Chapter RL 16

APPROVED FORMS AND LEGAL ADVICE

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Note: Chapter RL 16 as it existed on March 31, 1986 was repealed and a new chapter RL 16 was created, effective April 1, 1986.

RL 16.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 452.05 (1) (b), 452.07, and 452.14 (3) (m), Stats.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; correction made under s. 13.93 (2m) (b) 7, Stats., Register, May, 1988, No. 389.

RL 16.02 Definition. (1) "Approved form" means a contractual or conveyance form which is either prepared and approved by the department, pursuant to s. 452.05 (1) (b), Stats., or approved in s. RL 16.03.

(2) "Licensee" means any person licensed or registered under ch. 452, Stats.

(3) "Use a form" means to complete a contractual or conveyance form by filling in the blanks or modifying printed provisions on a form for the purpose of accomplishing the intent of a party in a specific real estate transaction.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

RL 16.03 Approved forms. (1) In addition to forms prepared and approved by the department pursuant to s. 452.05 (1) (b), Stats., the department approves the following for use by brokers:

(a) Forms prepared and approved by the state bar of Wisconsin;

(b) Uniform commercial code forms: 1, 2, 3, 4, 11, 410, 411, 430, 445, 450 and 451;

(c) Contractual forms for the sale, purchase or rental of real estate or a business opportunity located in another state, if the contractual forms are those which licensees may legally and customarily use for such transactions in the state where the real estate or business opportunity is located.

(d) Forms prepared by governmental agencies for use in programs administered by them under authority provided by law.

(2) In addition to forms prepared and approved by the department pursuant to s. 452.05 (1) (b), Stats., the department grants approval of the forms in sub. (1) (c) and (d) for use by salespersons.

Note: Copies of most approved forms are available from various business supply stores and forms printers throughout the state of Wisconsin. Forms prepared by governmental agencies for use in programs administered by those agencies, and approved by the department, are available from those agencies. Contractual forms which have been prepared by the department and are currently approved by the department are the following:

WB-1 Residential Listing Contract - Exclusive Right To Sell - 5/1/82

WB-2 Farm Listing Contract - Exclusive Right To Sell - 5/1/82

WB-3 Vacant Land Listing Contract - Exclusive Right to Sell - 5/1/82

WB-4 Residential Condominium Listing Contract - Exclusive Right To Sell - 5/1/82

WB-5 Commercial Listing Contract - Exclusive Right To Sell - 5/1/82

WB-6 Business Listing Contract - Exclusive Right To Sell - optional use date 11/1/83; mandatory use date 5/1/84

WB-11 Residential Offer To Purchase - 5/1/82

WB-12 Farm Offer To Purchase - 5/1/82

WB-13 Vacant Land Offer To Purchase - 5/1/82

WB-14 Residential Condominum Offer To Purchase - 5/1/82

WB-15 Commercial Offer To Purchase - 5/1/82

WB-16 Business Offer To Purchase - optional use date 11/1/83; mandatory use date 5/1/84

WB-18 House Lease - 5/8/80

WB-20 Apartment Lease - 5/9/80

WB-24 Grant of Option - optional use date 10/1/82; mandatory use date 3/1/83

WB-25 Bill of Sale - optional use date 7/1/83; mandatory use date 11/1/83

WB-35 Offer To Exchange Property With Acceptance - optional use date 10/1/82; mandatory use date 3/1/83

WB-36 Exclusive Buyer Agency Contract - optional use date 10/1/85; mandatory use date 1/1/86

WB-37 Exclusive Listing Contract For Rental of Property - undated

WB-42 Amendment To Listing Contract - 5/1/82

WB-43 Amendment To Contract Of Sale - 5/1/82

WB-44 Counter-offer - optional use date 10/1/86; mandatory use date 1/1/87

WB-45 Cancellation Agreement and Mutual Release - 5/1/82

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; cr. (1) (d), am. (2), Register, June, 1988, No. 390, eff. 7-1-88.

RL 16.04 When to utilize approved forms. (1) Except as provided in subs. (2) and (3), a licensee shall use approved forms when acting as an agent or a principal in a real estate transaction.

(2) For those kinds of real estate transactions for which the department has not approved contractual forms a licensee may, when acting as an agent, use contractual forms drafted by a client or a client's attorney, but only for that client's transactions, if the name of the drafter is imprinted on the form before use by a licensee.

(3) For those kinds of real estate transactions for which the department has not approved contractual forms a licensee may, when acting as a sole principal or one of several principals, use contractual forms drafted by the licensee's attorney, if the name of the drafter is imprinted on the form before use by the licensee.

(4) A licensee may in any real estate transaction where the licensee is acting as agent, negotiate an agreement and permit the parties or an at-

torney for one or other of the parties to draft or prepare a contractual agreement which embodies all of the negotiated terms and conditions.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

RL 16.05 Legal advice and practice of law. (1) A licensee may not give advice or opinions concerning the legal rights or obligations of parties to a transaction, the legal effect of a specific contract or conveyance, or the state of title to real estate.

(2) Notwithstanding sub. (1), a licensee may give a general explanation of the provisions in an approved form to the parties to a transaction at the time of completing the form or when delivering an approved form for the seller's or buyer's acceptance.

(3) A licensee may use approved forms only in those transactions in which the licensee is acting in a capacity as licensee or in which the licensee is a principal, and in either case the use of such forms is incidental to the real estate practice of the licensee.

(4) A licensee may not make a separate charge for completing an approved form in connection with a transaction.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.

RL 16.06 How to use approved forms. (1) A licensee who reproduces or arranges for printing a contractual form prepared and approved by the department pursuant to s. 452.05 (1) (b), Stats.:

(a) Shall assure that the numbering of lines and line contents are identical to those on the department's form.

(b) May not reproduce the form in such a manner that optional provisions are left out and blank spaces are filled in without any indication of where the optional provisions and blanks occur on the department's form.

(c) Shall indicate that the form is reproduced by the licensee's firm, stating its address and telephone number at an appropriate place on the form.

(d) May add additional blank lines, provided that such lines remain unnumbered and the contents and line numbers on the department's form are not altered.

(e) Shall retain the department's approval statement and date in the upper left corner exactly as these appear on the department's form.

(2) A licensee who reproduces or arranges for printing a form under s. RL 16.03 (1) (a) or (b) may not modify the form in any way.

(3) A licensee may cross out provisions on approved forms to reflect the agreement of a party to a transaction, provided that the deleted provisions remain legible.

(4) A licensee may use a pre-prepared addendum or otherwise set forth on attached pages provisions relating to the blanks on an approved form, if the licensee properly incorporates the attachment by reference into the approved form and relates the approved form and the attached pages to one another. For purposes of this subsection a pre-prepared addendum may be prepared by the broker or the broker's attorney.

(5) A licensee may use a pre-prepared addendum which supplants or alters the printed provisions of an approved form only if:

(a) The addendum has been drafted by an attorney who is identified on the addendum;

(b) There are no optional or multiple choice provisions in the addendum;

(c) There are no blanks or fill-in provisions in the addendum except for spaces for the signatures of the parties and those items required under par. (d); and,

(d) The addendum is incorporated by reference into the approved form and the approved form and the addendum are properly related to one another.

(6) A licensee may alter an approved exclusive-right-to-sell listing contract to create an exclusive agency listing or an open listing.

(7) A licensee shall use the latest approved version of an approved form.

(8) A licensee shall use approved forms and prepare addenda in such a manner as to adequately accomplish the contractual intent of the person for whom the licensee uses the forms and prepares the addenda.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86; am. (4), Register, June, 1988, No. 390, eff. 7-1-88.

RL 16.07 Violation of this chapter. A licensee who violates this chapter demonstrates incompetency to act as a real estate licensee in a manner that, for purposes of s. 452.14 (3) (i), Stats., safeguards the interests of the public and shall be in violation of s. 452.14 (3) (m), Stats.

History: Cr. Register, March, 1986, No. 363, eff. 4-1-86.