

Chapter RL 24

CONDUCT AND ETHICAL PRACTICES FOR
REAL ESTATE LICENSEES

RL 24.01	Authority and intent (p. 71)	RL 24.085	False portrayal of interest, prohibited (p. 77)
RL 24.02	Definitions (p. 71)	RL 24.09	Market value estimates (p. 77)
RL 24.025	Responsibilities relating to a principal and others (p. 72)	RL 24.10	Net listing prohibited (p. 77)
RL 24.03	Competent services (p. 72)	RL 24.12	Confidentiality of offers (p. 77)
RL 24.04	Advertising (p. 73)	RL 24.13	Drafting and submission of offers (p. 77)
RL 24.05	Self-dealing (p. 73)	RL 24.15	Adequate funds required (p. 78)
RL 24.06	Unauthorized practice of law (p. 74)	RL 24.16	Availability of rules (p. 78)
RL 24.07	Disclosure (p. 74)	RL 24.17	Miscellaneous requirements (p. 78)
RL 24.075	Tie-in arrangements (p. 76)		
RL 24.08	Agreements to be in writing (p. 76)		

Note: Chapter REB 15 as it existed on February 29, 1980 was repealed and a new chapter REB 15 was created effective March 1, 1980.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, 452.07 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 action to limit, suspend or revoke the license of a real estate broker, salesperson or cemetery salesperson, or to reprimand a real estate broker, salesperson or cemetery salesperson.

(3) If a licensee violates rules in this chapter, the licensee has demonstrated incompetency to act as a broker, salesperson or cemetery 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 those terms are 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.

RL 24.02 Definitions. (1) "Adverse facts" includes, but is not limited to: radon, exposed asbestos, underground storage tanks, disposal of toxic chemicals on the property, leaking basement, structural defects, location in a flood plain or wetland, and planned or commenced public improvements which may result in special assessment or otherwise materially affect the property.

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

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

(4) "Commonly controlled corporation" means the same person or persons own stock in both 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 both corporations.

(5) "Competent third party" means a federal, state or local governmental agency, or a person who conducts an inspection or investigation and who the licensee reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation conducted.

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

(7) "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.

(8) "Licensee" means a person, partnership or corporation holding a license as a real estate broker, salesperson or cemetery salesperson.

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

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, No. 433, eff. 2-1-92.

RL 24.025 Responsibilities relating to a principal and others. Licensees shall represent the interests of the principal as an agent. The responsibility owed the principal does not exempt the licensee from the obligation to treat fairly all parties to a transaction.

History: Renum. from RL 24.01 (5) (a) and am., Register January, 1987, No. 373, eff. 2-1-87.

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 because of sex, race, color, handicap, as defined in s. 51.01 (5), Stats., religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, sexual orientation as defined in s. 111.32 (13m), Stats., age or ancestry.

(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.

Register, January, 1992, No. 433

(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.

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.

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) 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) A broker or salesperson 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 without complying with pars. (a) and (b), provided that the licensee includes one of the following terms in the advertisement: "broker-owner", or "licensee-owner".

(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.

RL 24.05 Self-dealing. (1) **DISCLOSURE OF PROFITS.** Licensees shall not accept any commission, rebate, or profit on expenditures made for the principal without the principal's knowledge and consent.

(2) **DISCLOSURE OF INTEREST.** Licensees shall not act on their own behalf, in acquiring or selling property, or on behalf of their immediate family, firm or any member thereof, or any entity in which they have an interest in acquiring or selling property, without disclosing their interest to all parties to the transaction.

(3) **DISCLOSURE OF FEES AND COMMISSIONS.** Licensees shall disclose to the buyer of any property owned or effectively controlled by them; a) the price of such property; b) any commissions or fees payable directly or indirectly to them as a result of the sale; and c) any requirement imposed by them as a condition to the sale of such property to the buyer and any commissions or fees payable directly or indirectly to them for imposing such requirement. This disclosure must be in writing and must be given before any agreement to purchase the property signed by the buyer is accepted.

(4) **REFERRAL OF SERVICES.** Licensees shall not recommend or suggest the use of services of another individual, organization or business entity in which the licensee has an interest without disclosing their interest at the time of the recommendation or suggestion.

RL 24

(5) **DUAL COMPENSATION.** Licensees shall not accept compensation from more than one party to a transaction without the full knowledge and written consent of all parties to the transaction.

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.

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.

RL 24.07 Disclosure. (1) DISCLOSURE OF MATERIAL FACTS. Licensees shall not exaggerate, misrepresent or conceal material facts in the practice of real estate. Licensees have an affirmative obligation to discover those material facts that a reasonably competent and diligent inspection or investigation would reveal and to disclose any adverse facts material to the transaction in writing and in a timely manner to the buyer, seller or other interested parties. This provision is not limited to the condition of the property, but includes other material facts about a transaction which are discoverable, as follows:

(a) *Inspection of property.* When listing or negotiating the sale of property, brokers and their employes shall conduct a reasonably competent and diligent inspection of the property, which includes the following:

1. Listing broker. When listing a property, a licensee shall conduct a reasonably competent and diligent inspection of the property to detect observable, adverse facts material to the transaction, and make inquiries of the seller on the condition of the structure, mechanical systems and other relevant aspects of the property.

2. Other licensees. When negotiating the sale of a property, and before or during the showing of the property, licensees shall, if given access, conduct a reasonably competent and diligent inspection of the property to detect observable, adverse facts material to the transaction.

3. Inconsistencies. If the licensee's inspection reveals facts inconsistent with or contradictory to the seller's statements or the inspection report of a third party, these facts shall be disclosed to all interested parties.

(b) *Investigation of material facts.* A licensee who receives information from an inspection, the seller, or otherwise, suggesting the possibility of adverse facts material to a transaction, shall conduct a reasonably competent and diligent investigation to determine the existence of adverse facts material to the transaction.

(c) *Standard of care.* In performing an investigation or inspection and in making a disclosure in connection with a real estate transaction, a broker shall exercise the degree of care expected to be exercised by a reasonably prudent person who has the knowledge, skills and training required for licensure as a broker or salesperson under ch. 452, Stats.

Register, December, 1991, No. 432

(2) **RELIANCE UPON THIRD PARTY INSPECTIONS AND INVESTIGATIONS.** If a licensee or a party in a transaction engages the services of a competent 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.

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

(4) **DISCLOSURE OF AGENCY.** (a) *General requirements.* 1. At the first meeting during which a prospective buyer's specific needs are discussed, each licensee acting as an agent of the seller shall clearly disclose in writing whom the licensee represents and request from the prospective buyer in a real estate or business opportunity transaction written acknowledgment of the disclosure using the following wording:

"I understand that this broker and salespeople working with this broker are representing the seller's interests and owe duties of loyalty and faithfulness to the seller, but are obligated to treat all parties fairly.

I understand that this broker, without breaching his or her loyalty to the client, may provide me with information about the attributes of properties and available financing, show properties and assist me in preparing an offer to purchase. This broker also has a duty to respond accurately and honestly to my questions and disclose material facts about properties, submit promptly all offers to purchase and offer properties without unlawful discrimination."

Note: The intent of this section is to require disclosures when the broker begins to exercise his or her discretion by identifying or showing properties to a prospective buyer based upon the locational, financial, and special requirements. The "first meeting" between the broker and the prospect which triggers the disclosure requirement would not include clearly casual or preliminary contacts such as those occurring at the open house, a club meeting, or other non-real estate gatherings.

2. At the first meeting during which a prospective seller's specific sales objectives are discussed, each licensee acting as an agent of the buyer shall clearly disclose in writing whom the licensee represents and request from the prospective seller in a real estate or business opportunity transaction written acknowledgment of the disclosure using the following wording:

"I understand that this broker and salespeople working with this broker are representing the buyer's interests and owe duties of loyalty and faithfulness to the buyer, but are obligated to treat all parties fairly.

I understand that this broker, without breaching his or her loyalty to the buyer, may provide me with information about the transaction. This broker also has a duty to respond accurately and honestly to my questions and disclose material facts about the transaction, submit promptly all offers to purchase through proper mechanisms and serve without unlawful discrimination."

Note: Business opportunity is referred to in s. 452.01 (2) (e), Stats.

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 subd. 1 or 2.

RL 24

(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. Listing brokers or their salespeople shall request the seller's authorization to permit other brokers to act as subagents in the sale of a property or business opportunity. This authorization shall be stated 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) *Exemption for certain commercial transactions.* A licensee is not required to provide a written disclosure-of-agency in any transaction involving property used or intended to be used principally for commercial or industrial use, provided that the transaction does not include the sale of a business, its goodwill, inventory or fixtures.

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.

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. Licensees shall put in writing all listing contracts, guaranteed sales agreements, buyer agency agreements, offers to purchase, property management agreements, option contracts. Register, December, 1991, No. 432

tracts, financial obligations and any other commitments regarding transactions, expressing the exact agreement of the parties.

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.

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 Market value estimates. Licensees shall not mislead the owner with respect to market value in attempting to secure a listing.

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.

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. Licensees 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 highest and best offers.

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.

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.** Licensees shall present promptly all offers received to the owner for consideration. Licensees shall not withhold any offer from presentation pending the owner'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 broker's employe may not submit his or her own offer to purchase a property which the broker has listed until all pending offers have been rejected by the seller, 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 re-

jected 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 LISTING BROKER.** Licensees shall not negotiate a sale of real estate directly with an owner if the licensee knows that such owner has an unexpired written contract in connection with such property which grants to another licensee an exclusive right to sell. All negotiations shall be conducted with the listing broker, and not with the owner, except with the consent of the listing broker or where the absence of the listing broker, or other similar circumstances, reasonably compels direct negotiation with the owner.

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.

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, Wis. Adm. Code or any formal 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.