1−88; am. (1), cr. (1) (a) to (c) and (4) (d), r. and recr. (2), Register, September, 1990, No. 417, eff. 10−1−90; r. and recr. (1), renum. (2), (3), (4) to be (5), (6), (7), cr. (2), (3), (4), Register, July, 1993, No. 451, eff. 8−1−93; am. (1) (a), (d), (2), (3), (5), renum. (1) (a), (b) to be (1) (b), (c) and am., (6) to be (7), r. (1) (c), (7), r. and recr. (4), cr. (6), (8), Register, April, 1995, No. 472, eff. 5−1−95; **am. (8) (a) 2. (intro.), a. and c., Register, January, 2001, No. 541, eff. 2−1−01.**

RL 24.075 Tie−in arrangements. Licensees shall not:

(1) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee to a buyer upon the buyer's agreement to purchase another parcel or real estate.

(2) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to list the real estate or other real estate owned by the buyer with the licensee.

Note: The following are 2 common examples of activities which would violate this subsection: (1) requiring a builder to list a speculation home with the licensee; and (2) requiring a buyer to list a present home with the licensee.

(3) Condition the sale of vacant real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to employ one or more specific builders to make improvements on the real estate unless:

(a) The builder owns a bona fide interest in the real estate; and there is full disclosure as specified in s. RL 24.05 (3).

(b) The builder and the licensee or the builder and the owner of the real estate are the same person or are commonly controlled corporations and whose business is selling improved property and not vacant land; and there is full disclosure as in s. RL 24.05 (3).

(c) The agreement is a bona fide effort to maintain development quality or architectural uniformity and no consideration passes from contractor to licensee for soliciting this agreement.

History: Cr. Register, December, 1980, No. 300, eff. 1−1−81; renum. from REB 15.075 and am. (3) (a) and (b), Register, February, 1983, No. 326, eff. 3−1−83.

RL 24.08 Agreements to be in writing. A licensee shall put in writing all listing contracts, guaranteed sales agreements, buyer agency agreements, offers to purchase, property management agreements, option contracts, financial obligations and any other commitments regarding transactions, expressing the exact agreement of the parties unless the writing is completed by the parties or their attorneys or the writing is outside the scope of the licensee's authority under ch. RL 16.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; renum. from REB 15.08, Register, February, 1983, No. 326, eff. 3−1−83; am. Register, January, 1987, No. 373, eff. 2−1−87; am. Register, June, 1988, No. 390, eff. 7−1−88; am. 24.08, Register, July, 1993, No. 451, eff. 8−1−93.

RL 24.085 False portrayal of interest, prohibited. No licensee shall draft or use any document which the licensee knows falsely portrays an interest in real estate.

History: Cr. Register, December, 1980, No. 300, eff. 1−1−81; renum. from REB 15.085, Register, February, 1983, No. 326, eff. 3−1−83.

RL 24.09 Securing agency agreements. Licensees may not mislead a potential client regarding the benefits which might be realized through the use of the licensee's services or the market value of real estate or a business opportunity to be leased or sold under a listing contract.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; renum. from REB 15.09, Register, February, 1983, No. 326, eff. 3−1−83; r. and recr. Register, April, 1995, No. 472, eff. 5−1−95.

RL 24.10 Net listing prohibited. Licensees shall not obtain, negotiate or attempt to obtain or negotiate any listing contract providing for a stipulated net price to the owner with the excess over the stipulated net price to be received by the broker as commission.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; renum. from REB 15.10, Register, February, 1983, No. 326, eff. 3−1−83.

RL 24.12 Confidentiality of offers. (1) Except as provided in sub. (2), a licensee acting as a principal or an agent in a real estate or business opportunity transaction shall not disclose any of the terms of one prospective buyer's offer to purchase, exchange agreement or option contract proposal to any other prospective buyer or to any person with the intent that this information be disclosed to any other prospective buyer. Licensees shall encourage all prospective buyers to submit their best offers. A licensee may, but is not required to, disclose information known by the licensee regarding the existence of other offers on the property, the fact that a seller has accepted an offer, that the offer is subject to contingencies and that the offer is subject to a clause requiring removal of certain contingencies upon the occurrence of an event such as receipt, acceptance or conditional acceptance of another offer.

(2) As used in this subsection, "right of first refusal" means the right of a person to have the first opportunity to purchase or lease real property. "Right of first refusal" does not mean a so−called "bump clause" which is a contingency provision in a purchase agreement that requires the prospective buyer to remove certain contingencies in the buyer's purchase agreement or to relinquish the buyer's primary status to a secondary offer. If a licensee is providing brokerage services in a transaction and the licensee has knowledge that the property is subject to a right of first refusal, the licensee shall disclose the right of first refusal, in writing and in a timely manner, to all persons seeking to acquire an interest subject to the right of first refusal. After disclosure of the right of first refusal to a party seeking to acquire an interest in the property, the licensee may deliver a copy of that party's subsequent offer to purchase, exchange agreement, option contract or lease proposal to the party holding the right of first refusal.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; am. Register, March, 1981, No. 303, eff. 4−1−81; renum. from REB 15.12, Register, February, 1983, No. 326, eff. 3−1−83; am. Register, July, 1993, No. 451, eff. 8−1−93; **renum. RL 24.12 to be (1), cr. (2), Register, January, 2001, No. 541, eff. 2−1−01.**

RL 24.13 Drafting and submission of offers. (1) REFUSAL PROHIBITED. Licensees shall not refuse to draft or submit any offer to purchase, exchange agreement or option contract proposal to the owner unless the terms of the offer, exchange agreement or option would be contrary to specific instructions of the owner.

(2) WITHHOLDING OFFERS PROHIBITED. (a) Listing brokers shall permit access to listed property for showing purposes, to all buyers and persons assisting or advising buyers, without unreasonable delay, unless the buyer's or other person's access is contrary to specific written instructions of the seller.

(b) Licensees shall present promptly all offers received to the seller or seller's agent for consideration. Licensees shall not withhold any offer from presentation pending the seller's action on an offer previously presented.

(3) FAIR PRESENTATION OF OFFERS. (a) Licensees shall present all written proposals in an objective and unbiased manner to their principals. Licensees shall inform their principals of the advantages and disadvantages of all submitted written proposals.

(b) A listing broker or the listing broker's employee may not submit his or her own offer to purchase a property which the bro-

Removed by Register February 2006 No. 602. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

ker has listed if the broker or broker's employee has knowledge of the terms of any pending offer, except that a broker may arrange for a guaranteed sale at the time of listing.

(4) NOTIFICATION OF ACTION TO BUYERS. Licensees shall promptly inform prospective buyers whether the seller has accepted, rejected or countered their written offer to purchase, and shall immediately provide a written statement concerning the date and time when an offer was rejected or that an offer had expired without acceptance when such a statement is requested by a prospective buyer, a buyer's agent or a selling broker.

(5) NEGOTIATION THROUGH BROKER. A licensee may not negotiate a sale or lease of real estate directly with a party if the licensee knows that the party has an unexpired written contract in connection with the real estate which grants to another licensee an exclusive right to sell, lease or negotiate. All negotiations shall be conducted with the broker holding the exclusive right to sell, and not with the party, except with the consent of the broker or where the absence of the broker, or other similar circumstances, reasonably compels direct negotiation with the party. A listing broker has no duty to investigate whether a buyer has granted a buyer's agent an exclusive right to negotiate.

Note: The Department of Regulation and Licensing's approved form, WB−38, does not grant the buyer's agent an exclusive right to negotiate.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; cr. (5), Register, March, 1981, No. 303, eff. 4−1−81; renum. from REB 15.13, Register, February, 1983, No. 326, eff. 3−1−83; renum. (3) to be (3) (a), cr. (3) (b), am. (4), Register, January, 1987, No. 373, eff. 2−1−87; am. (3) (a), Register, June, 1988, No. 390, eff. 7−1−88; am. (3) (b), r. and recr. (2), Register, July, 1993, No. 451, eff. 8−1−93; **am. (3) (b) and (5), Register, January, 2001, No. 541, eff. 2−1−01.**

RL 24.15 Adequate funds required. Licensees shall not issue checks upon business or trust accounts which contain insufficient funds.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; renum. from REB 15.15, Register, February, 1983, No. 326, eff. 3−1−83.

RL 24.16 Availability of rules. Brokers shall maintain a copy of the rules of the department on file in all offices for the use of all licensees.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; renum. from REB 15.16, Register, February, 1983, No. 326, eff. 3−1−83; am. Register, January, 1987, No. 373, eff. 2−1−87.

RL 24.17 Miscellaneous requirements. (1) VIOLATIONS OF LAW. Licensees may not violate, or aid or abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate broker or salesperson. A licensee who has been convicted of a crime, except motor vehicle offenses under chs. 341 to 349, Stats., shall send to the department within 30 days after the judgment of conviction a copy of the complaint or other information which describes the nature of the crime and the judgment of conviction in order that the department may determine whether the circumstances of the crime of which the licensee was convicted are substantially related to the practice of a real estate broker or salesperson, pursuant to s. 111.335 (1) (c), Stats.

(2) CONVICTION. The board may discipline a licensee on the basis of a conviction of any crime, the circumstances of which substantially relate to the practice of real estate. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence of conviction.

(3) VIOLATION OF STATUTES, ADMINISTRATIVE CODE AND DISCIPLINARY ORDERS. Licensees shall not violate any provisions or terms or conditions of, or aid or abet the violation of ch. 452, Stats., chs. RL 11 to 26 or any disciplinary order of, the real estate board.

(4) IMPAIRED PRACTICE. Licensees shall not render services while the ability of the licensee to competently perform duties is impaired by mental or emotional disorder, drugs or alcohol.

History: Cr. Register, February, 1980, No. 290, eff. 3−1−80; am. (2), Register, December, 1980, No. 300, eff. 1−1−81; renum. from REB 15.17 and am. (2), Register, February, 1983, No. 326, eff. 3−1−83; am. (1), Register, January, 1986, No. 373, eff. 2−1−87; renum. (2) and (3) to be (3) and (4), cr. (2), Register, June, 1988, No. 390, eff. 7−1−88; am. (3), Register, July, 1998, No. 511, eff. 8−1−98.