

Chapter RL 17

LICENSURE AND SUPERVISION OF EMPLOYEES

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Note: Chapter REB 8 as it existed on April 30, 1972 was repealed and a new chapter REB 8 was created, Register, April, 1972, No. 196, effective May 1, 1972. Renumbered to be chapter RL 17, effective March 1, 1983. Chapter RL 17 as it existed on November 30, 1985 was repealed and a new chapter RL 17 was created effective December 1, 1985.

RL 17.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 452.07, 452.10 (4), 452.12 (2) and (3), and 452.14 (3), Stats.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1988, No. 389.

RL 17.02 Definitions. (2m) “Broker–employee” means a broker who is employed to provide services for another broker.

(3) “Broker–employer” means a sole proprietor or business entity that employs another licensee to provide services to the broker.

(3g) “Immediate family” means any of the following:

(a) Parents, stepparents, grandparents, foster parents, children, stepchildren, grandchildren, foster children, brothers and their spouses, sisters and their spouses, of a licensee or a licensee’s spouse.

(b) The spouse of a licensee.

(c) Aunts and uncles, sons–in law or daughters–in–law of a licensee or a licensee’s spouse.

(3k) “Licensee” has the meaning under s. 452.01 (5), Stats.

(3m) “Open house” means a showing of real estate open to the public for viewing without an individual appointment.

(4g) “Reasonable review” means the timely review of a document or record to detect and correct errors which include ambiguous, omitted or incomplete portions of a document or record, or incorrect words, numbers, phrases, legal descriptions, terms or conditions. “Reasonable review” does not include the detection and correction of an error which is not apparent on the face of the document or record, unless the supervising broker knows or has reason to know of the error.

(4r) “Supervising broker” means a broker to whom a broker–employer’s duty to supervise licensees employed by a broker–employer is delegated and who is responsible for ensuring compliance by the broker–employer with the duty to supervise licensed employees under s. RL 17.08.

(5) “Unlicensed personal assistant” means a person not licensed under ch. 452, Stats., or a person who is licensed but not employed for the purpose of providing services for which a license is required under ch. 452, Stats., who on behalf of and under the direction of a licensee, provides the licensee with administrative, clerical or personal services for which a license under ch. 452, Stats., is not required.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; cr. (2m), (3m), and (5), am. (3), Register, January, 1998, No. 505, eff. 2–1–98; am. (3) and (5), cr. (3g) and (3k), Register, January, 2001, No. 541, eff. 2–1–01; CR 04–124: r. (1), (2) and (4), cr. (4g) and (4r) Register June 2005 No. 594, eff. 7–1–05.

RL 17.025 Applicability. For the purposes of this chapter, a business representative is not an employee of the business entity.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; am. Register, July, 1998, No. 511, eff. 8–1–98.

RL 17.03 Limitations on employees of a broker.

(1) A broker who is employed by a broker–employer may also engage in real estate practice in his or her own name, if the broker obtains written approval from the broker–employer and avoids conflicts of interest with his or her employment by the broker–employer.

(2) A licensee who is employed by a broker–employer may personally employ licensed persons only as unlicensed personal assistants within the meaning of s. RL 17.02 (5), subject to the provisions in s. RL 17.12.

(3) A licensee may be employed by only one broker–employer at any time.

(4) A salesperson or time–share salesperson may engage in real estate practice only when employed by a broker.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; am. (2), Register, January, 1998, No. 505, eff. 2–1–98; am. (2) to (4), Register, January, 2001, No. 541, eff. 2–1–01.

RL 17.04 Notice of employment. A licensee who wishes to engage in real estate practice as an employee of a broker–employer shall notify the department of the name of the broker–employer on forms prescribed by the department. If this notice is provided at the time of application for original licensure, the department may not charge a fee in addition to the fee specified in s. 440.05 (1), Stats. If the notice is provided other than at the time of application for original licensure, the licensee shall pay the fee specified in s. 440.05 (7), Stats.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; am. Register, January, 2001, No. 541, eff. 2–1–01; CR 04–124: am. Register June 2005 No. 594, eff. 7–1–05.

RL 17.05 Transfer of employment. (1) A licensee who wishes to transfer employment from one broker–employer to another shall submit to the department a transfer application accompanied by the fee specified in s. 440.05 (7), Stats.

(2) A licensee who transfers employment to another broker–employer may not engage in real estate practice for the new employer until the licensee has delivered or mailed a completed transfer application and the required fee to the department.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; am. Register, January, 2001, No. 541, eff. 2–1–01.

RL 17.06 Termination of employment. A licensee who terminates employment with a broker–employer shall send written notice to the department within 10 days after the termination.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; am. Register, January, 2001, No. 541, eff. 2–1–01.

RL 17.07 Broker–employer’s duty to check licensure of employees. A broker–employer shall, prior to employing a licensee and at the beginning of each biennial licensure period, determine that each licensee employed by the broker is properly licensed. A broker–employer may not employ an unlicensed person or a person who has failed to file the notice of employment required under s. RL 17.04 or the transfer application required by s. RL 17.05 to engage in real estate practice for the broker–employer.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85.

RL 17.08 Supervision of employees. (1) A broker–employer shall supervise the activities of any licensee employed by the broker–employer. Supervision includes but is not limited to the reasonable review of all listing contracts, offers to purchase, trust account records and other documents and records related to transactions as well as providing all licensees reasonable access to a supervising broker for purposes of consultation regarding real estate practice issues. Documents or records related to a transaction, described in ss. RL 15.02, 15.03 and 15.04, including the receipt and proposed disbursement of real estate trust funds in or from the real estate trust account of the broker–employer, shall be reviewed by the supervising broker prior to the closing of the transaction. Broker–employers shall provide all licensed employees with a written statement of procedures under which the office and employees shall operate with respect to handling leases, listing contracts, offers to purchase and other documents relating to transactions. Broker–employers shall notify all employed licensees where a copy of the rules of the department maintained under s. RL 24.16 may be obtained.

(2) A broker–employer shall be responsible for the preparation, custody, safety and correctness of all entries on real estate forms, closing statements and other records even though another person may be assigned these duties by the broker–employer.

(3) A broker–employer which is a business entity shall delegate the performance of the duty to supervise licensed employees to a supervising broker.

(4) A broker–employer who is not a business entity may delegate the duty to supervise licensed employees to a supervising broker. In the absence of a specific supervising broker delegation to another person, a broker–employer who is not a business entity is deemed to be a supervising broker.

(5) A delegation under this section shall be written and signed by or on behalf of the delegating broker–employer, identify the duty delegated, and be signed by the supervising broker to whom the delegation is made. A broker–employer may delegate the duty to supervise licensees employed by the broker–employer to more than one supervising broker.

Note: Sections RL 17.08 (3) and (4) do not affect a broker–employer’s liability under s. 452.12 (3), Stats.

History: Cr. Register, November, 1985, No. 359, eff. 12–1–85; am. (1), Register, January, 2001, No. 541, eff. 2–1–01; CR 04–124: am. (1), cr. (3) to (5) Register June 2005 No. 594, eff. 7–1–05.

RL 17.12 Unlicensed personal assistants. (1) A licensed employee, prior to employing an unlicensed personal assistant, shall enter into a written agreement with his or her broker–employer, setting forth the duties of the unlicensed personal assistant, the manner in which the personal assistant will be compensated for his or her services and the responsibilities between the licensed employee and broker–employer for supervision of the personal assistant’s activities.

(2) An unlicensed personal assistant may not assist a licensee at an open house for the sale of real estate or a business without the direct, on–premises supervision and presence of a real estate licensee, and may not provide any services at an open house for which a license under ch. 452, Stats., is required.

Note: This rule does not prevent an owner from showing or holding an open house regarding his or her own residence, for example, or from permitting a non–compensation person, such as a relative or neighbor, from showing or holding an open house on the owner’s behalf.

History: Cr. Register, January, 1998, No. 505, eff. 2–1–98; am. (1), Register, January, 2001, No. 541, eff. 2–1–01; CR 04–124: am. (1) Register June 2005 No. 594, eff. 7–1–05.