



Rules of Department of Commerce and Insurance

Division 2250—Missouri Real Estate Commission Chapter 8—Business Conduct and Practice

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**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE**
**Division 2250—Missouri Real
Estate Commission**
**Chapter 8—Business Conduct
and Practice**

20 CSR 2250-8.010 Place of Business

PURPOSE: This rule affirms the fact that a broker who holds him/herself out to the public as a broker must clearly identify him/herself and his/her location and maintain regular business hours.

(1) Every resident broker, except those who have placed their licenses on inactive status or those not actively engaged in real estate business, shall maintain a regularly established place of business in this state, which shall be open to the public during usual business hours or at regular stated intervals. No salesperson may be associated with a broker not maintaining a regularly established place of business or a broker not actively engaged in the real estate business. This rule does not apply to a broker-salesperson or to broker-partners, broker-associates or broker-officers of a firm which maintains a regular place of business.

(2) A broker's business sign of sufficient size to identify it and bearing the name under which the broker or the broker's firm is licensed, or the regular business name, shall be displayed outside of the broker's regular place of business.

AUTHORITY: section 339.120, RSMo Supp. 1993. This rule originally filed as 4 CSR 250-8.010. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 14, 1984, effective June 11, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.010, effective Aug. 28, 2006. ***

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.*

***Pursuant to Executive Order 21-07, 20 CSR 2250-8.010, section (1) was suspended from April 17, 2020 through April 12, 2021.*

**20 CSR 2250-8.020 Broker Supervision
and Improper Use of License and Office**

PURPOSE: This rule explicitly prohibits a broker from using his/her license to permit a salesperson to function as a real estate brokerage firm.

(1) Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under 339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership. A broker shall not be held responsible for inadequate supervision if—

(A) A licensed or unlicensed person violates a provision of Chapter 339, RSMo or the rules for it in conflict with the supervising broker's specific written policies or instructions;

(B) Reasonable procedures have been established to verify that adequate supervision was being performed;

(C) The broker, upon learning of the violation, attempted to prevent or mitigate the damage;

(D) The broker did not participate in the violation;

(E) The broker did not ratify the violation; and

(F) The broker did not attempt to avoid learning of the violation.

(2) A broker shall not permit licensed and unlicensed persons affiliated with the broker to—

(A) Establish and carry on real estate brokerage business for their own benefit, directly or indirectly, where the broker's primary interest is the receipt of a fee or other valuable consideration for the use of the broker's license by others; or

(B) Where the broker has no control or only nominal control of the business affairs conducted under the broker's license or is only nominally associated with the business.

(3) Appointments of designated agents and designated transaction brokers under section 339.820, RSMo shall be entered into by the designated broker or office manager/supervising broker on behalf of that broker and affiliated licensees.

(4) Appointments of designated agents and designated transaction brokers under section 339.820, RSMo shall be made in a written agreement for brokerage services or other written notice to the client or party, unless such appointment is presumed pursuant to section 339.820.1, RSMo.

(5) Individual brokers, designated brokers, and office managers/supervising brokers shall not be considered to be a dual agent or a transaction broker solely because such broker

makes an appointment under section 339.820, RSMo. However, when such broker supervises the licensees for both sides of a transaction, that broker will be a dual agent or a transaction broker upon learning confidential information about either party to a transaction or upon being consulted by any licensee involved in the transaction. Also, when the broker supervises the licensee representing or assisting one (1) side of the transaction and personally represents or assists the other side, that broker will be a dual agent or a transaction broker.

AUTHORITY: section 339.120, 339.710, 339.780 and 339.820, RSMo Supp. 1999. This rule originally filed as 4 CSR 250-8.020. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed May 11, 1983, effective Aug. 11, 1983. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Moved to 20 CSR 2250-8.020, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo, 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999; 339.710, RSMo 1996, amended 1998, 1999; 339.780, RSMo 1996, amended 1998, 1999; 339.820, RSMo 1996, amended 1998, 1999.*

20 CSR 2250-8.030 Branch Offices

PURPOSE: This rule qualifies a branch office and stipulates who may manage and direct same.

(1) If a broker maintains a branch office(s), each shall be operated under the same name and license as the parent office and every such place of business shall comply with the provisions of 20 CSR 2250-8.010.

(2) Project sales, leasing, or management offices maintained on-site in an apartment building, development project, duplex, apartment complex, court, office building, shopping center, or industrial development are not required to be registered as branch offices.

(3) A branch office shall be under the direct supervision of either a licensed broker, broker-salesperson, or a broker-partner, broker-associate, or broker-officer of the principal licensed broker; provided that nothing contained in this rule shall be construed to relieve the principal licensed broker from responsibility for all brokerage activities conducted at the branch office. Nothing in this section shall be construed as to prohibit the



office manager from engaging in the listing and sale of real estate.

(4) A broker shall notify the commission, in writing, within ten (10) days after opening or making any change in the address or managing licensee of a branch office.

AUTHORITY: section 339.120, RSMo Supp. 2011.* This rule originally filed as 4 CSR 250-8.030. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 27, 1987. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.030, effective Aug. 28, 2006. Amended: Filed April 3, 2009, effective Sept. 30, 2009. Amended: Filed Oct. 27, 2011, effective April 30, 2012.

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008.

20 CSR 2250-8.040 Sales Manager

PURPOSE: This rule defines who may be a sales manager.

(1) Any licensee who acts in the capacity of a sales manager or assistant sales manager for the broker shall be required to hold a broker-salesperson license or to be licensed as a broker-partner, broker-associate or broker-officer of the broker.

AUTHORITY: section 339.120, RSMo Supp. 1993.* This rule originally filed as 4 CSR 250-8.040. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.040, effective Aug. 28, 2006.

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.

20 CSR 2250-8.050 Clerical Personnel

PURPOSE: This rule defines clerical personnel and their limitations.

(1) The activities of unlicensed clerical or office employees of a broker shall be limited to the duties normally attributed to those positions. Unlicensed persons shall not do, or attempt to do, any of the activities set out under 339.010.1.(1)-(10), RSMo.

AUTHORITY: section 339.120, RSMo Supp. 1993.* This rule originally filed as 4 CSR 250-8.050. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb.

2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.050, effective Aug. 28, 2006.

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.

20 CSR 2250-8.060 Display of License

PURPOSE: This rule directs the display of brokers' and associates' licenses.

(1) Every broker shall maintain his/her license and the licenses of all associates in the regular place of business or branch office(s). The licenses shall be displayed to any member of the public on request.

AUTHORITY: section 339.120, RSMo Supp. 1993.* This rule originally filed as 4 CSR 250-8.060. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.060, effective Aug. 28, 2006.

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.

20 CSR 2250-8.070 Advertising

PURPOSE: This rule not only defines advertising, but it also regulates the manner, form, requirements, and restrictions imposed on advertising. It prohibits advertising by a salesperson in his/her own name. It explicitly prohibits a free offering of any value in promotional material. Further, it forbids discrimination of any group because of race, creed, color, or national origin.

(1) Disclosure.

(A) A licensee shall not advertise to sell, buy, exchange, rent, lease, or manage property in any manner indicating that the offer to sell, buy, exchange, rent, lease, or manage the property is being made by a private party not engaged in the real estate business. If any part of the offering, negotiation, or completion of a real estate transaction is to be handled by, through, or under the direction or supervision of a licensee, directly or indirectly, the licensee shall not advertise or represent to the public in any manner that the property is for sale or lease by the owner.

(B) If a licensee advertises to sell, buy, exchange, rent, lease, or manage property in which the licensee has an interest, and if the property is not listed by a brokerage entity, the advertisement shall contain, in a prominent fashion, one (1) of the following:

- 1. By owner-broker;
2. By owner-salesperson; or
3. By owner-agent.

(C) Nothing in this section shall be construed to eliminate the disclosure requirements found elsewhere in these rules, including those contained in 20 CSR 2250-8.110.

(2) No real estate advertisement by a licensee shall show only a post office box number, telephone number, or street address. Every advertisement of real estate by a licensee shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party advertising is a real estate broker and not a private party.

(3) Every advertisement of real estate by a licensee where the licensee has no interest in the real estate shall be made under the direct supervision and in the name of the broker or firm who holds the licensee's license. If the licensee's name or telephone number, or both, is used in any advertisement, the advertisement also shall include the name and telephone number of the broker or firm who holds the licensee's license.

(4) No licensee shall advertise to buy, sell, rent, lease, manage, or exchange property in any manner that indicates, directly or indirectly, any unlawful discrimination against any individual or group because of race, color, religion, national origin, ancestry, sex, handicap, or familial status.

(5) No licensee or group of licensees shall advertise as a real estate company in any manner, or use any name, team name, or other term that could be construed by members of the public as the advertiser being a real estate partnership, company, brokerage, or business entity, unless the advertiser holds a valid appropriate entity license.

(A) Such terms include use of the words realty, brokerage, company, or other terms that may be construed as a real estate entity.

(B) The context of the advertisement or solicitation may be considered by the commission when determining whether a licensee has committed a violation. When the licensee's or group of licensee's name includes or incorporates the name of the broker/brokerage with whom the licensee or group of licensee's is currently affiliated, the use of the words realty, brokerage, or company in the licensee's fictitious name shall not constitute a violation of subsection (5)(A) above when these words are used to refer to or identify the licensee's affiliation with the broker/brokerage.

(C) A licensee or group of licensees that are not entities under Chapter 339, RSMo, who want to advertise with the licensee's or



group's fictitious name, should file with the secretary of state a registered fictitious name that is owned by the broker/brokerage in which the licensee or group of licensees are affiliated. The registration of a fictitious name with the Missouri Secretary of State's Office does not exempt a licensee or group of licensees from the requirements of 20 CSR 2250-8.070(3) or subsection (5)(A) above.

(6) Guaranteed Sales.

(A) As used in this rule, the term guaranteed sales plan includes, but is not limited to—

1. Any plan in which a seller's real estate is guaranteed to be sold; or

2. Any plan where a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

(B) Any written advertisement by a licensee of a guaranteed sales plan shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth (1/4) as large as the largest print in the advertisement.

(C) Any radio or television advertisement by a licensee of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.

(D) Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased including the charges or other costs for the service or plan, the price for which the property will be sold or purchased, and the approximate net proceeds the seller may reasonably expect to receive.

AUTHORITY: sections 339.100 and 339.120, RSMo Supp. 2021. This rule originally filed as 4 CSR 250-8.070. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed May 11, 1983, effective Aug. 11, 1983. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 29, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed June 16, 1989, effective Sept. 28, 1989. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Moved to 20 CSR 2250-8.070, effective Aug. 28, 2006. Amended: Filed Oct. 12, 2007, effective April 30,*

2008. Amended: Filed March 16, 2022, effective Oct. 30, 2022.

**Original authority: 339.100, RSMo 1941, amended 1978, 1993, 2004, 2005, 2006, 2007, 2008, 2013, 2016, 2020, 2021, and 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008, 2018.*

20 CSR 2250-8.080 Franchises; Trade Names; Insignia

PURPOSE: This rule sets forth the requirements that the use of a trade name in advertising must be clearly revealed that the broker owns and operates the entity and, if the franchisor has no legal liability, that must also be revealed on all documents.

(1) If a broker maintains any business relationship or affiliation, whether by franchise agreement, contract or otherwise, with another organization and uses the name, trade name or insignia of the other organization in any manner in real estate advertising, the broker shall furnish the commission a copy of the franchise agreement or contract and such other related information as the commission may require.

(2) If the franchise agreement or contract under which a broker is operating provides that the franchisor or owner of the trade name or insignia has no legal liability for the actions of the broker using the trade name or insignia, the broker shall include in all listing agreements, contracts for sale and closing statements a clear and explicit statement to that effect in type reasonably calculated to gain the attention of the reader of the document.

AUTHORITY: section 339.120, RSMo Supp. 1997. This rule originally filed as 4 CSR 250-8.080. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Aug. 1, 1997, effective March 30, 1998. Moved to 20 CSR 2250-8.080, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995.*

20 CSR 2250-8.090 Brokerage Service Agreements

PURPOSE: This rule requires that a listing agreement be in writing and that a copy of the agreement be delivered to the owner before a broker may advertise or place a sign on the property. The agreement must contain all terms, conditions, a definite expiration date,

and signatures of all parties. All information contained on the agreement shall be carefully investigated for accuracy by the listing agent. In a cooperative listing, the selling broker shall be presumed to be a subagent of the listing broker.

(1) A licensee shall not advertise or place a sign upon any property offering it for sale or lease to prospective customers without the written consent of the owner or his or her duly authorized agent.

(2) A licensee shall not show residential property unless a broker holds a currently effective written seller's/lessor's agency agreement, seller's/lessor's transaction brokerage agreement, or other written authorization to show.

(3) In a commercial real estate transaction, a brokerage service agreement prepared by legal counsel for the client/customer to be represented or assisted shall not be subject to the provisions of 20 CSR 2250-8.090(4)-(7).

(4) Seller's/Lessor's Agency (Sale/Lease Listing) Agreement.

(A) Every written listing agreement or other written agreement for brokerage services shall contain all of the following:

1. The price;
2. The commission to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. A statement which permits or prohibits the designated broker from offering subagency;

7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or transaction brokers;

10. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the seller's agency



agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;

11. The signatures of all owners and the listing broker or listing agent as authorized by the broker;

12. The type of listing;

13. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property; and

14. All other terms and conditions under which the property is to be sold, leased, or exchanged.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the listing after the expiration date.

(C) Any addendums, riders, endorsements, attachments, or changes to the listing agreement or other written agreement for brokerage services must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written listing agreement or other written agreement for brokerage services to the owner of the property at the time the signature of the owner is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) No licensee shall make or enter into a net listing agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.

(G) A listing agreement or other written agreement for brokerage services may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

(5) Buyer's/Tenant's Agency Agreement.

(A) Every written buyer or tenant authorization shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;
2. The commission or fee to be paid

(including any and all bonuses);

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

6. A statement which permits or prohibits the designated broker from offering subagency;

7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or transaction brokers;

10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the buyer's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;

11. The signatures of the buyers or tenants and the broker or agent as authorized by the broker;

12. The type of agreement; and

13. All other terms and conditions prescribed by the buyers or tenants.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any addendums, riders, endorsements, attachments, or changes to the agreement or other written authorization must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the written authorization shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will

take effect after the expiration of the current agreement.

(F) A buyer or tenant agency agreement may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original buyer or tenant agency agreement.

(6) Transaction Brokerage Agreement Between Broker and Seller/Lessor.

(A) Every written seller's or lessor's transaction brokerage agreement shall contain all of the following:

1. The price;

2. The commission to be paid (including any and all bonuses);

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

6. The signatures of all owners and the broker or affiliated licensee as authorized by the broker;

7. The type of agreement;

8. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;

9. All other terms and conditions under which the property is to be sold, leased, or exchanged;

10. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or other transaction brokers; and

11. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any addendums, riders, endorsements, attachments, or changes to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement to the owner of the property at the time the signature of the owner(s) is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to



know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) No licensee shall make or enter into a net agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.

(G) Transaction brokerage agreements may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

(7) Transaction Brokerage Agreement Between Broker and Buyer/Tenant.

(A) Every written buyer's or tenant's transaction brokerage agreement shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;
2. The commission or fee to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. The signatures of the buyers or tenants and the broker or affiliated licensee as authorized by the broker;
7. The type of agreement;
8. All other terms and conditions prescribed by the buyers or tenants;
9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or other transaction brokers; and
10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any addendums, riders, endorsements, attachments, or changes to the agreement

must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the agreement shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) Transaction brokerage agreements may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

(8) Other Written Authorization. Written authorization to show residential property without an agency agreement or transaction brokerage agreement with the owner/landlord must contain all of the following:

- (A) A definite beginning date;
- (B) An expiration date;
- (C) The signatures of all owners or landlords and the broker or licensee as authorized by the broker;
- (D) The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;
- (E) Permission to enter and show the property;
- (F) The commission or fee to be paid (including any and all bonuses);
- (G) All other terms and conditions prescribed by the owners or landlords;
- (H) Any addendums, riders, endorsements, attachments, or changes to the written authorization must contain the initials of all parties; and
- (I) A statement which confirms that the owner or landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the other written authorization, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(9) Every written property management agreement or other written authorization

between a broker and the owners of the real estate shall:

- (A) Identify the property to be managed;
- (B) State the amount of fee or commission to be paid and when the fee or commission will be paid;
- (C) Specify whether security deposits and prepaid rents will be held by the broker or the owner;
- (D) Contain the beginning date of the agreement;
- (E) Provide the terms and conditions for termination of the property management agreement by the broker or the owner of the property;
- (F) Include the licensee's duties and responsibilities;
- (G) Contain a statement which permits or prohibits the designated broker from offering subagency (not applicable for transaction broker agreements);
- (H) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;
- (I) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;
- (J) Include specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by sections 339.710 to 339.860, RSMo, including but not limited to tenant's agents and/or transaction brokers;
- (K) Contain a statement which confirms that the landlord received the Broker Disclosure Form prescribed by the commission:
 1. On or before the signing of the brokerage relationship agreement; or
 2. Upon the licensee obtaining any personal or financial information, whichever occurs first;
- (L) Contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker; and
- (M) Any addendums, riders, endorsements, or attachments to the property management agreement or other written authorization between a broker and the owners of the real estate shall contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker.

(10) The licensee shall give to the owner or the owner's authorized agent a legible copy of every written property management agreement or other written authorization at the



time the signature of the owner is obtained. The licensee's broker shall retain a copy of the written property management agreement or other written authorization and a signed copy of any addendums, riders, endorsements, or attachments to the written property management agreement or other written authorization.

AUTHORITY: sections 339.730, 339.740, 339.750, 339.755, and 339.820, RSMo 2000 and sections 339.120 and 339.780, RSMo Supp. 2008. This rule originally filed as 4 CSR 250-8.090. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 12, 1982, effective Nov. 11, 1982. Amended: Filed May 11, 1983, effective Aug. 11, 1983. Amended: Filed March 14, 1984, effective June 11, 1984. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Oct. 26, 1987, effective July 1, 1988. Amended: Filed June 16, 1989, effective Sept. 28, 1989. Amended: Filed Sept. 1, 1989, effective Dec. 28, 1989. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Amended: Filed Nov. 3, 2003, effective April 30, 2004. Moved to 20 CSR 2250-8.090, effective Aug. 28, 2006. Amended: Filed Oct. 12, 2007, effective April 30, 2008. Amended: Filed April 3, 2009, effective Sept. 30, 2009.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008; 339.730, RSMo 1996, amended 1998; 339.740, RSMo 1996, amended 1998; 339.750, RSMo 1996; 339.755, RSMo 1998, amended 1999; 339.780, RSMo 1996, amended 1998, 1999, 2004, 2005; 339.820, RSMo 1996, amended 1998, 1999.*

20 CSR 2250-8.095 Brokerage Relationship Disclosure

PURPOSE: The commission is proposing this rule in order to comply with provisions in HB 1601 of the 89th General Assembly and HB 866 of the 90th General Assembly.

(1) Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to disclose such relationships in the following instances and manner:

(A) Seller's/Landlord's Agent or Subagent.

1. A licensee acting as an agent or subagent of the seller/landlord shall disclose this agency status no later than the first showing to a buyer/tenant who is not represented by or working with another licensee pursuant to

sections 339.710 to 339.860, RSMo.

2. If the buyer/tenant is represented by another licensee, the disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.

3. If the seller's/landlord's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the seller's/landlord's agent.

4. In a cooperative sale/lease between a seller's/landlord's agent and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's agent shall make disclosure of this agency status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, their agent, or transaction broker, the seller's/landlord's agent shall disclose this agency status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.

6. If the landlord's agent is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)-(e), RSMo, make the disclosure described herein on behalf of the landlord's agent;

(B) Buyer's/Tenant's Agent or Subagent.

1. A licensee acting as an agent or subagent of the buyer/tenant shall disclose this agency status no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to sections 339.710 to 339.860, RSMo.

2. If the seller/landlord is represented by another licensee, the disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.

3. If the buyer's/tenant's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the buyer's/tenant's agent.

4. In a cooperative sale/lease between a buyer's/tenant's agent and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's agent shall make disclosure of this agency status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.

5. In a contemplated real estate transac-

tion where no contact occurs with the seller/landlord, their agent, or transaction broker, the buyer's/tenant's agent shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this agency status prior to the presentation of an offer to exchange, purchase, rent, or lease.

6. If the landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)-(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

(C) Dual Agent.

1. A licensee acting as a dual agent in a real estate transaction shall disclose this agency status immediately upon its occurrence to all parties of a real estate transaction.

2. In a non-designated agency transaction, the disclosure made by the licensee procuring the buyer/tenant (selling licensee) shall serve as disclosure for the listing licensee and designated broker.

3. A designated broker who becomes a dual agent and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this agency status provided written consent was given by all parties to the real estate transaction pursuant to 339.750.1, RSMo;

(D) Transaction Broker Assisting Seller/Landlord.

1. A licensee assisting a seller/landlord as a transaction broker who has not been deemed a transaction broker pursuant to section 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to buyer/tenant who is not represented by or working with another licensee pursuant to sections 339.710 to 339.860, RSMo.

2. If the buyer/tenant is represented by another licensee, this disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.

3. If the licensee has not entered into a written transaction brokerage agreement with the seller/landlord, the licensee shall disclose the licensee's transaction broker status to the seller/landlord upon establishing such relationship with the seller/landlord.

4. In a cooperative sale between a seller's/landlord's transaction broker and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's transaction broker shall make disclosure of this brokerage relationship status to the buyer/tenant and also to the licensee assisting



the buyer/tenant upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, or their agent or transaction broker, the seller's/landlord's transaction broker shall disclose this brokerage relationship status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.

6. If the landlord's transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)–(e), RSMo, make the disclosure described herein on behalf of the landlord's transaction broker;

(E) Transaction Broker Assisting Buyer/Tenant.

1. A licensee assisting a buyer/tenant as a transaction broker who has not been deemed a transaction broker pursuant to section 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to sections 339.710 to 339.860, RSMo.

2. If the seller/landlord is represented by another licensee, this disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.

3. If the licensee has not entered into a written transaction brokerage agreement with the buyer/tenant, the licensee shall disclose the licensee's transaction broker status to the buyer/tenant upon establishing such relationship with the buyer/tenant.

4. In a cooperative sale/lease between a buyer's/tenant's transaction broker and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's transaction broker shall make disclosure of this brokerage relationship status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent, or transaction broker, the buyer's/tenant's transaction broker shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this brokerage relationship status prior to the presentation of an offer to exchange, purchase, rent, or lease.

6. If the landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unli-

censed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)–(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

(F) Transaction Broker Pursuant to 339.710(19)(c), RSMo.

1. A licensee who becomes a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this transaction broker status immediately upon its occurrence to all parties to the real estate transaction to be confirmed in writing prior to the execution of the contract.

2. The disclosure of the licensee procuring the buyer (selling licensee) shall serve as disclosure for the listing licensee and designated broker.

3. A designated broker who becomes a transaction broker and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this status provided written consent was given by all parties to the real estate transaction.

AUTHORITY: sections 339.120, 339.720, and 339.770, RSMo Supp. 2008. This rule originally filed as 4 CSR 250-8.095. Original rule filed Oct. 26, 1987, effective July 1, 1988. Amended: Filed Sept. 1, 1989, effective Dec. 28, 1989. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Rescinded and readopted: Filed Dec. 1, 1997, effective Sept. 1, 1998. Rescinded and readopted: Filed Jan. 14, 2000, effective July 30, 2000. Moved to 20 CSR 2250-8.095, effective Aug. 28, 2006. Amended: Filed April 3, 2009, effective Sept. 30, 2009.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008; 339.720, RSMo 1996, amended 1998, 1999, 2002, 2005; and 339.770, RSMo 1996, amended 1997, 1998, 2002.*

20 CSR 2250-8.096 Brokerage Relationship Confirmation

PURPOSE: This rule outlines requirements for a brokerage relationship confirmation.

(1) Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party's first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate

contract, provided that any addendum or incorporated document containing the written confirmation must include a separate signature section for acknowledging the written confirmation that shall be signed and dated by each party to the real estate transaction.

(A) Written confirmation must—

1. Identify the licensee's brokerage relationship;

2. Identify the source or sources of compensation;

3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;

4. Confirm the seller's/landlord's and buyer's/tenant's receipt of the Broker Disclosure Form prescribed by the commission;

5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to 20 CSR 2250-8.200–20 CSR 2250-8.210, the landlord shall not be required to sign the written confirmation; and

6. Be signed and dated by the disclosing licensee on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200–20 CSR 2250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)–(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

(B) A signed copy shall be given to the seller/landlord and buyer/tenant and a signed copy shall be retained by the disclosing licensee's broker. If any party to the real estate transaction refuses to sign the confirmation, the licensee working with that party pursuant to 339.710 to 339.860, RSMo, shall set forth, sign and date a written explanation of the facts of refusal and the explanation shall be retained by the licensee's broker.

(2) In a commercial real estate transaction where the real estate contract is prepared by legal counsel for the seller/landlord or buyer/tenant, the written confirmation by the party or parties who are represented by legal counsel shall not be required.

AUTHORITY: sections 339.120, 339.780, and 339.720, RSMo Supp. 2008. This rule originally filed as 4 CSR 250-8.096. Original rule filed Jan. 14, 2000, effective July 30, 2000. Amended: Filed Nov. 3, 2003, effective*



April 30, 2004. Moved to 20 CSR 2250-8.096, effective Aug. 28, 2006. Amended: Filed April 3, 2009, effective Sept. 30, 2009.

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008; 339.720, RSMo 1996, amended 1998, 1999, 2002, 2005; and 339.780, RSMo 1996, amended 1998, 1999, 2004, 2005.

20 CSR 2250-8.097 Broker Disclosure Form

PURPOSE: This rule implements a statutory requirement that licensees must present agency alternatives to the public using a Broker Disclosure Form prescribed by the Missouri Real Estate Commission.

(1) In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the licensee shall provide that person with a written copy of the current Broker Disclosure Form prescribed by the Missouri Real Estate Commission. In any event, a licensee shall provide the party that has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the Broker Disclosure Form upon obtaining any personal or financial information or before the signing of a brokerage service agreement, whichever occurs first. If a landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in section 339.010.5(5)(a)-(e), RSMo, provide a tenant with a written copy of the current Broker Disclosure Form prescribed by the commission on behalf of the landlord's agent or transaction broker.

(2) The brokerage relationship marked as offered on the Broker Disclosure Form shall correspond to the written office policy adopted by the designated broker pursuant to 339.760.1, RSMo.

AUTHORITY: sections 339.120 and 339.770, RSMo Supp. 2008. * This rule originally filed as 4 CSR 250-8.097. Original rule filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Amended: Filed Nov. 3, 2003, effective April 30, 2004. Moved to 20 CSR 2250-8.097, effective Aug. 28, 2006. Amended: Filed April 3, 2009, effective Sept. 30, 2009.

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008 and 339.770, RSMo 1996, amended 1997, 1998, 2002.

20 CSR 2250-8.100 Offers

PURPOSE: This rule affirms that all offers to sell shall contain all the terms and conditions authorized by the owner. It demands that all written offers to buy must be submitted promptly to the seller.

(1) Every licensee shall make certain that all of the terms and conditions authorized by the principal in a transaction are specified and included in an offer to sell or buy and shall not offer the property on any other terms. Every written offer shall contain the legal description or property address, or both, and city where the property is located, or in the absence of, a clear description unmistakably identifying the property.

(2) Every licensee shall promptly tender to the seller or seller's agent every written offer to purchase and shall promptly tender to the buyer or buyer's agent any counteroffer made by the seller, including any back-up contracts properly identified as such, and upon procuring a proper acceptance of an offer to purchase shall promptly deliver copies of the same, signed by both buyer and seller, to each party to the transaction. A buyer or seller must be promptly advised when an offer or counteroffer has been rejected.

(3) Any change to a contract shall be initialed by all buyers and sellers. Acceptance of each fully executed contract shall include the date at which final agreement was reached either by 1) specific acknowledgement of final acceptance date; or 2) date of the last signature or initial to the contract.

AUTHORITY: section 339.120, RSMo Supp. 1993. * This rule originally filed as 4 CSR 250-8.100. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Oct. 26, 1987, effective July 1, 1988. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.100, effective Aug. 28, 2006.

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.

20 CSR 2250-8.110 Licensee's Interest in Transactions; Relationship with Parties

PURPOSE: This rule makes very clear the licensee's responsibility and relationship as an agent. It demands the licensee make declaration of any personal involvement in a transaction in which the licensee might have an interest. It prohibits his/her requiring the parties in a transaction to use the service of any lending, title insurance or other groups. It forbids any forms of related or direct profit on expenditures made for a party in a transaction. The licensee must disclose all material facts regarding the condition of property which s/he is offering for sale or lease.

(1) A licensee shall not acquire an interest in, sell, buy, exchange, rent or lease any real estate, directly or indirectly, without first making the licensee's status as a licensee known in writing to the other parties in the transaction.

(2) Before buying, exchanging, selling or leasing real estate for another party, the licensee shall disclose in writing any ownership which a licensee has or will have and the licensee's status as a licensee to all parties to the transaction.

(3) A licensee shall not advise against or discourage the use of the services of an attorney by any party in any real estate transaction.

(4) Directed or Controlled Business.

(A) Definitions.

1. The term settlement service includes any service provided in connection with a real estate sale, lease, trade, exchange or settlement including, but not limited to, the following: mortgage or other financing, title searches, title examinations, the provision of title certificates, title insurance, hazard insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest, fungus, mechanical or other inspections, services rendered by a real estate agent or broker, and the handling of the processing and closing or settlement.

2. The term controlled business arrangement means an arrangement in which a real estate licensee, or an associate of a real estate licensee, has either an affiliate relationship with or a direct or beneficial ownership interest of more than one percent (1%) in a provider of settlement services.

3. The term associate means one who has one (1) or more of the following relationships with a real estate licensee:



A. A spouse, parent or child of a real estate licensee;

B. A corporation or business entity that controls, is controlled by or is under common control with a real estate licensee;

C. An employer, officer, director, partner, franchisor or franchisee of a real estate licensee; or

D. Anyone who has an agreement, arrangement or understanding with a real estate licensee, the purpose or substantial effect of which is to enable the real estate licensee to refer settlement business to benefit financially from the referrals of that business.

(B) A licensee who has a controlled business arrangement with a provider of settlement services and who, directly or indirectly, refers business to that provider or affirmatively influences the selection of that provider shall disclose the arrangement to the person whose business is referred or influenced. This disclosure shall be given on a separate form and shall be signed by the person whose business is referred or influenced. The disclosure shall be given and signed before or at substantially the same time that the business is referred or the provider is selected. The licensee shall retain a copy of the signed form. The form shall be in at least ten (10)-point type and shall contain the following language:

**DISCLOSURE OF REFERRAL
OF BUSINESS**

I understand that (*Name of Real Estate Licensee*) has an affiliate relationship with or owns an interest in (*Name of Company to Which Business is Being Referred*) and is also recommending that I employ this company for (*Type of Service*).

I realize that (*Name of Real Estate Licensee*) may earn financial benefits from my use of this company.

I understand that I am not obligated to use this company, and may select a different company if I wish to do so.

This form has been fully explained to me.

(Date)

(Signature of Person Whose Business
is Being Referred)

The form may be modified to describe more accurately the nature of the service, the refer-

ring entity and the entity receiving the referral, provided that its content and meaning are not changed in substance.

(C) A licensee, directly or indirectly, shall not require a party to a real estate sale or lease to use and shall not condition the performance of real estate brokerage services on the use by a party of any particular provider of settlement services.

(5) A licensee shall comply in all respects with the requirements of the federal Real Estate Settlement Procedures Act and corresponding regulations, in transactions governed by the law and regulations.

(6) An “as is clause” written into a contract for the sale of real estate does not relieve a licensee of the requirements of section 339.100.2(2), RSMo.

AUTHORITY: section 339.120, RSMo Supp. 1997. This rule originally filed as 4 CSR 250-8.110. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 12, 1982, effective June 11, 1982. Amended: Filed Aug. 12, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 5, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed Sept. 18, 1990, effective June 10, 1991. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Moved to 20 CSR 2250-8.110, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995.*

20 CSR 2250-8.120 Deposits to Escrow or Trust Account

PURPOSE: This rule requires all earnest money be deposited in a noninterest bearing escrow account not later than ten (10) banking days next following the execution of a contract. If the account is interest-bearing, all parties must be made aware. A salesperson must immediately deliver to the broker all money received in connection with a transaction in which s/he is engaged.

(1) All money received by a licensee as set out in section 339.100.2(1), RSMo shall be deposited in the escrow or trust account maintained by the broker no later than ten (10) banking days following the last date on which the signatures or initials, or both, of all the parties to the contract are obtained, unless otherwise provided in the contract. Earnest

money received prior to acceptance of a written contract may be deposited into the escrow account by the broker with the written authorization of the party(ies) providing the funds.

(2) A licensee shall immediately deliver to the broker with whom affiliated all money received in connection with a real estate transaction in which the licensee is engaged.

(3) The escrow or trust account maintained by a broker, as required by the license law, shall be a checking account in a bank, savings and loan, or credit union. If the escrow or trust account maintained by a broker is an interest-bearing account, the broker shall disclose in writing to all parties to the transaction that the account is interest-bearing and the disclosure shall indicate who is to receive the interest.

(4) Each broker shall deposit into the escrow or trust account all funds coming into the broker’s possession as set out in section 339.100.2(1), RSMo, including funds in which the broker may have some future interest or claim and including, but not limited to, earnest money deposits, prepaid rents, security deposits, loan proceeds, and funds paid by or for the parties upon closing of the transaction. No broker shall commingle personal funds or other funds in the broker’s escrow account except to the extent provided by section 339.105.1, RSMo. Commissions payable must be removed from the escrow account at the time the transaction is completed. After the transaction is completed, interest payable shall be disbursed to the appropriate party(ies) from the escrow account no later than ten (10) banking days following the receipt of the next statement of the escrow account. When the licensee receives all interest earned, interest payable to a licensee must be removed from the escrow account within ten (10) banking days following the receipt of the next statement of the escrow account.

(5) In addition to the notification required by section 339.105.2, RSMo, each broker shall consent upon the request of the commission or its agent to the examination and audit of the broker’s escrow or trust account by the commission or its agent. As part of the consent, each broker, upon opening any additional account(s), shall execute a form entitled Consent to Examine and Audit Escrow or Trust Account.

(6) Each check written on an escrow account or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related real estate transaction(s). Each check written on an escrow account for commission shall be made payable to the licensee



to whom the commission is owed or to the firm's general operating account.

(7) The designated broker and the branch office manager shall be responsible for the maintenance of the escrow account and shall ensure the brokerage's compliance with the statutes and rules related to the brokerage escrow account(s).

AUTHORITY: sections 339.100, 339.105, and 339.120, RSMo Supp. 2011. This rule originally filed as 4 CSR 250-8.120. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 12, 1982, effective June 11, 1982. Amended: Filed March 14, 1984, effective June 11, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.120, effective Aug. 28, 2006. Amended: Filed Oct. 27, 2011, effective April 30, 2012.*

**Original authority: 339.100, RSMo 1941, amended 1978, 1993, 2004, 2005, 2006, 2007, 2008; 339.105, RSMo 1978, amended 1981, 1986, 1987, 2003, 2004; and 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008.*

20 CSR 2250-8.130 Earnest and Escrow Money; Disputes

PURPOSE: This rule prohibits acceptance of nonnegotiable securities as earnest money without the knowledge and consent of the owner. In the event of a dispute over the return of an earnest money deposit, it instructs the broker as to its proper disposition.

(1) A broker shall not accept any note, non-negotiable instrument or anything of value not readily negotiable as earnest money in a transaction without the signed, written consent of the owner of the real estate.

(2) In the event a dispute arises concerning the return or forfeiture of any monies or other valuables held by a broker in escrow, the broker shall continue to retain the money or valuables in escrow until a written release is obtained from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time payment may be made into the court. However, in the absence of a pending civil action or written release and upon passage of sixty (60) days from the date of the dispute, a broker may disburse escrow monies or valuables to

either party to the transaction based upon a good faith decision by the broker that the opposite party has failed to perform as agreed, but this disbursement shall only be made after the broker has given fifteen (15) days' written notice by certified mail to all parties concerned at their last known address setting forth the broker's proposed action. The commission will not take disciplinary action against a broker who in good faith disburses escrow monies or other valuables pursuant to this rule; however, nothing in this rule relieves a broker of any civil action which the damaged party may file in a court of law nor does this rule require a broker to remove money or other valuables from the broker's escrow account when disposition is disputed by the parties.

AUTHORITY: section 339.120, RSMo Supp. 1993. This rule originally filed as 4 CSR 250-8.130. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.130, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.*

20 CSR 2250-8.140 Standard Forms

PURPOSE: This rule instructs a broker as to his/her use and preparation of standard forms approved by counsel. S/he may not complete these forms for a separate charge for persons in which s/he is not acting as a broker, unless s/he is one of the parties to the contract or instrument.

(1) When acting as a broker in a transaction, a broker may use current standardized forms including, but not limited to, contracts, agency disclosures, property management agreements, listing agreements, warranty deeds, quit claim deeds, trust deeds, notes, security instruments and leases, prepared or approved by the broker's counsel or by the counsel for a trade association of which the broker is a member or associate member, or by a Missouri state or local bar association and may complete them by filling in blank spaces to show the parties, property description and terms necessary to close the transaction the broker has procured.

(2) A real estate broker shall not make a separate charge for completing any standardized forms and shall not prepare those forms for

persons in transactions in which s/he is not acting as a broker, unless the broker is one of the parties to the contract or instrument or owns or is employed by an escrow company or closing firm which is handling the closing.

AUTHORITY: section 339.120, RSMo Supp. 1993. This rule originally filed as 4 CSR 250-8.140. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.140, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.*

20 CSR 2250-8.150 Closings and Closing Statements

PURPOSE: This rule requires that a broker deliver a closing statement, containing a complete, accurate and detailed statement showing all receipts and disbursements at the time a contract is consummated to the interested party. If the closing is handled by anyone other than the broker, it is the listing broker's responsibility to deliver the closing statement to the buyer and seller.

(1) Every broker shall deliver or cause to have delivered to the buyer and the seller in every real estate transaction where s/he acts as a broker, at the time the transaction is consummated, a complete, accurate and detailed statement showing all material financial aspects of the transaction, including the true sale price, the earnest money received, any mortgages or deeds of trust of record, all money received by the broker in the transaction, the amount, and payee(s) of all disbursements made by the broker. If the buyer and seller are represented by different brokers, it shall be the responsibility of the listing broker to deliver, or cause to have delivered, the closing statements. If a broker personally handles a closing, on the day of closing the broker shall sign and date the closing statement.

(2) A broker may arrange for a closing to be administered by a title company, an escrow company, a lending institution or an attorney, in which case the broker shall not be required to sign the closing statement; however, it shall remain each broker's responsibility to require closing statements to be prepared, to review the closing statements to verify their accuracy and to deliver the closing statements to the buyer and the seller or cause them to be delivered. The detailed closing statement



shall contain all material financial aspects of the transaction, including the true sale price, the earnest money received, any mortgages or deeds of trust of record, all monies received by the broker, closing agent or company in the transaction, the amount, and payee(s) of all disbursements made by the broker, closing agency or company and the signatures of the buyer and seller.

(3) The brokers for the buyer and the seller shall retain legible copies of both buyer's and seller's signed closing statements.

(4) A salesperson shall not conduct the closing of any real estate transaction except under the direct supervision of the manager or broker with whom the salesperson is associated.

AUTHORITY: section 339.120, RSMo Supp. 1997. This rule originally filed as 4 CSR 250-8.150. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 14, 1984, effective June 11, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Moved to 20 CSR 2250-8.150, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995.*

20 CSR 2250-8.155 Closing a Real Estate Brokerage Firm

PURPOSE: This rule informs licensees of the procedures they need to follow when closing a real estate firm.

(1) Voluntary Closing.

(A) A real estate brokerage shall be closed in the following manner. The individual broker or the designated broker shall—

1. Notify the commission in writing on a form prescribed by the commission of the effective date of the closing, the location where the records will be stored, and that all requirements of 20 CSR 2250-8.155(1) have been met;

2. Notify all licensees associated with the brokerage in writing of the effective date of closing. The licenses of any licensees associated with the brokerage at the time of closing must be returned to the commission with the closing statement;

3. Notify all current listing, buyer or tenant agreement, and management contract clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the brokerage will close. All listing, buyer, tenant, and management clients must

be advised in writing that they may enter into a new listing, buyer, tenant, or management agreement with the broker of their choice;

4. Remove all advertising signs from all properties which were listed with or managed by the brokerage. Arrange to cancel all advertising in the name of the brokerage, including office signs and telephone listing advertisements;

5. Maintain all escrow or trust accounts until all monies are transferred to a title company, an escrow company, or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds; and

6. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company, or an attorney. In the case of a sale, transfer, or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the express written consent of all parties to the transactions. Notify all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

(2) Revocation/Suspension.

(A) Individual Broker or Corporation, Partnership, or Association. Upon the revocation or suspension of an individual broker, corporation, partnership, or association, the individual broker or designated broker shall—

1. Cease all brokerage business immediately upon the effective date of the suspension or revocation order;

2. Notify the commission of the location where records and files will be stored, as well as the name, address, and phone number of the custodian who will be storing the records and files;

3. Notify all licensees associated with the brokerage of the revocation/suspension and return all licenses held by the broker to the commission;

4. Notify all current listing, buyer or tenant agreement, and management contract clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the brokerage will close. All listing, buyer, tenant, and management clients must be advised in writing that they may enter into a new listing, buyer, tenant, or management agreement with the brokerage of their choice;

5. Remove all advertising signs from all properties which were listed with or managed by the brokerage;

6. Cancel or suspend all advertising and telephone listing advertisements. In case of suspension, post a notice of the suspension

period on the outside of the office in a prominent location. In case of revocation, the licensee shall remove all office signs visible to the public;

7. Maintain all escrow or trust accounts until all monies are transferred to a title company, a lending institution, an escrow company, or an attorney for closing the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds;

8. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company, or an attorney. Notify all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

9. Notify the commission in writing on a form prescribed by the commission of the location where the records will be stored and that all requirements of 20 CSR 2250-8.155(2) have been met.

(3) Closing as a Result of Death or Disability. Upon the death or disability of an individual broker, or upon the death or disability of one (1) or more of the licensed broker-partners, broker-officers, or broker-associates of a real estate partnership, corporation, or association in which the affairs of the partnership, corporation, or association cannot be carried on, the following procedures shall apply:

(A) All licensees associated with the broker, corporation, partnership, or association must cease all brokerage activity until their licenses have been transferred to another broker; and

(B) The administrator or executor of the broker's, broker-officer's, broker-partner's, or broker-associate's estate or the legal representative thereof—

1. May, as provided in section 339.040.8, RSMo, apply for a temporary broker license for the sole purpose of concluding pending business;

2. Shall follow the procedures established in section (1) for voluntary closing; and

3. Shall notify the commission in writing on a form prescribed by the commission of the effective date of the closing, the location where the records will be stored, and that all requirements of 20 CSR 2250-8.155(3) have been met.

AUTHORITY: section 339.120, RSMo Supp. 2008. This rule originally filed as 4 CSR 250-8.155. Original rule filed June 16, 1989, effective Sept. 28, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998.*



Amended: Filed June 28, 2002, effective Dec. 30, 2002. Moved to 20 CSR 2250-8.155, effective Aug. 28, 2006. Rescinded and re-adopted: Filed April 3, 2009, effective Sept. 30, 2009.

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008.*

20 CSR 2250-8.160 Retention of Records

PURPOSE: This rule mandates that all records relating to each real estate transaction handled by the broker be retained for three (3) years and the broker make them available for commission inspection at all times.

(1) Every broker shall retain for a period of at least three (3) years true copies of all business books; accounts, including voided checks; records; contracts; brokerage relationship agreements; closing statements and correspondence relating to each real estate transaction that the broker has handled. The records shall be made available for inspection by the commission and its authorized agents at all times during usual business hours at the broker's regular place of business. No broker shall charge a separate fee relating to retention of records.

(2) Every broker shall retain for a period of at least three (3) years true copies of all property management agreements, correspondence or other written authorization relating to each real estate transaction relating to leases, rentals or management activities the broker has handled. The broker must also retain all business books, accounts and records unless these records are released to the owner(s) or transferred to another broker by written detailed receipt or transmittal letter agreed to in writing by all parties to the transaction.

AUTHORITY: sections 339.120, RSMo 2000 and 339.770, RSMo Supp. 2003. This rule originally filed as 4 CSR 250-8.160. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Amended: Filed Sept. 8, 2003, effective March 30, 2004. Moved to 20 CSR 2250-8.160, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999 and 339.770, RSMo 1996, amended 1997, 1998, 2002.*

20 CSR 2250-8.170 General

PURPOSE: This rule stipulates the commission's authority to present a complaint to the Administrative Hearing Commission against any licensee who is acting in any manner inimical to the public interest.

(1) Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

AUTHORITY: section 339.120, RSMo Supp. 1993. This rule originally filed as 4 CSR 250-8.170. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed June 16, 1989, effective Sept. 28, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.170, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.*

20 CSR 2250-8.200 Management Agreement Required

PURPOSE: This rule regulates the employment contract between a broker and a member of the public so that the public will know what s/he may expect from the licensee who is managing the leasing or rental of real estate.

(1) When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

(2) A licensee who is managing the leasing or rental of real estate shall not act as an agent in the sale or exchange of that real estate unless the licensee complies with the requirements of 20 CSR 2250-8.090.

AUTHORITY: section 339.120, RSMo Supp. 2008. This rule originally filed as 4 CSR 250-8.200. Original rule filed June 14, 1988, effective Feb. 19, 1989. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended:*

Filed Feb. 2, 1994, effective Aug. 28, 1994. Moved to 20 CSR 2250-8.200, effective Aug. 28, 2006. Amended: Filed April 3, 2009, effective Sept. 30, 2009.

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008.*

20 CSR 2250-8.210 Management Agreements

(Rescinded April 30, 2008)

AUTHORITY: sections 339.120, 339.720, 339.780 and 339.820, RSMo Supp. 1999. This rule originally filed as 4 CSR 250-8.210. Original rule filed June 14, 1988, effective Feb. 19, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Jan. 14, 2000, effective July 30, 2000. Moved to 20 CSR 2250-8.210, effective Aug. 28, 2006. Rescinded: Filed Oct. 12, 2007, effective April 30, 2008.

20 CSR 2250-8.220 Escrow or Trust Account and a Separate Property Management Escrow Account Required

PURPOSE: This rule removes any uncertainty as to how monies received in connection with the management or rental of real estate are required to be maintained. A broker must establish and maintain a separate escrow account as a property management escrow account to act as an operating account for the rental property(ies) managed. A broker must deposit in this account current rents and monies received for payments to third parties. A broker may establish and maintain additional property management escrow accounts as needed, provided the broker complies with this rule and section 339.105, RSMo. A broker is also required to deposit into an escrow account, other than the property management escrow account, security deposits and any rent, other than current rent, and to maintain these funds intact. This rule also requires a salesperson to immediately deliver to the broker money received in connection with property management. This rule makes other specific requirements for the handling of escrowed funds.

(1) A broker shall establish and maintain a separate escrow account(s), to be designated as a property management escrow account(s), for the deposit of current rents and money received from the owner(s) or on the owner's(s') behalf for payment of expenses related to property management. Before making disbursements from a property management escrow account, a broker shall ensure



that the account balance for that owner's(s') property(ies) is sufficient to cover the disbursements.

(2) All security deposits held by a broker shall be maintained, intact, in an escrow account other than the property management account(s), pursuant to section 339.105, RSMo, unless the owner(s) have agreed otherwise in writing.

(3) All money received by a broker in connection with any property management must be deposited within ten (10) banking days to the escrow or trust account maintained by the broker.

(4) A property manager shall immediately deliver to the supervising broker all money received in connection with any property management.

(5) The property management escrow account(s) maintained by the broker shall be an account in a bank, savings and loan, or credit union.

(6) Fees or commissions payable to a broker must be withdrawn from a property management escrow account at least once a month unless otherwise agreed in writing. Any rent paid in advance as a deposit for the last month's rent or as rent other than the current month's rent held by a broker shall be deposited in the property management escrow account unless otherwise agreed to in writing.

(7) In addition to the notification required by section 339.105.2, RSMo, each broker, upon the request of the commission or its agent, shall consent to the examination and audit of the broker's property management escrow account(s) by the commission or its agent. As part of the consent, each broker shall execute a form presented to him/her by the commission or its agent entitled Consent to Examine and Audit Escrow or Trust Account.

(8) Each check written on an escrow account, or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related transaction. Each check written on an escrow account for licensee fees or commission shall be made payable to the licensee who is owed the fee or commission or to the firm's general operating account.

*AUTHORITY: sections 339.120 and 339.105, RSMo Supp. 2008. * This rule originally filed as 4 CSR 250-8.220. Original rule filed June*

14, 1988, effective Feb. 19, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed June 28, 2002, effective Dec. 30, 2002. Moved to 20 CSR 2250-8.220, effective Aug. 28, 2006. Amended: Filed April 3, 2009, effective Sept. 30, 2009.

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999, 2004, 2008 and 339.105, RSMo 1978, amended 1981, 1986, 1987, 2003, 2004.*

20 CSR 2250-8.230 Security Deposits: Disputes

PURPOSE: This rule points out that disputes over security deposits are governed by other law.

(1) The return of security deposits to lessees and disputes with lessees are governed by section 535.300, RSMo and any other applicable law.

*AUTHORITY: section 339.120, RSMo Supp. 1993. * This rule originally filed as 4 CSR 250-8.230. Original rule filed June 14, 1988, effective Feb. 19, 1989. Moved to 20 CSR 2250-8.230, effective Aug. 28, 2006.*

**Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993.*

339.010. Definitions — inapplicability of chapter. — 1. A **"real estate broker"** is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
- (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
- (10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A **"real estate salesperson"** is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860* shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. A **"real estate broker-salesperson"** is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign, who has a real estate broker license in good standing, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. A real estate broker-salesperson may not also operate as a real estate broker. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860* shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

4. The term **"commission"** as used in sections 339.010 to 339.180 and sections 339.710 to 339.860* means the Missouri real estate commission.

5. **"Real estate"** for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860* shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

6. **"Advertising"** shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public, and shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, internet advertising, websites, display or group ads in telephone directories, and billboards.

7. **"Correspondence"** shall mean any written or electronic communication but shall exclude any communication that is ephemeral in nature. Ephemeral information includes text messages, instant message, and any other information or communication which is not designed to be retained or create a permanent record for use in any transaction calculated or intended to result in the sale, exchange, leasing, or rental of real estate.

8. **"Sold"**, as used in sections 339.010 to 339.180 and sections 339.710 to 339.860*, shall mean that the title to the real estate has been transferred or that the real estate has become subject to a bona fide sale contract or purchase agreement.

9. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860* shall not apply to:

- (1) Any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof;
- (2) Any licensed attorney-at-law;
- (3) An auctioneer employed by the owner of the property;

- (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;
- (5) Any person employed or retained to manage real property by, for, or on behalf of the agent or the owner of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:
- (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;
 - (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;
 - (c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;
 - (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;
 - (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;
 - (f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;
- (6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;
- (7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;
- (8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;
- (9) Any newspaper, magazine, periodical, internet site, internet communications, or any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission whereby the advertising of real estate is incidental to its operation;
- (10) Any developer selling Missouri land owned by the developer;
- (11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:
- (a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;
 - (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or
 - (c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or
- (12) Any neighborhood association, as that term is defined in section 441.500, that without compensation, either monetary or in-kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, internet site, or other medium.

(L. 1941 p. 424 § 3, A.L. 1945 p. 1421, A.L. 1967 p. 444, A.L. 1978 S.B. 811, A.L. 1987 S.B. 175, A.L. 1988 H.B. 1573, A.L. 1993 S.B. 18, A.L. 2002 H.B. 1964, A.L. 2004 H.B. 985, A.L. 2006 H.B. 1339, A.L. 2008 S.B. 788, A.L. 2010 H.B. 1692, et al. merged with S.B. 754, A.L. 2015 H.B. 385)

*Section 339.860 was repealed by S.B. 613 Revision, 2007.

(2011) Section meets constitutional requirements of directly advancing state interest in assuring honest and competent practice of real estate, and restrictions do not exceed the state's interest. *KCPA v. Missouri Real Estate Commission*, 344 S.W.3d 160 (Mo. banc).

----- 339.010 8/28/2015 -----

339.020. Brokers and salespersons, unlawful to act without license. — It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic, to act as a real estate broker, real estate broker-salesperson, or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

(L. 1941 p. 424 § 1, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985, A.L. 2010 H.B. 1692, et al. merged with S.B. 754)

----- 339.020 8/28/2010 -----

339.030. Business entities may be licensed, when, fee. — A corporation, partnership, limited partnership, limited liability company, professional corporation, or association shall be granted a broker's, broker-salesperson's, or salesperson's license when the required fee is paid and:

(1) For a real estate broker individual licenses have been issued to every member, general partner, associate, manager, member, or officer of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who actively participates in its brokerage business and to every person, partnership, limited partnership, limited liability company, professional corporation, or corporation who acts as a salesperson for such partnership, limited partnership, limited liability company, association, professional corporation, or corporation; or

(2) For a real estate broker-salesperson when an individual broker-salesperson license has been issued to every general partner, associate, manager, member, or officer* of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who acts as a broker-salesperson, and individual salesperson licenses have been issued to all general partners, associates, managers, members, or officers of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who act as a salesperson; or

(3) For a real estate salesperson when individual salesperson licenses have been issued to all general partners, associates, managers, members, or officers of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who act as a salesperson.

(L. 1941 p. 424 § 2, A.L. 1981 S.B. 16, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985, A.L. 2010 H.B. 1692, et al. merged with S.B. 754)

*Word "officers" appears in original rolls of S.B. 754.

----- 339.030 8/28/2010 -----



339.040. Licenses granted to whom — examination — qualifications — fee — temporary broker's license, when. — 1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860*, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least two years immediately preceding the date of application, and shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission. Each application for a broker-salesperson license shall include evidence of the current broker license held by the applicant.

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, broker-salesperson, salesperson, officer, manager, general partner, member or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide

for individual waiver of this requirement.

9. Each entity that provides continuing education required under the provisions of subsection 8 of this section may make available instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for such courses. The commission may by regulation require the individual completing such distance-delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the course and approved by the commission.

10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed general partners, officers, managers, members or associates of a real estate partnership, limited partnership, limited liability company, professional corporation, corporation, or association whereby the affairs of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association under the supervision of the commission.

(L. 1941 p. 424 § 7, A.L. 1945 p. 1423, A.L. 1978 S.B. 811, A.L. 1981 S.B. 16, A.L. 1983 H.B. 100, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985, A.L. 2006 H.B. 1339, A.L. 2010 H.B. 1692, et al. and A.L. 2010 S.B. 754, A.L. 2011 H.B. 315, A.L. 2020 H.B. 2046)

*Section 339.860 was repealed by S.B. 613 Revision, 2007.

----- 339.040 8/28/2020 -----

339.045. Real estate schools — accreditation — registration — fee, how determined. — 1. An institution or organization desiring to conduct a school or offer a course of instruction to prepare persons to be licensed under this chapter, or to offer post-licensure courses, shall apply to the commission for accreditation, and shall submit evidence that it is prepared to carry out a prescribed minimum curriculum in real estate principles and practices and can meet other standards established by the commission. An investigation of the school and of the institution or organization with which such school is affiliated shall be made by the executive secretary or other authorized representative of the commission, who shall submit a written report of the investigation to the commission. If, in the opinion of the commission, the requirements for an accredited school for instruction in real estate principles and practices are met, the commission shall approve the school as an accredited real estate school upon payment of a fee in an amount to be set by the commission. All schools so accredited shall register at required intervals on a form provided and pay the required registration fee fixed by the commission.

2. The commission shall prescribe minimum curricula and standards for accreditation of real estate schools, courses of instruction preparing persons to be licensed under this chapter and courses offered for post-licensure credit.

3. From time to time as deemed necessary by the commission it shall be the duty of the commission through its executive secretary or other authorized representative to survey all accredited real estate schools operated in this state. If the commission determines that any accredited real estate school is not maintaining the standards required by the commission, notices thereof in writing specifying the defect or defects shall be given immediately to the school. The commission may file a complaint with the administrative hearing commission if a school fails to correct these conditions to the satisfaction of the commission within thirty days, or such longer period as may be authorized in writing by the commission. The hearing and any subsequent suspension or revocation of accreditation shall be governed by [chapter 621](#).

4. No member of the commission, nor any relative within the fourth degree of consanguinity or affinity, nor any member or employee of the commissioner's firm or business entity, shall have any economic interest in, receive remuneration from, or teach or solicit customers for any real estate school or courses of instruction as heretofore described in this chapter.

(L. 1978 S.B. 811, A.L. 1981 S.B. 16, A.L. 1983 H.B. 100)

Effective 7-01-84

----- 339.045 7/1/1984 -----

339.050. Form of application. — Applications for licenses shall be in writing, on blanks furnished by the commission, accompanied by such information and recommendations as it may require. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration.

(L. 1941 p. 424 § 8, A.L. 1981 S.B. 16)

----- 339.050 8/28/1981 -----



339.060. Fees, amount, set how — term of licenses. — 1. The commission shall set the amount of the fees which sections 339.010 to 339.180 and sections 339.710 to 339.860 authorize and require by rules and regulations promulgated pursuant to section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.010 to 339.180 and sections 339.710 to 339.860.

2. Every license granted under sections 339.010 to 339.180 and sections 339.710 to 339.860 shall be renewed each licensing period and the commission shall issue a new license upon receipt of the properly completed application of the applicant and the required renewal fee.

(L. 1941 p. 424 § 9, A.L. 1947 V. I p. 471, A.L. 1967 p. 444, A.L. 1978 S.B. 547, A.L. 1981 S.B. 16, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985)

(1971) The Missouri State Real Estate Commission is without statutory authority to conduct an evidentiary hearing into the qualifications of real estate brokers or salesmen for renewal of their licenses, and can take disciplinary action only after hearing and findings of fact and conclusions of law by the administrative hearing commission. State ex rel. American Inst. Mktg. Sys. v. Missouri Real Estate Comm. (A.), 461 S.W.2d 902.

----- 339.060 8/28/2004 -----

339.070. Fees, collection and disposition — fund, source, use, transferred to general revenue, when. — 1. All fees and charges payable under this chapter shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the "Real Estate Commission Fund". No money shall be paid out of this fund except by an appropriation by the general assembly. Warrants shall be issued monthly, upon the state treasurer out of this fund only, for the payment of the salaries and all necessary expenses of the commission. Vouchers for salaries and expenses shall be first approved by the commission. The total expense for every purpose incurred by the commission shall not exceed the total fees and charges collected and paid into the state treasury.

2. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

(L. 1941 p. 424 § 6, A.L. 1947 V. I p. 471, A.L. 1981 S.B. 16, A.L. 1985 S.B. 99)

----- 339.070 8/28/1985 -----

339.080. Denial of application or license, when, notice — hearing. — 1. The commission may refuse to examine or issue a license to any person known by it to be guilty of any of the acts or practices specified in subsection 2 of section 339.100, or to any person previously licensed whose license has been revoked, or may refuse to issue a license to any association, partnership, corporation, professional corporation, limited partnership, or limited liability company of which such person is a manager, officer or general partner, or in which as a member, partner or associate* such person has or exercises a controlling interest either directly or indirectly, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

2. Any person denied a license or the right to be examined shall be so notified by the commission in writing stating the reasons for denial or refusal to examine and informing the person so denied of his right to file a complaint with the administrative hearing commission in accordance with the applicable provisions of sections 621.015 to 621.198 and the rules promulgated thereunder. All notices hereunder shall be sent by registered or certified mail to the last known address of the applicant.

(L. 1941 p. 424 § 11, A.L. 1978 S.B. 811, A.L. 1993 S.B. 18, A.L. 2010 H.B. 1692, et al. merged with S.B. 754)

*Word "associates" appears in original rolls of S.B. 754, 2010.

----- 339.080 8/28/2010 -----

339.090. License of nonresident — fee — reciprocity — rulemaking authority. — The commission may prescribe necessary rules and regulations pursuant to chapter 536 to provide for the licensure of nonresidents. Such rules shall require the nonresident to pay a fee and may provide for licensure without examination if such reciprocity is extended to Missouri residents. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

(L. 1941 p. 424 § 12, A.L. 1978 S.B. 547, A.L. 2001 H.B. 567)

----- 339.090 8/28/2001 -----

339.100. Investigation of certain practices, procedure — subpoenas — formal complaints — revocation or suspension of licenses — digest may be published — revocation of licenses for certain offenses. — 1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any real estate-related activity of a licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860* or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability of a violation of sections 339.010 to 339.180 and sections 339.710 to 339.860*. The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

- (1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;
- (2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;
- (3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;
- (4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;
- (5) Failure to timely deliver a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;
- (6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;
- (7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860*;
- (8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;
- (9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;
- (10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;
- (11) Representing a real estate broker other than the broker with whom associated without the express written consent of the broker with whom associated;
- (12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;
- (13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;
- (14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;
- (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860*, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*;
- (16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;
- (17) Failure to timely inform seller of all written offers unless otherwise instructed in writing by the seller;

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, or for any offense an essential element of which is fraud, dishonesty or an act of violence, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860* granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860*;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860* who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860*;

(24) Use of any advertisement or solicitation which:

(a) Is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed; or

(b) Includes a name or team name that uses the terms "realty", "brokerage", "company", or any other terms that can be construed to advertise a real estate company other than the licensee or a business entity licensed under this chapter with whom the licensee is associated. The context of the advertisement or solicitation may be considered by the commission when determining whether a licensee has committed a violation of this paragraph;

(25) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or license renewal. As used in this section, "**material**" means important information about which the commission should be informed and which may influence a licensing decision;

(26) Engaging in, committing, or assisting any person in engaging in or committing mortgage fraud, as defined in section 443.930.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate, or the imposition of a civil penalty by the commission not to exceed two thousand five hundred dollars for each offense. Each day of a continued violation shall constitute a separate offense.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under section 556.061 or murder in the first degree;

(2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape, statutory rape in the first degree, statutory rape in the second degree, rape in the second degree, sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree under section 566.090** as it existed prior to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013, sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children;

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class E felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material; and

(5) Mortgage fraud as defined in section 570.310.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission.

(L. 1941 p. 424 § 10, A.L. 1978 S.B. 811, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985, A.L. 2005 H.B. 174, A.L. 2006 H.B. 1339, A.L. 2007 H.B. 780 merged with S.B. 308, A.L. 2008 H.B. 2188, A.L. 2013 H.B. 215, A.L. 2016 H.B. 2332, A.L. 2020 H.B. 2046, A.L. 2021 H.B. 273 merged with H.B. 476)

*Section 339.860 was repealed by S.B. 613 Revision, 2007.

**Section 566.090 was transferred to 566.101, H.B. 215, 2013

(2010) Section cannot be applied to require mandatory revocation of a license based solely on a criminal proceeding predating the section's effective date, regardless of whether the person was licensed at the time of the criminal proceeding; such an application would violate the ban under Article I, Section 13 against retrospective laws. Missouri Real Estate Commission v. Rayford, 307 S.W.3d 686 (Mo.App. W.D.).

----- 339.100 8/28/2021 -----

339.105. Separate bank escrow accounts required — service charges for account may be made by personal deposit by broker, amount allowed. — 1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

2. Each broker shall notify the commission of his or her intent not to maintain an escrow account, or the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

3. In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

4. Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.

5. A broker shall not be entitled to any money or other money paid to him or her in connection with any real estate sales transaction as part or all of his or her commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

6. When, through investigations or otherwise, the commission has reasonable cause to believe that a licensee has acted, is acting or is about to act in violation of this section, the commission may, through the attorney general or any assistants designated by the attorney general, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.

7. Any such suit shall be commenced in either the county in which the defendant resides or in the county in which the defendant has acted, is acting or is about to act in violation of this section.

8. In such proceeding, the court shall have power to issue such temporary restraining or injunction orders, without bond, which are necessary to protect the public interest. Any action brought under this section shall be in addition to and not in lieu of any other provisions of this chapter. In such action, the commission or the state need not allege or prove that there is no adequate remedy at law or that any individual has suffered any economic injury as a result of the activity sought to be enjoined.

(L. 1978 S.B. 811, A.L. 1981 S.B. 16, A.L. 1986 H.B. 1511, A.L. 1987 S.B. 175, A.L. 2003 H.B. 600 merged with S.B. 675, A.L. 2004 H.B. 985)

----- 339.105 8/28/2004 -----



339.110. Refusal of licenses, when. — The commission may refuse to issue a license to any person who is known by it to have been found guilty of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, or other like offense, or to any association, partnership, corporation, professional corporation, limited partnership, or limited liability company of which such person is a manager, officer or general partner, or in which as a member, partner or associate such person has or exercises a controlling interest either directly or indirectly, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

(L. 1941 p. 424 § 14, A.L. 1978 S.B. 811, A.L. 1993 S.B. 18, A.L. 2010 H.B. 1692, et al. merged with S.B. 754)

----- 339.110 8/28/2010 -----

339.120. Commission, created — members, qualifications, terms, compensation — powers and duties — rulemaking authority, procedure. — 1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860*. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of the members of the commission shall be for five years, and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860*, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860*. Each member of the commission shall receive as compensation an amount set by the commission not to exceed seventy-five dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner for cause.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860* or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860*, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The commission shall employ such board personnel, as defined in subdivision (4) of subsection 11 of section 324.001, as it shall deem necessary to discharge the duties imposed by the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.855.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 339.010 to 339.180 and sections 339.710 to 339.860* shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(L. 1941 p. 424 § 4, A.L. 1963 p. 433, A.L. 1967 p. 444, A.L. 1981 S.B. 16, A.L. 1988 H.B. 1573, A.L. 1993 S.B. 18 merged with S.B. 52, A.L. 1995 S.B. 3, A.L. 1999 H.B. 343, A.L. 2004 H.B. 985, A.L. 2008 S.B. 788, A.L. 2018 S.B. 975 & 1024 Revision)

*Section 339.860 was repealed by S.B. 613 Revision, 2007.

----- 339.120 8/28/2018 -----

339.125. Rulemaking procedure. — No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1993 S.B. 18, A.L. 1995 S.B. 3)

----- 339.125 8/28/1995 -----



339.130. Legal status of commission. — The commission may sue and be sued in its official name, and shall have a seal which shall be affixed to certified copies of records and papers on file, and to such other instruments as the commission may direct, and all courts shall take judicial notice of such seal. Copies of records and proceedings of the commission, and of all papers on file in its office, certified under the said seal shall be received as evidence in all courts of record. The office of the commission shall be at Jefferson City.

(L. 1941 p. 424 § 5, A.L. 2004 H.B. 985)

----- 339.130 8/28/2004 -----

339.150. Unlicensed persons not to be employed, when — no fees paid, when, exception — compensation directly to business entity owned by licensee, when — definitions. — 1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*, unless such a person is:

- (1) A licensed real estate salesperson or a licensed real estate broker as required by section 339.020; or
- (2) For a transaction involving commercial real estate as defined in section 339.710, a person regularly engaged in the real estate brokerage business outside the state of Missouri who has, in such forms as the commission may adopt by rule:
 - (a) Executed a brokerage agreement with the Missouri real estate broker;
 - (b) Consented to the jurisdiction of Missouri and the commission;
 - (c) Consented to disciplinary procedures under section 339.100; and
 - (d) Appointed the commission as his or her agent for service of process regarding any administrative or legal actions relating to the conduct in Missouri; or
- (3) For any other transaction, a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

4. Notwithstanding provisions of this chapter to the contrary, a broker may pay compensation directly to a business entity owned by a licensee that has been formed for the purpose of receiving compensation earned by such licensee. A business entity that receives compensation from a broker as provided for in this subsection shall not be required to be licensed under this chapter and shall be owned:

- (1) Solely by the licensee;
 - (2) By the licensee together with the licensee's spouse, but only if the spouse and licensee are both licensed and associated with the same broker, or the spouse is not also licensed;
- or
- (3) By the licensee and one or more other licensees, but only if all such owners are licensees which are associated with the same broker.

5. For purposes of subsection 4 of this section, the following terms shall mean:

- (1) "**Business entity**", any corporation, partnership, limited partnership, limited liability company, professional corporation, or association;
- (2) "**Licensee**", any real estate broker-salesperson or real estate salesperson, as such terms are defined under section 339.010.

(L. 1941 p. 424 § 15, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985, A.L. 2008 S.B. 788, A.L. 2021 H.B. 273 merged with H.B. 476)

*Section 339.860 was repealed by S.B. 613 Revision, 2007.

(1955) Contract for division of commission on sale by broker and person not licensed under this law is void and unenforceable and such is true, although the nonlicensed person is within exception provided in subsection 3 of § 339.010. *Gilbert v. Edwards (A.)*, 276 S.W.2d 611.

(1956) Where individual was involved in eight real estate transactions in six months without having license, he was acting as broker and unpaid notes given in payment of commission for sale would be cancelled because without consideration. *Staples v. O'Reilly (A.)* 288 S.W.2d 670.

----- 339.150 8/28/2021 -----

339.151. No commission or consideration unless reasonable cause for payment or contractual relationship exists. — 1. No licensee shall pay a commission or any other valuable consideration unless reasonable cause for payment exists or a contractual relationship exists with the licensee. Reasonable cause does not exist unless the party seeking the compensation or other valuable consideration actually introduces the business to the real estate licensee before a relationship is established between the licensee and a principal to the transaction, including, but not limited to:

- (1) A subagency relationship;
- (2) A transaction brokerage relationship; or
- (3) A cooperative brokerage relationship.

2. It shall be a violation of this section to:

- (1) Solicit or request compensation or other valuable consideration from a real estate licensee without reasonable cause;
- (2) Interfere with a written representation relationship of another licensee or attempt to induce a customer or client to break a written representation agreement with another licensee for the purpose of replacing such agreement with a new representation agreement in order to obtain a commission or other valuable consideration. Interfering with the written representation agreement of another licensee includes, but is not limited to:
 - (a) Threatening to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a customer or client of a real estate licensee because of an existing representation agreement in order to obtain compensation or other valuable consideration; or
 - (b) Counseling a customer or client of another real estate licensee on how to terminate or amend an existing relationship agreement in order to obtain a commission or other valuable consideration.

Communicating corporate relocation policy or benefits to a transferring employee shall not be considered interference as long as the communication does not involve advice or encouragement on how to terminate or amend an existing relationship agreement.

3. The fact that reasonable cause to solicit or request a commission or other valuable consideration exists does not necessarily mean that a legal right to the commission or other valuable consideration exists.

4. Any violation of this section shall be grounds for investigation, complaint, proceedings and discipline pursuant to section 339.100.

5. Nothing in this chapter shall prevent any consumer from joining any organization in which one of the benefits of membership may be that such organization can negotiate a reduced rate or price for real estate costs for its members nor shall it prohibit an inducement to the buyer or lessee paid and supplied by the owner of the property directly to a buyer or lessee of the property.

6. Nothing in this section shall be construed to limit the ability of an employer to direct an employee to follow the terms of the relocation package provided for that employee, nor shall it be construed to limit an employer's choice of relocation service providers.

(L. 2001 H.B. 266)

----- 339.151 8/28/2001 -----



339.160. Real estate brokers and salespersons may not bring legal action for compensation unless licensed. — No person, partnership, limited partnership, limited liability company, professional corporations, corporation or association engaged within this state in the business or acting in the capacity of a real estate broker, real estate broker-salesperson or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing,

renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, limited partnership, limited liability company, professional corporation, corporation or association, or its member, manager, officer, general partner or associate, as applicable, was a licensed real estate broker, broker-salesperson or salesperson at the time when the alleged cause of action arose.

----- 339.160 8/28/2010 -----
(L. 1941 p. 424 § 16, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985, A.L. 2010 H.B. 1692, et al. merged with S.B. 754)

(1959) Contract to sell earth to be removed from land did not involve title or interest in land and was therefore not subject to this law. *Law v. Taylor (A.)*, 330 S.W.2d 170.

(1967) Purpose of legislature in closing courts to unlicensed brokers was to establish strong policy so that neither a contract nor lawful efforts could provide pecuniary benefits to such broker. *Miller Nationwide Real Estate Corporation v. Sikeston Motel Corporation (Mo.)*, 418 S.W.2d 173.

(1971) In action by plaintiff's real estate association to recover a commission trial court properly overruled defendant's motion for judgment and sustained its motion for new trial only on issue as to whether plaintiff was licensed since although plaintiff failed to allege and prove plaintiff was licensed real estate broker, there was evidence in the record from which it could be inferred that plaintiff would be able to present essential evidence that it was licensed. *Reed Schmidt and Assoc. v. Carafol Furniture Co. (A.)*, 469 S.W.2d 876.

(1977) Held that a person who neither advertised nor held himself out as a real estate broker or salesman was entitled to payment under an agreement between himself and a real estate company whereby he was to receive payment for bringing buyer to real estate company. *White v. Miriam Realty Co. (A.)*, 547 S.W.2d 184.

----- 339.160 8/28/2010 -----

339.170. Penalty for violation. — Any person or corporation, professional corporation, partnership, limited partnership, limited liability company or association knowingly violating any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860* shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or any member, manager, officer, associate, general partner or agent of a partnership, association, corporation, professional corporation, limited partnership, or limited liability company who actively participate in such entity's brokerage business, who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180 and sections 339.710 to 339.860*, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

(L. 1941 p. 424 § 17, A.L. 1981 S.B. 16, A.L. 1993 S.B. 18, A.L. 2004 H.B. 985, A.L. 2010 H.B. 1692, et al. merged with S.B. 754)

*Section 339.860 was repealed by S.B. 613 Revision, 2007.

----- 339.170 8/28/2010 -----

339.175. Mortgage fraud, commission may file court action — civil penalty — investigation authority. — 1. If the commission believes that a real estate broker or real estate sales person has engaged in, is engaging in, or has willfully taken a substantial step toward engaging in an act, practice, omission, or course of business constituting mortgage fraud, as defined in section 443.930, or that a person has materially aided or is materially aiding any such act, practice, omission, course of business, the commission may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the person. Upon a proper showing, the court may issue a permanent or temporary injunction, restraining order, or declaratory judgment.

2. The court may impose a civil penalty against the person not to exceed two thousand five hundred dollars for each violation and may grant any other relief the court determines is just and proper under the circumstances including, but not limited to, a temporary suspension of any license issued by the commission.

3. The commission may initiate an investigation and take all measures necessary to find the facts of any potential violation of this section, including issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents and other evidence. The commission may conduct joint investigations, enter into confidentiality agreements and share information obtained relating to an investigation under this section with other governmental agencies.

4. The enforcement authority of the commission under this section is cumulative to any other statutory authority of the commission.

(L. 2008 H.B. 2188)

----- 339.175 8/28/2008 -----

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339.180. Practice without a license — endangering welfare of others — injunction, procedure. — 1. It shall be unlawful for any person or entity not licensed under this chapter to perform any act for which a real estate license is required. Upon application by the commission, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person or entity from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a permit or license is required by this chapter upon a showing that such acts or practices were performed or offered to be performed without a permit or license; or

(2) Engaging in any practice or business authorized by a permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any person with, or who is considering obtaining, a legal interest in real property in this state.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

(L. 1978 S.B. 811, A.L. 1981 S.B. 16, A.L. 2004 H.B. 985)

----- 339.180 8/28/2004 -----

339.190. Real estate licensee, immunity from liability, when. — 1. A real estate licensee shall be immune from liability for statements made by engineers, land surveyors, geologists, environmental hazard experts, wood-destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other home inspection experts unless:

(1) The statement was made by a person employed by the licensee or the broker with whom the licensee is associated;

(2) The person making the statement was selected by and engaged by the licensee. For purposes of this section, the ordering of a report or inspection alone shall not constitute selecting or engaging a person; or

(3) The licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

2. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for any information contained in a seller's disclosure for residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real estate licensee is a signatory to such or the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

3. A real estate licensee acting as a courier of documents referenced in this section shall not be considered to be making the statements contained in such documents.

4. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for the accuracy of any information about the size or area, in square footage or otherwise, of a property or of improvements on the property if the real estate licensee obtains the information from a third party and the licensee discloses the source of the information prior to an offer to purchase being transmitted to the seller, unless the real estate licensee knew the information was false at the time the real estate licensee transmitted or published the information or the licensee acted with reckless disregard as to whether such information was true or false.

(L. 2004 S.B. 1211 § 1, A.L. 2011 H.B. 220 merged with S.B. 325, A.L. 2019 S.B. 36)

----- 339.190 8/28/2019 -----

339.200. Prohibited acts — investigation may be initiated, when, procedure. — 1. It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in [chapter 621](#), against any unlicensed person who:

(1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860; or

(2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person holds any license required by sections 339.010 to 339.180 and sections 339.710 to 339.860.

2. When reviewing complaints against unlicensed persons, the commission may initiate an investigation and take all measures necessary to find the facts of any potential violation, including issuing subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence.

3. If the commission files a complaint with the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of [chapter 621](#). Upon a finding by the administrative hearing commission that the grounds provided in subsection 1 of this section for action are met, the commission may, either singularly or in combination with other provisions of this chapter, impose a civil penalty against the person named in the complaint in an amount not to exceed the limit authorized by section 339.205.

(L. 2007 H.B. 780 merged with S.B. 308)

----- 339.200 8/28/2007 -----



339.205. Civil penalty may be imposed, when — amount, limit, factors — settlement procedures. — 1. In actions against unlicensed persons or disciplinary actions against licensed persons, the commission may issue an order imposing a civil penalty. Such penalty shall not be imposed until the findings of facts and conclusions of law by the administrative hearing commission have been delivered to the commission in accordance with section 621.110. Further, no civil penalty shall be assessed until a formal meeting and vote by the board has been taken to impose such a penalty.

2. Any civil penalty imposed by the commission shall not exceed two thousand five hundred dollars for each offense. Each day of a continued violation constitutes a separate offense, with a maximum penalty of twenty-five thousand dollars. In determining the amount of penalty to be imposed, the commission may consider any of the following:

- (1) Whether the amount imposed will be a substantial deterrent to the violation;
- (2) The circumstances leading to the violation;
- (3) The severity of the violation and the risk of harm to the public;
- (4) The economic benefits gained by the violator as a result of noncompliance; and
- (5) The interest of the public.

3. Any final order imposing a civil penalty is subject to judicial review upon the filing of a petition under section 536.100 by any person subject to the penalty.

4. Payment of a civil penalty shall be made within sixty days of filing the order, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the commission. If the penalty is not timely paid, the commission shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

5. An action to enforce an order under this section may be joined with an action for an injunction.

6. Any offer of settlement to resolve a civil penalty under this section shall be in writing, state that an action for imposition of a civil penalty may be initiated by the attorney general representing the commission under this section, and identify any dollar amount as an offer of settlement, which shall be negotiated in good faith through conference, conciliation, and persuasion.

7. Failure to pay a civil penalty by any person licensed under this chapter shall be grounds for denying, disciplining or refusing to renew or reinstate a license or certificate of authority.

8. Penalties collected under this section shall be handled in accordance with Section 7 of Article IX of the Missouri Constitution. Such penalties shall not be considered a charitable contribution for tax purposes.

(L. 2007 H.B. 780 merged with S.B. 308)

----- 339.205 8/28/2007 -----

339.500. Citation of law. — This act shall be known and may be cited as the "Missouri Certified and Licensed Real Estate Appraisers and Appraisal Management Company Regulation Act".

(L. 1990 H.B. 1456 § 2, A.L. 2012 H.B. 1103)

----- 339.500 8/28/2012 -----

339.501. Licensure or certification of real estate appraisers required, exceptions. — 1. Beginning July 1, 1999, it shall be unlawful for any person in this state to act as a real estate appraiser, or to directly or indirectly, engage or assume to engage in the business of real estate appraisal or to advertise or hold himself or herself out as engaging in or conducting such business without first obtaining a license or certificate issued by the Missouri real estate appraisers commission as provided in sections 339.500 to 339.549.

2. Except for licenses issued to appraisal management companies under section 339.511, no license or certificate shall be issued pursuant to sections 339.500 to 339.549 to a partnership, association, corporation, firm or group; except that, nothing in this section shall preclude a state-licensed or state-certified real estate appraiser from rendering appraisals for, or on behalf of, a partnership, association, corporation, firm or group, provided the appraisal report is prepared by, or under the immediate personal direction of the state-licensed or state-certified real estate appraiser and is reviewed and signed by such state-licensed or state-certified appraiser.

3. Any person who is not state licensed or state certified pursuant to sections 339.500 to 339.549 may assist a state-licensed or state-certified real estate appraiser in the performance of an appraisal; provided that, such person is personally supervised by a state-licensed or state-certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the state-licensed or state-certified real estate appraiser.

4. Nothing in sections 339.500 to 339.549 shall abridge, infringe upon or otherwise restrict the right to use the term "certified ad valorem tax appraiser" or any similar term by persons performing ad valorem tax appraisals.

5. The provisions of sections 339.500 to 339.549 shall not be construed to require a license or certificate for:

- (1) Any person, partnership, association or corporation who, as owner, performs appraisals of property owned by such person, partnership, association or corporation;
- (2) Any licensed real estate broker or salesperson who prepares a comparative market analysis or a broker price opinion;
- (3) Any employee of a local, state or federal agency who performs appraisal services within the scope of his or her employment; except that, this exemption shall not apply where any local, state or federal agency requires an employee to be registered, licensed or certified to perform appraisal services;
- (4) Any employee of a federal or state-regulated lending agency or institution;
- (5) Any agent of a federal or state-regulated lending agency or institution in a county of third or fourth classification.

(L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103)

----- 339.501 8/28/2012 -----



339.503. Definitions. — As used in sections 339.500 to 339.549, the following words and phrases mean, unless the context clearly indicates otherwise:

- (1) **"Appraisal"** or **"real estate appraisal"**, an objective analysis, evaluation, opinion, or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis;
- (2) **"Appraisal assignment"**, an engagement for which a person is employed or retained to act as a disinterested third party in rendering an objective appraisal;
- (3) **"Appraisal firm"**, a person, limited liability company, partnership, association, or corporation whose principal is an appraiser licensed under sections 339.500 to 339.549 which for compensation prepares and communicates appraisals, reviews appraisals prepared by others, provides appraisal consultation services, and supervises, trains, and reviews work produced or certified by persons licensed under sections 339.500 to 339.549 who produce* appraisals;
- (4) **"Appraisal foundation"**, the organization of the same name that was incorporated as an Illinois not-for-profit corporation on November 20, 1987, whose operative boards are the appraisal standards board and the appraiser qualifications board;
- (5) **"Appraisal management company"**, an individual or business entity that utilizes an appraisal panel and performs, directly or indirectly, appraisal management services;
- (6) **"Appraisal management services"**, to directly or indirectly perform any of the following functions on behalf of a lender, financial institution, client, or any other person:
 - (a) Administer an appraiser panel;
 - (b) Recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
 - (c) Receive an order for an appraisal from one person and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
 - (d) Track and determine the status of orders for appraisals performed by appraisers who are part of an appraisal panel;
 - (e) Conduct quality control of a completed appraisal performed by an appraiser who is part of an appraisal panel prior to the delivery of the appraisal to the person who ordered the appraisal; and
 - (f) Provide a completed appraisal performed by an appraiser who is part of an appraisal panel to one or more persons who have ordered an appraisal;
- (7) **"Appraisal report"**, any communication, written or oral, of an appraisal. The purpose of an appraisal is immaterial, therefore valuation reports, real estate counseling reports, real estate tax counseling reports, real estate offering memoranda, mortgage banking offers, highest and best use studies, market demand and economic feasibility studies and all other reports communicating an appraisal analysis, opinion or conclusion are appraisal reports, regardless of title;
- (8) **"Appraisal standards board (ASB)"**, the independent board of the appraisal foundation which promulgates the generally accepted standards of the appraisal profession and the uniform standards of professional appraisal practices;

- (9) "**Appraiser**", an individual who holds a license as a state-licensed real estate appraiser or certification as a state-certified real estate appraiser under sections [339.500 to 339.549](#);
- (10) "**Appraiser panel**", a network of licensed or certified appraisers that have:
- (a) Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons who have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly; and
 - (b) Been selected and approved by an appraisal management company to perform appraisals for any client of the appraisal management company, or to perform appraisals for the appraisal management company directly;
- (11) "**Appraiser qualifications board (AQB)**", the independent board of the appraisal foundation which establishes minimum experience, education and examination criteria for state licensing of appraisers;
- (12) "**Boat dock**", a structure for loading and unloading boats and connecting real property to water, public or private. A boat dock is real property and has riparian rights, provided:
- (a) The lender includes the boat dock as a fixture both in the lender's deed of trust and a uniform commercial code fixture filing under section [400.9-502](#);
 - (b) The boat dock is attached to the real property by steel cable, bar, or chain that is permanently imbedded in concrete or rock, and otherwise securely attached to the dock; and
 - (c) The owner of the dock has riparian rights by means of real estate rights bordering the body of water, including such rights by license, grant, or other means allowing access to the body of water, which access may be seasonal because the water may be reduced for electric power production or flood control;
- (13) "**Boat slip**" or "**watercraft slip**", a defined area of water, including the riparian rights to use such area, whether by grant, lease, or license, in accordance with all applicable laws and regulations, which is a part of a boat dock serving a common interest community, including by way of example and not of limitation condominiums and villas; and the exclusive right to such use being allocated as a limited common element or being assigned to an owner of real estate in the common interest community in which the boat dock is located, whether by grant, lease, or otherwise. The rights of the real estate owner in such slip are included as collateral in any deed of trust and uniform commercial code filings of a lender, if any, taking a security interest in the owner's real estate;
- (14) "**Broker price opinion**", an opinion of value, prepared by a real estate licensee for a fee, that includes, but is not limited to, analysis of competing properties, comparable sold properties, recommended repairs and costs or suggested marketing techniques. A broker price opinion is not an appraisal and shall specifically state it is not an appraisal;
- (15) "**Certificate**", the document issued by the Missouri real estate appraisers commission evidencing that the person named therein has satisfied the requirements for certification as a state-certified real estate appraiser and bearing a certificate number assigned by the commission;
- (16) "**Certificate holder**", a person certified by the commission pursuant to the provisions of sections [339.500 to 339.549](#);
- (17) "**Certified appraisal report**", an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal report represents to the public that it meets the appraisal standards defined in sections [339.500 to 339.549](#);
- (18) "**Commission**", the Missouri real estate appraisers commission, created in section [339.507](#);
- (19) "**Comparative market analysis**", the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property undertaken by a licensed real estate broker or agent, for his or her principal. A comparative market analysis is not an appraisal and shall specifically state it is not an appraisal;
- (20) "**Controlling person**":
- (a) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;
 - (b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or
 - (c) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;
- (21) "**Disinterested third party**" shall not exclude any state-certified real estate appraiser or state-licensed real estate appraiser employed or retained by any bank, savings association, credit union, mortgage banker or other lender to perform appraisal assignments, provided that the appraisal assignments are rendered with respect to loans to be extended by the bank, savings association, credit union, mortgage banker or other lender, and provided further that the state-certified real estate appraiser or state-licensed real estate appraiser is not requested or required to report a predetermined analysis or opinion of value;

(22) **"License"** or **"licensure"**, a license or licensure issued pursuant to the provisions of sections 339.500 to 339.549 evidencing that the person or other legal entity named therein has satisfied the requirements for licensure as a state-licensed real estate appraiser or licensed appraisal management company and bearing a license number assigned by the commission;

(23) **"Licensed appraisal management company"**, a person or other legal entity who holds a current valid license as a licensed appraisal management company under sections 339.500 to 339.549;

(24) **"Real estate"**, an identified parcel or tract of land, including improvements, if any;

(25) **"Real estate appraiser"** or **"appraiser"**, a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein;

(26) **"Real estate appraising"**, the practice of developing and communicating real estate appraisals;

(27) **"Real property"**, the interests, benefits and rights inherent in the ownership of real estate;

(28) **"Residential real estate"**, any parcel of real estate, improved or unimproved, that is primarily residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit is a condominium, town house or cooperative complex, or a planned unit development is considered to be residential real estate. Subdivisions are not considered residential real estate. Individual parcels of property located within a residential subdivision shall be considered residential property;

(29) **"Specialized appraisal services"**, appraisal services which do not fall within the definition of appraisal assignment. The term "specialized services" may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser is acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not specialized services;

(30) **"State-certified general appraiser trainee"**, a person who holds a current valid certificate as a state-certified general appraiser trainee issued under sections 339.500 to 339.539;

(31) **"State-certified general real estate appraiser"**, a person who holds a current, valid certificate as a state-certified general real estate appraiser issued pursuant to the provisions of sections 339.500 to 339.549;

(32) **"State-certified residential appraiser trainee"**, a person who holds a current valid certificate as a state-certified residential appraiser trainee under sections 339.500 to 339.539;

(33) **"State-certified residential real estate appraiser"**, a person who holds a current, valid certificate as a state-certified residential real estate appraiser issued pursuant to the provisions of sections 339.500 to 339.549;

(34) **"State-licensed appraiser trainee"**, a person who holds a current valid license as a state-licensed appraiser trainee under sections 339.500 to 339.549;

(35) **"State-licensed real estate appraiser"**, a person who holds a current, valid license as a state-licensed real estate appraiser pursuant to the provisions of sections 339.500 to 339.549;

(36) **"Subdivision"**, a tract of land that has been divided into blocks or plots with streets, roadways, open areas and other facilities appropriate to its development as residential, commercial or industrial sites;

(37) **"Temporary appraiser licensure or certification"**, the issuance of a temporary license or certificate by the commission to a person licensed or certified in another state who enters this state for the purpose of completing a particular appraisal assignment.

(L. 1990 H.B. 1456 § 3, A.L. 1998 H.B. 1601, et al., A.L. 2009 H.B. 842, A.L. 2010 H.B. 1692, et al., A.L. 2012 H.B. 1103)

*Word "produces" appears in original rolls.

----- 339.503 8/28/2012 -----

339.505. Titles of state-certified or state-licensed appraiser, who may use — certification or licensure not required to appraise for compensation — management companies, registration required, exceptions. — 1. It shall be unlawful for any person in this state to assume or use the title "state-licensed real estate appraiser" or "state-certified real estate appraiser", or any title, designation or abbreviation likely to create the impression of licensure or certification by the state of Missouri as a real estate appraiser, unless the person has first been licensed or certified by the Missouri real estate appraisers commission pursuant to the provisions of sections 339.500 to 339.549. The commission may adopt, for

the exclusive use of persons licensed or certified pursuant to sections 339.500 to 339.549, a seal, symbol or other mark identifying the user as a state-licensed or state-certified real estate appraiser.

2. Any person certified as a real estate appraiser by an appraisal trade organization, on August 28, 1998, shall retain the right to use the term "certified" or any similar term in identifying himself or herself to the public; provided that, in each instance wherein such term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to such term, and provided further that the use of such term does not create the impression of certification by the state of Missouri. Nothing in this section shall entitle any person certified only by a trade organization, and not certified or licensed by the state, the right to conduct any appraisal.

3. The term "state-licensed real estate appraiser", "state-certified real estate appraiser" or any similar term shall not be used following or immediately in connection with the name of a partnership, association, corporation or other firm or group or in such manner that it might create the impression of licensure or certification by the state of Missouri as a real estate appraiser.

4. No person shall, directly or indirectly, engage or attempt to engage in the business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the commission under sections 339.500 to 339.549; except for:

- (1) The performance of services as an appraisal firm;
- (2) A national or state bank, federal or state savings institution, or credit union that is subject to direct regulation or supervision by an agency of the United States government, or by the Missouri department of commerce and insurance, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser who is an independent contractor to the institution;
- (3) An appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a federal institution regulatory agency;
- (4) An appraiser that enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal;
- (5) A state agency or local municipality that orders appraisals for ad valorem tax purposes or any other business on behalf of the state of Missouri;
- (6) Any person licensed to practice law in this state, a court-appointed personal representative, or a trustee who orders an appraisal in connection with a bona fide client relationship when such person directly contracts with an independent appraiser.

(L. 1990 H.B. 1456 § 4, A.L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103)

----- 339.505 8/28/2012 -----

***339.507. Real estate appraisers commission and chairperson, appointment — terms — vacancies, meetings — quorum — per diem — expenses — annual report. —**

1. There is hereby created within the division of professional registration the "Missouri Real Estate Appraisers Commission", which shall consist of seven members appointed by the governor with the advice and consent of the senate, six of whom shall be appraiser members, and one shall be a public member. Each member shall be a resident of this state and a registered voter for a period of one year prior to the person's appointment. The president of the Missouri Appraiser Advisory Council in office at the time shall, at least ninety days prior to the expiration of the term of the commission member, other than the public member, or as soon as feasible after the vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five appraisers qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The public member shall have never been engaged in the businesses of real estate appraisal, real estate sales or making loans secured by real estate.

2. The real estate appraiser members appointed by the governor shall be Missouri residents who have real estate appraisal experience in the state of Missouri for not less than five years immediately preceding their appointment. Appraiser members of the commission shall be appointed from the registry of state-certified real estate appraisers and state-licensed real estate appraisers. Real estate appraiser commission members, appointed after August 28, 2014, shall not be from the same United States congressional district.

3. All members shall be appointed for three-year terms. All members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the commission for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the commission shall continue to hold office until the appointment and qualification of their successors. No more than four members of the commission shall be members of the same political party. No person shall be appointed for more than two consecutive terms. The governor may remove a member for cause.

4. The commission shall meet at least once each calendar quarter to conduct its business. A quorum of the commission shall consist of four members.

5. Each member of the commission shall be entitled to a per diem allowance of fifty dollars for each meeting of the commission at which the member is present and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. Each member of the commission shall be entitled to reimbursement of travel expenses necessarily incurred in attending meetings of the commission.

6. The commission shall prepare an annual report outlining business conducted by the commission during the previous calendar year and shall submit a copy to the general assembly by April first of each year. The report shall include:

- (1) The number of complaints that were filed against licensees;
- (2) The number and disposition of investigations conducted by the commission pursuant to the filing of a complaint; and
- (3) An accounting of all expenditures of the commission.

(L. 1990 H.B. 1456 § 5, A.L. 1993 S.B. 18, A.L. 1997 S.B. 141, A.L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 343, A.L. 2007 S.B. 272, A.L. 2008 S.B. 788, A.L. 2014 S.B. 672)

*Revisor's Note: This section was declared unconstitutional in *Calzone v. Koster, et al.*, see 2016 annotation below.

(2016) Provisions of S.B. 672 from 2014 declared unconstitutional as violating the single subject rule of Article III, § 23; under the facts presented, those provisions cannot be severed and the bill is unconstitutional in its entirety. *Calzone v. Koster, et al.*, Case No. 15AC-CC00247 (Cole County Cir. Ct., Feb. 9, 2016).

----- 339.507 8/28/2014 -----



***339.507. Real estate appraisers commission and chairperson, appointment — terms — vacancies, meetings — quorum — per diem — expenses.** — 1. There is hereby created within the division of professional registration the "Missouri Real Estate Appraisers Commission", which shall consist of seven members appointed by the governor with the advice and consent of the senate, six of whom shall be appraiser members, and one shall be a public member. Each member shall be a resident of this state and a registered voter for a period of one year prior to the person's appointment. The president of the Missouri Appraiser Advisory Council in office at the time shall, at least ninety days prior to the expiration of the term of the commission member, other than the public member, or as soon as feasible after the vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five appraisers qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The public member shall have never been engaged in the businesses of real estate appraisal, real estate sales or making loans secured by real estate.

2. The real estate appraiser members appointed by the governor shall be Missouri residents who have real estate appraisal experience in the state of Missouri for not less than five years immediately preceding their appointment. Appraiser members of the commission shall be appointed from the registry of state-certified real estate appraisers and state-licensed real estate appraisers.

3. All members shall be appointed for three-year terms. All members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the commission for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the commission shall continue to hold office until the appointment and qualification of their successors. No more than four members of the commission shall be members of the same political party. No person shall be appointed for more than two consecutive terms. The governor may remove a member for cause.

4. The commission shall meet at least once each calendar quarter to conduct its business. A quorum of the commission shall consist of four members.

5. Each member of the commission shall be entitled to a per diem allowance of fifty dollars for each meeting of the commission at which the member is present and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. Each member of the commission shall be entitled to reimbursement of travel expenses necessarily incurred in attending meetings of the commission.

(L. 1990 H.B. 1456 § 5, A.L. 1993 S.B. 18, A.L. 1997 S.B. 141, A.L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 343, A.L. 2007 S.B. 272, A.L. 2008 S.B. 788)

Effective 8-28-08

*Revisor's Note: This section is reprinted in accordance with section 3.066. S.B. 672 in 2014 amended this section and was declared unconstitutional as a violation of Art. III, Sec. 23, of the Missouri Constitution (see 2016 annotation below), rendering the repeal and reenactment of this section ineffective.

(2016) Provisions of S.B. 672 from 2014 declared unconstitutional as violating the single subject rule of Article III, § 23; under the facts presented, those provisions cannot be severed and the bill is unconstitutional in its entirety. *Calzone v. Koster, et al.*, Case No. 15AC-CC00247 (Cole County Cir. Ct., Feb. 9, 2016).

----- 339.507 8/28/2008 -----

339.509. Commission, powers and duties. — The commission shall have the following powers and duties:

- (1) To establish educational programs and research projects related to the appraisal of real estate;
- (2) To establish administrative procedures for processing applications and issuing trainee licenses, certificates of state-certified real estate appraisers, licenses of state-licensed real estate appraisers, and licenses of appraisal management companies, and for conducting disciplinary proceedings pursuant to the provisions of sections 339.500 to 339.549 or as required by federal law or regulation; and shall have authority to determine who meets the criteria for certification and licensure, and shall have authority to renew, censure, suspend or revoke certifications and licenses;
- (3) To further define by regulation, with respect to each category of trainee, state-certified real estate appraiser, and for state-licensed real estate appraisers and for appraisal management companies, the type of educational experience, appraisal experience and equivalent experience, and other criteria that will meet the statutory requirements of sections 339.500 to 339.549 or as required by federal law or regulation; provided that such standards shall be equivalent to the minimum criteria for certification and licensure issued by the appraiser qualifications board of the appraisal foundation and the provisions of section 339.517 or as required by federal law or regulation;
- (4) To further define by regulation, with respect to each category of trainee, state-certified real estate appraiser, and for state-licensed real estate appraisers, the continuing education requirements for the renewal of certification and licensure that will meet the statutory requirements provided in section 339.530 or as required by federal law or regulation;
- (5) To adopt standards for the development and communication of real estate appraisals and to adopt regulations explaining and interpreting the standards; provided that such standards shall meet the standards specified by the appraisal standards board of the appraisal foundation or as required by federal law or regulation;
- (6) To establish an examination for each category of state-certified real estate appraiser, and for state-licensed real estate appraisers, to provide or procure appropriate examination questions and answers, and to establish procedures for grading examinations; provided that such standards for examinations for certification shall meet the minimum criteria specified by the appraiser qualifications board of the appraisal foundation or as required by federal law or regulation;
- (7) To maintain a registry of the names and addresses of trainees, state-certified real estate appraisers, state-licensed real estate appraisers, and appraisal management companies;
- (8) To perform such other functions and duties as may be necessary to carry out the provisions of sections 339.500 to 339.549 or to comply with the requirements of federal law or regulation; and
- (9) To establish by rule the standards of practice for appraisal management companies.

(L. 1990 H.B. 1456 § 6, A.L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103)

----- 339.509 8/28/2012 -----

339.511. Classifications of certification and licensure for appraisers and management companies — application — qualifications — continuing education requirements.

— 1. There shall be six classes of licensure for individuals including:

- (1) State-licensed appraiser trainee;
- (2) State-licensed real estate appraiser;
- (3) State-certified residential appraiser trainee;
- (4) State-certified residential real estate appraiser;
- (5) State-certified general appraiser trainee; and
- (6) State-certified general real estate appraiser.

2. There shall be one class of license for appraisal management companies.

3. Persons desiring to obtain licensure as a state-licensed appraiser trainee, state-licensed real estate appraiser, state-certified residential appraiser trainee, certification as a state-certified residential real estate appraiser, state-certified general appraiser trainee, or state-certified general real estate appraiser shall make written application to the commission on such forms as are prescribed by the commission setting forth the applicant's qualifications for licensure or certification.

4. Each applicant for licensure as a state-licensed appraiser trainee, state-licensed real estate appraiser, a state-certified residential appraiser trainee, a state-certified residential real estate appraiser, a state-certified general appraiser trainee, or a state-certified general real estate appraiser shall have demonstrated the knowledge and competence necessary to perform appraisals of residential and other real estate as the commission may prescribe by rule not inconsistent with any requirements imposed by the appraiser qualifications board. The

commission shall prescribe by rule procedures for obtaining and maintaining approved courses of instruction. The commission shall, also, prescribe the hours of training in real estate appraisal practices and the minimum level of experience acceptable for licensure or certification.

5. Persons who receive certification after March 30, 1991, or who have a state license or certificate to engage in business as a real estate appraiser issued by the commission, shall receive the same license or certificate from the commission as such persons are currently holding without further education, experience, examination or application fee, but shall be required to meet all continuing education requirements prescribed by the commission.

6. Appraisal management companies desiring to obtain licensure shall:

- (1) Make application to the commission on such forms as are prescribed by the commission setting forth the applicant's qualifications for licensure;
- (2) Remit the fee or fees as established by rule; and
- (3) Post with the commission and maintain on renewal a surety bond in the amount of twenty thousand dollars as further promulgated by rule.

(L. 1990 H.B. 1456 § 7, A.L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103, A.L. 2020 H.B. 2046)

----- 339.511 8/28/2020 -----



339.513. Applications for examinations, original certification, licensure and renewals, requirements, contents, fees, how set — fund established — signed compliance pledge, required. — 1. Applications for examination, original certification and licensure, and renewal certification and licensure shall be made in writing to the commission on forms provided by the commission. The application shall specify the classification of certification, or licensure, for which application is being made.

2. Appropriate fees shall accompany all applications for examination, original certification or licensure, and renewal certification or licensure; provided that such fees shall be in amounts set by the commission in order to offset the cost and expense of administering sections 339.500 to 339.549, and in amounts to be determined by the commission with reference to the requirements of Section 1109 of the United States Public Law 101-73, as later codified and as may be amended. All fees collected pursuant to this subsection shall be collected by the commission and deposited with the state treasurer into a fund to be known as the "Missouri Real Estate Appraisers and Appraisal Management Company Fund". The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year. In any proceeding in which a remedy provided by subsection 1 or 2 of section 339.532 is imposed, the commission may also require the respondent licensee to pay the costs of the proceeding if the commission is a prevailing party or in settlement. The moneys shall be placed in the state treasury to the credit of the Missouri real estate appraisers fund.

3. At the time of filing an application for certification or licensure, each applicant shall sign a pledge to comply with the standards set forth in sections 339.500 to 339.549 and state that he or she understands the types of misconduct for which disciplinary proceedings may be initiated.

(L. 1990 H.B. 1456 § 8, A.L. 1990 H.B. 1788 § 8, A.L. 1998 H.B. 1601, et al., A.L. 2007 H.B. 780 merged with S.B. 272, A.L. 2012 H.B. 1103)

----- 339.513 8/28/2012 -----

339.515. Examination, content, validity period, must retake, when — failure to pass reexamination, when. — 1. An original certification as a state-certified real estate appraiser may be issued to any person who meets the qualification requirements for certification and who has achieved a passing grade on a written examination which is consistent with and equivalent to the uniform state certification examination issued or endorsed by the appraiser qualifications board of the appraisal foundation and the commission.

2. An original license as a state-licensed real estate appraiser may be issued to any person who meets the qualification requirements for licensure and who has achieved a passing grade on a written examination which is consistent with and equivalent to the uniform state licensure examination issued or endorsed by the appraiser qualifications board of the appraisal foundation and the commission.

3. If an applicant, other than an appraisal management company, is not certified or licensed within two years after passing an examination given pursuant to the provisions of this section, he or she shall be required to retake the examination prior to certification or licensure.

4. An applicant, other than an appraisal management company, who has failed an examination taken pursuant to this section may apply for reexamination by submitting an application with the appropriate examination fee within ninety days after the date of having last taken and failed the examination.

(L. 1990 H.B. 1456 § 9, A.L. 1998 H.B. 1601, et al., A.L. 2005 H.B. 738, A.L. 2012 H.B. 1103)

----- 339.515 8/28/2012 -----

339.517. Examination required, when — rules authorized, invalid, when. — 1. Any person who files with the commission an application for state licensure or certification as a real estate appraiser shall be required to pass an examination to demonstrate his or her competence. The commission shall, also, make such investigation as is required to verify such qualifications. If the results of the investigation are satisfactory to the commission and the applicant is otherwise qualified, then the commission shall issue to the applicant a license or certificate authorizing the applicant to act as a state-licensed real estate appraiser or a state-certified real estate appraiser in Missouri. If the results of the investigation are unsatisfactory, action on the application may be deferred pending a hearing before the real estate appraisal commission.

2. The commission shall promulgate and adopt regulations which prescribe and define the subjects related to real estate appraisal and the experience in real estate appraisal that will satisfy the qualification requirements for licensure or certification. The commission may approve courses of instruction in an accredited college or university relating to the appraisal of real estate and related disciplines including, but not limited to, economics, finance, statistics, principles of capitalization, real estate and such other areas deemed relevant by the commission. The commission may also approve similar courses of instruction offered by recognized professional appraisal organizations and real estate organizations and agencies of the state and federal government, and other qualified providers which may be approved by the commission. The commission may require by rule that some or all of an applicant's qualifying experience in real estate appraising be obtained on appraisals of real estate located in this state.

3. Each applicant for certification or licensure, except for appraisal management companies, shall furnish under oath a detailed statement of the real estate appraisal assignments or file memoranda for each year in which real estate appraisal experience is claimed by the applicant. Upon request, the applicant shall furnish to the commission a sample of appraisal reports or file memoranda which the applicant has prepared in the course of his or her appraisal practice.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

(L. 1990 H.B. 1456 § 10, A.L. 1990 H.B. 1788 § 10, A.L. 1993 S.B. 18, A.L. 1998 H.B. 1601, et al., A.L. 2003 S.B. 327, A.L. 2012 H.B. 1103)

----- 339.517 8/28/2012 -----



339.519. Term of license — expiration date to appear on certificate or license — continuing education requirement, proof. — 1. The term of an original certificate or license issued pursuant to sections 339.500 to 339.549 shall be for a period set by the commission. All certificates and licenses shall be subject to renewal on the same date. The expiration date of the certificate or license shall appear on the certificate or license and no other notice of its expiration need be given to its holder.

2. The commission shall require every state-certified or state-licensed real estate appraiser to provide satisfactory evidence of the completion of the required continuing education hours as promulgated by the appraiser qualifications board.

(L. 1990 H.B. 1456 § 11, A.L. 1998 H.B. 1601, et al., A.L. 2007 S.B. 272)

----- 339.519 8/28/2007 -----

339.523. Nonresidents of state — requirements to be certified or licensed in Missouri — service of process provisions. — 1. A nonresident of this state who has complied with the provisions of sections 339.511, 339.513, 339.515, and 339.517 may obtain certification as a state-certified real estate appraiser or licensure as a state-licensed real estate appraiser by conforming to all of the provisions of sections 339.500 to 339.549 relating to state-certified real estate appraisers or state-licensed real estate appraisers.

2. Every applicant for certification or licensure pursuant to sections 339.500 to 339.545 who is not a resident of this state shall submit, with the application for certification, an irrevocable consent that service of process in any action against the applicant arising out of the applicant's activities as a state-certified real estate appraiser or state-licensed real estate appraiser may be made by delivery of the process to the executive director of the commission, if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant. The executive director shall immediately mail a copy of the materials served on the executive director by ordinary mail to the state-certified real estate appraiser or state-licensed real estate appraiser at both his or her principal place of business and his or her residence address.

(L. 1990 H.B. 1456 § 13, A.L. 1998 H.B. 1601, et al., A.L. 2018 S.B. 840)

----- 339.523 8/28/2018 -----

339.525. Renewals, procedure — renewal of an expired certificate or license, when, fee — inactive status granted, when. — 1. To obtain a renewal certificate or license, a state certified real estate appraiser or state licensed real estate appraiser shall make application and pay the prescribed fee to the commission not earlier than one hundred twenty days

nor later than thirty days prior to the expiration date of the certificate or license then held. With the application for renewal, the state certified real estate appraiser or state licensed real estate appraiser shall present evidence in the form prescribed by the commission of having completed the continuing education requirements for renewal specified in section 339.530.

2. If a person is otherwise eligible to renew the person's certification or license, the person may renew an expired certification or license within two years from the date of expiration. To renew such expired certification or license, the person shall submit an application for renewal, pay the renewal fee, pay a delinquent renewal fee as established by the commission, and present evidence in the form prescribed by the commission of having completed the continuing education requirements for renewal specified in section 339.530. Upon a finding of extenuating circumstances, the commission may waive the payment of the delinquent fee.

3. If a person has failed to renew the person's license within two years of its expiration, the license shall be void.

4. The commission is authorized to issue an inactive certificate or license to a state-certified real estate appraiser or a state-licensed real estate appraiser who makes written application for such on a form provided by the commission and remits the fee for an inactive certificate or license established by the commission. An inactive certificate or license may be issued only to a person who has previously been issued a certificate or license to practice as a real estate appraiser in this state, who is no longer regularly engaged in such practice, and who does not hold himself or herself out to the public as being professionally engaged in such practice in this state. Each inactive certificate or license shall be subject to all provisions of this chapter, except as otherwise specifically provided. Each inactive certificate or license may be renewed by the commission subject to all provisions of this section and all other provisions of this chapter. An inactive licensee may apply for a certificate or license to regularly engage in the practice of real estate appraising upon filing a written application on a form provided by the commission, submitting the reactivation fee established by the commission and submitting satisfactory proof of current competency as established by the commission.

5. To obtain a renewal license, an appraisal management company shall make application on a form prescribed by the commission and pay the prescribed fee.

6. To obtain a renewal license, a state-licensed appraiser trainee, state-certified residential appraiser trainee, or state-certified general appraiser trainee shall request an extension in writing at least thirty days prior to the expiration date as required by rule.

(L. 1990 H.B. 1456 § 14, A.L. 1997 S.B. 141, A.L. 2007 S.B. 272, A.L. 2012 H.B. 1103)

----- 339.525 8/28/2012 -----



339.527. Certificate or license number to be placed on report or contract — titles, how used — prohibited use — issue of certificate or license only to natural persons. —

1. A state-certified real estate appraiser may designate or identify an appraisal report rendered by him or her as a certified appraisal for the type of property included in his or her certification.

2. Each state-certified real estate appraiser or state-licensed real estate appraiser shall place the certificate or license number adjacent to or immediately below the designation "Missouri State-certified (Residential/General) Real Estate Appraiser" or "Missouri State-licensed Real Estate Appraiser" when used in an appraisal report or in a contract or other instrument used by the holder of the certificate or license in conducting an appraisal assignment or specialized appraisal services. A state-licensed real estate appraiser trainee, state-certified residential appraiser trainee, and state-certified general appraiser trainee shall place his or her license number adjacent to or immediately below the title "State-licensed Appraiser Trainee", "State-certified Residential Appraiser Trainee", or "State-certified General Appraiser Trainee".

3. Each appraisal management company shall be required to disclose its license number on each engagement letter utilized in assigning an appraisal request for real estate appraisal assignments within the state of Missouri.

4. The terms "Missouri State-certified (Residential/General) Real Estate Appraiser", "Missouri State-licensed Real Estate Appraiser", "Missouri State-licensed Appraiser Trainee", "Missouri State-certified Residential Appraiser Trainee", and "Missouri State-certified General Appraiser Trainee" may only be used to refer to individuals who hold a certificate or license and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group or in such manner that it might be interpreted as referring to certification or licensure of the firm, partnership, corporation, group, or to certification or licensure of anyone other than an individual holder of the certificate or license.

5. Except for licensed appraisal management companies, a certificate or license shall be issued pursuant to sections 339.500 to 339.549 only to a natural person. However, nothing in this section shall preclude a state-certified real estate appraiser or state-licensed real estate appraiser from rendering appraisals for or on behalf of a corporation, partnership or association, provided that the appraisal report is prepared by, or under the immediate direction of, a state-certified real estate appraiser or state-licensed real estate appraiser, and further provided that the appraisal report is signed by the state-certified real estate appraiser or state-licensed real estate appraiser.

(L. 1990 H.B. 1456 § 15, A.L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103)

----- 339.527 8/28/2012 -----

339.529. Addresses and changes of addresses, procedure — duties of notification. — 1. Each state-certified real estate appraiser, state-certified appraiser trainee, state-licensed appraiser trainee, and state-licensed real estate appraiser shall advise the commission of the address of his or her principal place of residence, business and all other addresses at which he or she is currently engaged in the business of preparing real property appraisal reports.

2. Whenever a state-certified real estate appraiser, state-certified appraiser trainee, state-licensed appraiser trainee, or state-licensed real estate appraiser changes the location of his or her place of business, he or she shall amend the certificate or license issued by the commission to reflect the change and shall give written notification of the change to the commission within thirty working days of the change.

3. Whenever a state-certified real estate appraiser or state-licensed real estate appraiser changes the location of his or her residence, he or she shall notify the commission of the new residence address within thirty working days of the change.

4. Each appraisal management company shall notify the commission within thirty days of a change in its controlling person, agent of record, ownership composition, or address.

(L. 1990 H.B. 1456 § 16, A.L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103)

----- 339.529 8/28/2012 -----

339.530. Continuing education requirements for renewal or accepted other studies and projects. — 1. As a prerequisite of renewal of certification or licensure, a state-certified real estate appraiser or state-licensed real estate appraiser shall present evidence satisfactory to the commission of having met the continuing education requirements as provided in this section. The basic continuing education requirements for renewal of certification or licensure shall be the completion by the state-certified real estate appraiser or state-licensed real estate appraiser, during the immediately preceding term of certification or licensure, of continuing education as prescribed by the appraiser qualifications board and approved by the commission.

2. In lieu of meeting the requirements of subsection 1 of this section, an applicant for renewal of certification or licensure may satisfy all or part of the requirements of this section by presenting evidence of the following:

(1) Completion of courses of study determined by the commission to be equivalent, for continuing education purposes, to courses approved by the commission pursuant to subsection 1 of this section;

(2) Participation, other than as a student, in educational processes and programs in real property appraisal theory, practices, or techniques, including, but not limited to, teaching, program development, and preparation of textbooks, monographs, articles, and other instructional materials, all to be approved by the commission.

3. The commission shall adopt regulations for implementation of the provisions of this section to assure that state-certified real estate appraisers renewing their certifications and state-licensed real estate appraisers renewing their licenses have current knowledge of real property appraisal theories, practices, and techniques which will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of the certification or licensure. Such regulations shall prescribe the following:

(1) Policies and procedures for obtaining commission approval of courses of instruction pursuant to this section;

(2) Standards, policies, and procedures to be applied by the commission in evaluating an applicant's claims of equivalency pursuant to this section;

(3) Standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to commission approval of courses for credit.

4. In adopting regulations pursuant to this section, the commission shall give favorable consideration to courses of instruction, seminars, and other real property appraisal education courses or programs previously or hereafter developed by or under the auspices of professional appraisal organizations and utilized by those associations for purposes of designation, certification, licensure, recertification or relicensure of the members of the association.

5. No amendment or repeal of a regulation adopted by the commission pursuant to this section shall operate to deprive a state-certified real estate appraiser or state-licensed real estate appraiser of credit toward renewal of certification or licensure for any course of instruction completed prior to the amendment or repeal of the regulation, if the course would have qualified for continuing education credit under the regulation as it existed prior to the repeal or amendment.

(L. 1990 H.B. 1456 § 17, A.L. 1998 H.B. 1601, et al.)

----- 339.530 8/28/1998 -----



***339.531. Complaint procedure — effective date.** — 1. Any person may file a complaint with the commission alleging that a licensee has committed any combination of the acts or omissions provided in subsection 2 of section 339.532. A complaint shall be in writing and shall be signed by the complainant, but a complainant is not required to specify the provisions of law or regulations alleged to have been violated in the complaint.

2. Upon the receipt of a complaint against a licensee, the commission shall refer the complaint to the probable cause committee. The commission shall appoint a probable cause committee of four members, one of whom shall be a current member of the commission and three members selected by the commission through recommendations provided by the Missouri Appraisers Advisory Council. The probable cause committee shall serve in an advisory capacity to the commission and review complaints and make a recommendation to the commission regarding the disposition of the complaint. The commission shall provide by rule for the selection process, length of committee member terms, and other procedures necessary for the functioning of the committee. No complaints shall be brought before the probable cause committee prior to its creation, appointment of members, and approval of all rules and regulations pursuant to [chapter 536](#).

3. Each complaint shall be considered a grievance until reviewed by the probable cause committee. When a grievance is filed under subsection 1 of this section, a copy shall be provided to the licensee, who shall have ten working days to respond documenting why the grievance may have no merit. If the licensee responds within the allowable time, the probable cause committee shall review the grievance and response. If the probable cause committee determines that the grievance has no merit, the grievance shall be dismissed and no complaint shall be placed on the licensee's record. If the probable cause committee determines that the grievance has merit, it shall present the case to the commission, and the commission shall decide whether or not to proceed with an investigation of the grievance as a complaint. If the commission decides to proceed with an investigation of a complaint, at that time the complaint shall become a part of the licensee's record.

4. When the commission determines to proceed with a complaint against a licensee, the commission shall investigate the actions of the licensee against whom the complaint is made. In conducting an investigation, the commission may request the licensee under investigation to:

- (1) Answer the charges made against him or her in writing;
- (2) Produce relevant documentary evidence pertaining to the specific complaint causing the investigation; and
- (3) Appear before the commission.

5. A copy of any written answer of the licensee requested under subsection 4 of this section may be furnished to the complainant, as long as furnishing the written answer does not require disclosure of confidential information under the Uniform Standards of Professional Appraisal Practice.

6. The commission shall notify the complainant and the licensee that an investigation has been commenced within ten working days of the date of the commission's decision to proceed with a complaint under subsection 4 of this section. The commission shall also notify and inform the complainant and licensee of the status of the investigation every sixty days following the commencement of the investigation. No investigation shall last longer than twelve months. Once an investigation is closed or dismissed it shall not be reopened.

7. In the event that the commission fails to meet the notification and investigation requirements of this section or does not finish the investigation within twelve months, then the commission shall provide the complainant at the commission's expense with an appraisal and an appraisal report of the real estate originally appraised by the licensee under investigation.

8. A real estate appraiser member of the commission shall recuse themselves from any matter in which their knowledge of the parties, circumstances, or subject matter will substantially affect their ability to be fair and impartial.

9. Any rule or portion of a rule, as that term is defined in [section 536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of [chapter 536](#) and, if applicable, [section 536.028](#). This section and [chapter 536](#) are nonseverable and if any of the powers vested with the general assembly pursuant to [chapter 536](#) to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

10. Nothing in this section shall be construed as limiting or delaying any administrative remedies or actions available through the administrative hearing process.

11. The provisions of this section shall become effective August 28, 2015.

(L. 2014 S.B. 672)

Effective 8-28-15

*Revisor's Note: This section was declared unconstitutional in *Calzone v. Koster, et al.*, see 2016 annotation below.

(2016) Provisions of S.B. 672 from 2014 declared unconstitutional as violating the single subject rule of Article III, § 23; under the facts presented, those provisions cannot be severed and the bill is unconstitutional in its entirety. *Calzone v. Koster, et al.*, Case No. 15AC-CC00247 (Cole County Cir. Ct., Feb. 9, 2016).

----- **339.531 8/28/2015** -----

339.532. Refusal to issue or renew certificate or license, procedure, hearing, grounds for refusal, penalties — revocation, when, appeal — recertification or relicensure, examination required. — 1. The commission may refuse to issue or renew any certificate or license issued pursuant to [sections 339.500 to 339.549](#) for one or any combination of

causes stated in subsection 2 of this section. The commission shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided by [chapter 621](#).

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by [chapter 621](#) against any state-certified real estate appraiser, state-licensed real estate appraiser, state-licensed appraiser trainee, state-certified residential appraiser trainee, state-certified general appraiser trainee, state-licensed appraisal management company that is a legal entity other than a natural person, any person who is a controlling person as defined in this chapter, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

- (1) Procuring or attempting to procure a certificate or license pursuant to section [339.513](#) by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensure, or through any form of fraud or misrepresentation;
- (2) Failing to meet the minimum qualifications for certification or licensure or renewal established by sections [339.500 to 339.549](#);
- (3) Paying money or other valuable consideration, other than as provided for by section [339.513](#), to any member or employee of the commission to procure a certificate or license pursuant to sections [339.500 to 339.549](#);
- (4) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state, of the United States, or of any country, for any offense directly related to the duties and responsibilities of the occupation, as set forth in section [324.012](#), regardless of whether or not sentence is imposed;
- (5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any profession licensed or regulated by sections [339.500 to 339.549](#);
- (6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections [339.500 to 339.549](#);
- (7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;
- (8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;
- (9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;
- (10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections [339.500 to 339.549](#) or the regulations of the commission for the administration and enforcement of the provisions of sections [339.500 to 339.549](#);
- (11) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined analysis or opinion or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment;
- (12) Violating the confidential nature of governmental records to which the person gained access through employment or engagement to perform an appraisal assignment or specialized appraisal services for a governmental agency;
- (13) Violating any term or condition of a certificate or license issued by the commission pursuant to the authority of sections [339.500 to 339.549](#);
- (14) Violation of any professional trust or confidence;
- (15) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;
- (16) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections [339.500 to 339.549](#) who is not licensed or certified and currently eligible to practice pursuant to sections [339.500 to 339.549](#);
- (17) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;
- (18) Disciplinary action against the holder of a license, certificate or other right to practice any profession regulated pursuant to sections [339.500 to 339.549](#), imposed by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;
- (19) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or certification, or for license or certification renewal. As used in this section, "**material**" means important information about which the commission should be informed and which may influence a licensing decision;
- (20) Engaging in or committing, or assisting any person in engaging in or committing, any practice or act of mortgage fraud, as defined in section [443.930](#);
- (21) Influencing or attempting to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, or bribery.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of [chapter 621](#). Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the commission may, singly or in combination, publicly censure or place the person named in the complaint on probation on such terms and conditions as the commission deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke, the certificate or license. The holder of a certificate or license, or the legal entity and any controlling person in the case of an appraisal management company, revoked pursuant to this section may not obtain certification as a state-certified real estate appraiser, licensure as a state-licensed real estate appraiser, or licensure as an appraisal management company for at least five years after the date of revocation.

4. Notwithstanding other provisions of this section, a real estate appraiser license or certification or an appraisal management company license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant, or any controlling person in the case of an appraisal management company, has been finally adjudicated and found guilty, or has entered a plea of nolo contendere, in a criminal prosecution under the laws of any state, of the United States, or of any country, for any offense directly related to the duties and responsibilities of the occupation, as set forth in [section 324.012](#), regardless of whether or not sentence is imposed. The commission shall notify the individual or legal entity of the reasons for the revocation in writing, by certified mail.

5. A person, or the legal entity or controlling person in the case of an appraisal management company, whose license is revoked under subsection 4 of this section may appeal such revocation to the administrative hearing commission, as provided by [chapter 621](#), within ninety days from the time the commission mails the notice of revocation. A person who fails to do so waives all rights to appeal the revocation.

6. A certification of a state-certified real estate appraiser, a license of a state-licensed real estate appraiser, or a license of an appraisal management company that has been suspended as a result of disciplinary action by the commission shall not be reinstated, and a person, controlling person, or legal entity may not obtain certification as a state-certified real estate appraiser, licensure as a state-licensed real estate appraiser, or licensure as an appraisal management company subsequent to revocation, unless the applicant presents evidence of completion of the continuing education required by [section 339.530](#) during the period of suspension or revocation as well as fulfillment of any other conditions imposed by the commission. Applicants for recertification, relicensure or reinstatement also shall be required to successfully complete the examination for original certification or licensure required by [section 339.515](#) as a condition to reinstatement of certification or licensure, or recertification or relicensure subsequent to revocation.

(L. 1990 H.B. 1456 § 18, A.L. 1998 H.B. 1601, et al., A.L. 2008 H.B. 2188, A.L. 2012 H.B. 1103, A.L. 2020 H.B. 2046)

----- [339.532](#) [8/28/2020](#) -----

339.533. Authority of commission, oaths and subpoenas. — 1. The chairperson of the commission may administer oaths, issue subpoenas, and issue subpoenas duces tecum requiring the production of documents and records. Subpoenas and subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person, controlling person, or other legal entity to produce original documents in response to a subpoena duces tecum, the commission may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The commission may enforce its subpoenas and subpoenas duces tecum by applying to the circuit court of Cole County; the county of the investigation, hearing, or proceeding; or any county where the person, controlling person, or other legal entity subpoenaed resides or may be found for an order to show cause why such subpoena should not be enforced, such order and a copy of the application therefor to be served upon the person in the same manner as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

(L. 2007 S.B. 272, A.L. 2012 H.B. 1103)

----- [339.533](#) [8/28/2012](#) -----

339.535. Compliance with uniform standards required. — State-certified real estate appraisers, state-licensed real estate appraisers, state-licensed appraiser trainees, and state-certified appraiser trainees shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.

(L. 1990 H.B. 1456 § 19, A.L. 2012 H.B. 1103)

----- [339.535](#) [8/28/2012](#) -----

339.537. Records to be retained, retention period — availability of records for appraisers, when, cost. — 1. State-certified real estate appraisers and state licensed real estate appraisers shall retain originals or true copies of contracts engaging an appraiser's services for appraisal assignments, specialized appraisal services, appraisal reports, and supporting data assembled and formulated in preparing appraisal reports, for five years. The period for retention of the records applicable to each engagement of the services of the state-certified real estate appraiser or state-licensed real estate appraiser shall run from the date of the submission of the appraisal report to the client. Upon requests by the commission, these records

shall be made available by the state-certified real estate appraiser or state-licensed real estate appraiser for inspection and copying at his or her expense, by the commission on reasonable notice to the state-certified real estate appraiser or state-licensed real estate appraiser. When litigation is contemplated at any time, reports and records shall be retained for two years after the final disposition.

2. All appraisal management company records shall be retained by the appraisal management company for five years. Upon request by the commission, such records shall promptly be made available to the commission for inspection and copying at the expense of the appraisal management company.

(L. 1990 H.B. 1456 § 20, A.L. 2003 S.B. 327, A.L. 2012 H.B. 1103)

----- 339.537 8/28/2012 -----

339.539. Choosing an appraiser or discriminating against one for membership or lack of membership in appraisal organization prohibited. — No bank, savings and loan association, credit union, mortgage banker or lending institution may exclude a state certified real estate appraiser or state licensed real estate appraiser from consideration for an appraisal assignment or specialized appraisal services by virtue of membership or lack of membership of the state certified real estate appraiser or state licensed real estate appraiser in any particular real estate appraisal organization.

(L. 1990 H.B. 1456 § 21)

Effective 4-30-90

----- 339.539 8/28/1990 -----



339.541. Deception or fraud in applications, taking examination or falsely representing to public certification or licensure, penalty. — 1. It shall be a class B misdemeanor for any person to practice any deception or fraud with respect to his or her identity in connection with an application for certification or licensure or in the taking of an examination for certification as a state certified real estate appraiser or licensure as a state licensed real estate appraiser or by holding himself or herself out to any member of the public or representing himself or herself as a state certified real estate appraiser or a state licensed real estate appraiser when, in fact, he or she is not so.

2. It shall be a class B misdemeanor for any corporation, business, or controlling person to practice any deception or fraud in its identity in connection with an application or holding out to any member of the public or representation as a licensed appraisal management company when in fact it is not so.

(L. 1990 H.B. 1456 § 22, A.L. 2012 H.B. 1103)

----- 339.541 8/28/2012 -----

339.543. Mortgage fraud, commission may file court action — civil penalty — investigation authority. — 1. If the commission believes that an appraiser, business, corporation, or controlling person has engaged in, is engaging in, or has willfully taken a substantial step toward engaging in an act, practice, omission, or course of business constituting mortgage fraud, as defined in section 443.930, or that a person, business, corporation, or controlling person has materially aided or is materially aiding any such act, practice, omission, or course of business, the commission may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the person, business, corporation, or controlling person. Upon a proper showing, the court may issue a permanent or temporary injunction, restraining order, or declaratory judgment.

2. The court may impose a civil penalty against the person, business, corporation, or controlling person not to exceed two thousand five hundred dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances including, but not limited to, a temporary suspension of any license issued by the commission.

3. The commission may initiate an investigation and take all measures necessary to find the facts of any potential violation of this section, including issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents and other evidence. The commission may conduct joint investigations, enter into confidentiality agreements, and share information obtained relating to an investigation under this section with other governmental agencies.

4. The enforcement authority of the commission under this section is cumulative to any other statutory authority of the commission.

(L. 2008 H.B. 2188, A.L. 2012 H.B. 1103)

----- 339.543 8/28/2012 -----

339.544. Rulemaking authority. — Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated by the commission to administer and enforce sections 339.500 to 339.549, shall become effective only if the agency has fully complied with all of the requirements of chapter 536 including but not limited to, section 536.028, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this act* shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of section 536.028 apply, the provisions of this

section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act* shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

(L. 1998 H.B. 1601, et al.)

*"This act" (H.B. 1601, et al., 1998) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

----- 339.544 8/28/1998 -----



339.545. Commission to issue certificates and licenses. — 1. The commission shall take such action as is necessary to be able to issue general certificates, residential certificates and licenses to qualified persons.

2. The commission shall take action as is necessary to be able to issue licenses to qualified applicants seeking licensure as an appraisal management company.

(L. 1990 H.B. 1456 § 24, A.L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103)

----- 339.545 8/28/2012 -----

339.546. Violations of law — criminal penalties. — Any person or corporation who knowingly violates any provision of sections 339.500 to 339.549 is guilty of a class B misdemeanor. Any officer or agent of a corporation, or member or agent of a partnership or association, who knowingly and personally participates in or is an accessory to any violation of sections 339.500 to 339.549 is guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution pursuant to any other law of this state. The commission may cause a complaint to be filed for a violation of section 339.501 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions of sections 339.500 to 339.549.

(L. 1998 H.B. 1601, et al.)

----- 339.546 8/28/1998 -----

339.549. Violation of law — civil penalties — injunctions, venue. — 1. It is unlawful for any person, business, corporation, or controlling person not certified or licensed pursuant to sections 339.500 to 339.549 to perform any act for which certification or licensure is required. Upon application by the commission, and the necessary burden having been met, a court may grant an injunction, restraining order or other order as may be appropriate to enjoin a person, business, corporation, or controlling person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate or license is required by sections 339.500 to 339.549 upon a showing that such acts or practices were performed or offered to be performed without a certificate or license; or

(2) Engaging in any practice or business authorized by a certificate or license issued pursuant to sections 339.500 to 339.549 upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client of the certificate holder or licensee.

2. Any such action shall be commenced in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any actions brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by sections 339.500 to 339.549 and may be brought concurrently with other actions to enforce the provisions of this chapter.

(L. 1998 H.B. 1601, et al., A.L. 2012 H.B. 1103)

----- 339.549 8/28/2012 -----



339.710. Definitions. — For purposes of sections 339.010 to 339.180, and sections 339.710 to 339.860*, the following terms mean:

(1) "**Adverse material fact**", a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

(a) Environmental hazards affecting the property;

(b) Physical condition of the property which adversely affects the value of the property;

(c) Material defects in the property;

- (d) Material defects in the title to the property;
- (e) Material limitation of the party's ability to perform under the terms of the contract;
- (2) "**Affiliated licensee**", any broker or salesperson who works under the supervision of a designated broker;
- (3) "**Agent**", a person or entity acting pursuant to the provisions of this chapter;
- (4) "**Broker disclosure form**", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;
- (5) "**Brokerage relationship**", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860*. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:
 - (a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or
 - (b) Alter the designated broker's underlying contractual agreement with the client;
- (6) "**Client**", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860*;
- (7) "**Commercial real estate**", any real estate other than real estate containing one to four residential units or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;
- (8) "**Commission**", the Missouri real estate commission;
- (9) "**Confidential information**", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860* or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;
- (10) "**Customer**", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with the licensee;
- (11) "**Designated agent**", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;
- (12) "**Designated broker**", any individual licensed as a broker who is operating pursuant to the definition of real estate broker as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, limited partnership, association, limited liability corporation, professional corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, limited partnership, association, limited liability company, professional corporation or corporation. Every real estate broker partnership, limited partnership, association, limited liability company, professional corporation or corporation shall appoint a designated broker;
- (13) "**Designated transaction broker**", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;
- (14) "**Dual agency**", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;
- (15) "**Dual agent**", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;
- (16) "**Exclusive brokerage agreement**", means a written brokerage agreement which provides that the broker has the sole right, through the broker or through one or more affiliated licensees, to act as the exclusive limited agent, representative, or transaction broker of the client or customer that meets the requirements of section 339.780;
- (17) "**Licensee**", a real estate broker or salesperson as defined in section 339.010;
- (18) "**Limited agent**", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;
- (19) "**Ministerial acts**", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:
 - (a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

- (b) Responding to telephone inquiries from a person concerning the price or location of property;
- (c) Attending an open house and responding to questions about the property from a consumer;
- (d) Setting an appointment to view property;
- (e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;
- (f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;
- (g) Describing a property or the property's condition in response to a person's inquiry;
- (h) Showing a customer through a property being sold by an owner on his or her own behalf; or
- (i) Referral to another broker or service provider;

(20) **"Residential real estate"**, all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term **"cooperative housing association"** means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

(21) **"Single agent"**, a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

- (a) **"Buyer's agent"**, which shall mean a licensee who represents the buyer in a real estate transaction;
- (b) **"Landlord's agent"**, which shall mean a licensee who represents a landlord in a leasing transaction;
- (c) **"Seller's agent"**, which shall mean a licensee who represents the seller in a real estate transaction; and
- (d) **"Tenant's agent"**, which shall mean a licensee who represents the tenant in a leasing transaction;

(22) **"Subagent"**, a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(23) **"Transaction broker"**, any licensee acting pursuant to sections 339.710 to 339.860*, who:

- (a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;
- (b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or
- (c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

(L. 1996 S.B. 664 § 1, A.L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 866, A.L. 2002 H.B. 1964, A.L. 2004 H.B. 985, A.L. 2005 H.B. 174, A.L. 2009 H.B. 842, A.L. 2010 H.B. 1692, et al. merged with S.B. 754)

*Section 339.860 was repealed by S.B. 613 Revision, 2007.

----- 339.710 8/28/2010 -----

339.720. Licensee's duties and obligations in writing — licensee as transaction broker, exceptions. — 1. A licensee's general duties and obligations arising from the limited agency relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the activities enumerated in section 339.010, a licensee may act as an agent in any transaction in accordance with a written agreement as described in section 339.780.

2. A licensee shall be considered a transaction broker unless:

- (1) The designated broker enters into a written seller's agent or landlord's agent agreement with the party or parties to be represented pursuant to subsection 2 of section 339.780;

- (2) The designated broker enters into a subagency agreement with another designated broker pursuant to subsection 5 of section 339.780;
 - (3) The designated broker establishes a buyer's or tenant's agency relationship pursuant to subsection 3 of section 339.780;
 - (4) The designated broker enters into a written agency agreement pursuant to subsection 8 of section 339.780;
 - (5) The designated broker and the affiliated licensees are performing ministerial acts;
 - (6) The designated broker enters into a written dual agency agreement with the parties pursuant to subsection 4 of section 339.780;
 - (7) The designated broker is acting in a manner described in paragraph (c) of subdivision (23) of section 339.710 without proper notice of assumption of transaction broker status;
- or
- (8) The licensee is making a listing presentation, which may include pricing and marketing advice about a potential future transaction, to a customer in anticipation of entering into a signed agency brokerage service agreement as a direct result of the presentation.

3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation to a designated broker unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection 3 of section 339.780.

4. A licensee may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a transaction broker or a seller's agent working with that seller in buying another property as a buyer's agent, as a subagent or as a transaction broker if the licensee complies with sections 339.710 to 339.860 in establishing the relationships for each transaction.

(L. 1996 S.B. 664 § 2, A.L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 866, A.L. 2002 H.B. 1964, A.L. 2005 H.B. 174)

----- 339.720 8/28/2005 -----

339.730. Licensee as limited agent representing seller or landlord, duties — confidential information disclosure, when — licensee's duties to customer — showing alternative properties — subagent, duties. — 1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

- (1) To perform the terms of the written agreement made with the client;
- (2) To exercise reasonable skill and care for the client;
- (3) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:
 - (a) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;
 - (b) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease;
 - (c) Disclosing to the client all adverse material facts actually known or that should have been known by the licensee; and
 - (d) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
- (4) To account in a timely manner for all money and property received;
- (5) To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and
- (6) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.

2. A licensee acting as a seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action shall arise against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure.

3. A licensee acting as a seller's or landlord's agent owes no duty or obligation to a customer, except that a licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A seller's or landlord's agent owes no duty to conduct an independent inspection or discover any adverse material facts for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any independent inspector.

4. A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the client.

5. A seller or landlord may agree in writing with a seller's or landlord's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting as a subagent on the seller's or landlord's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.

(L. 1996 S.B. 664 § 3, A.L. 1998 H.B. 1601, et al.)

Effective 1-01-99

----- 339.730 1/1/1999 -----



339.740. Licensee representing head buyer or tenant — duties and obligations of — disclosure of confidential information — licensee's duty to a customer — showing of properties — subagents. — 1. A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations:

- (1) To perform the terms of any written agreement made with the client;
- (2) To exercise reasonable skill and care for the client;
- (3) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:
 - (a) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease;
 - (b) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease;
 - (c) Disclosing to the client adverse material facts actually known or that should have been known by the licensee; and
 - (d) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
- (4) To account in a timely manner for all money and property received;
- (5) To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and
- (6) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.

2. A licensee acting as a buyer's or tenant's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a licensee acting as a buyer's or tenant's agent for making any required or permitted disclosure.

3. A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a customer, except that the licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector.

4. A buyer's or tenant's agent may show properties in which the client is interested to other prospective buyers or tenants without breaching any duty or obligation to the client. This section shall not be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property.

5. A client may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting on the buyer's or tenant's behalf as a subagent shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.

(L. 1996 S.B. 664 § 4, A.L. 1998 H.B. 1601, et al.)

Effective 1-01-99

----- 339.740 1/1/1999 -----

339.750. Dual agent, consent — dual agent as limited agent — disclosure of nonconfidential information, when — nondisclosure of information, when — confidential information — no imputation of information. — 1. A licensee may act as a dual agent only with the consent of all parties to the transaction. Consent shall be presumed by a written agreement pursuant to section 339.780.

2. A dual agent shall be a limited agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required by sections 339.730 and 339.740 unless otherwise provided for in this section.

3. Except as provided in subsections 4 and 5 of this section, a dual agent may disclose any information to one client that the licensee gains from the other client if the information is material to the transaction unless it is confidential information as defined in section 339.710.

4. The following information shall not be disclosed by a dual agent without the consent of the client to whom the information pertains:

- (1) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;
- (2) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;
- (3) What the motivating factors are for any client buying, selling, or leasing the property;
- (4) That a client will agree to financing terms other than those offered; and
- (5) The terms of any prior offers or counter offers made by any party.

5. A dual agent shall not disclose to one client any confidential information about the other client unless the disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a dual agent for making any required or permitted disclosure. A dual agent does not terminate the dual agency relationship by making any required or permitted disclosure.

6. In a dual agency relationship there shall be no imputation of knowledge or information between the client and the dual agent or among persons within an entity engaged as a dual agent.

(L. 1996 S.B. 664 § 5)

Effective 9-01-97

----- 339.750 9/1/1997 -----

339.755. Duties and obligations of transaction broker. — 1. A real estate licensee may provide real estate service to any party in a prospective transaction without an agency or fiduciary relationship to one or more parties to the transaction. Such licensee shall be called a transaction broker.

2. A transaction broker shall have the following duties and obligations:

- (1) To perform the terms of any written or oral agreement made with any party to the transaction;
- (2) To exercise reasonable skill, care and diligence as a transaction broker, including but not limited to:
 - (a) Presenting all written offers and counteroffers in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent unless otherwise provided in the agreement entered with the party;
 - (b) Informing the parties regarding the transaction and suggesting that such parties obtain expert advice as to material matters about which the transaction broker knows but the specifics of which are beyond the expertise of such broker;
 - (c) Accounting in a timely manner for all money and property received;
 - (d) To disclose to each party to the transaction any adverse material facts of which the licensee has actual notice or knowledge;
 - (e) Assisting the parties in complying with the terms and conditions of any contract;
 - (f) The parties to a transaction brokerage transaction shall not be liable for any acts of the transaction broker.

3. The following information shall not be disclosed by a transaction broker without the informed consent of the party or parties disclosing such information to the broker:

- (1) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;
- (2) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;
- (3) What the motivating factors are for any party buying, selling or leasing the property;
- (4) That a seller or buyer will agree to financing terms other than those offered;

(5) Any confidential information about the other party, unless disclosure of such information is required by law, statute, rules or regulations or failure to disclose such information would constitute fraud or dishonest dealing.

4. A transaction broker has no duty to conduct an independent inspection or investigation for adverse material facts for the parties.

5. A transaction broker has no duty to conduct an independent investigation of the buyer's financial condition.

6. A transaction broker may do the following without breaching any obligation or responsibility:

(1) Show alternative properties not owned by the seller or landlord to a prospective buyer or tenant;

(2) List competing properties for sale or lease;

(3) Show properties in which the buyer or tenant is interested to other prospective buyers or tenants;

(4) Serve as a single agent, subagent or designated agent or broker, limited agent, disclosed dual agent for the same or for different parties in other real estate transactions.

7. In a transaction broker relationship each party and the transaction broker, including all persons within an entity engaged as the transaction broker if the transaction broker is an entity, are considered to possess only actual knowledge and information. There is no imputation of knowledge or information by operation of law between any party and the transaction broker or between any party and any person within an entity engaged as the transaction broker if the transaction broker is an entity.

8. A transaction broker may cooperate with other brokers and such cooperation does not establish an agency or subagency relationship.

9. Nothing in this section prohibits a transaction broker from acting as a single limited agent, dual agent or subagent whether on behalf of a buyer or seller, as long as the requirements governing disclosure of such fact are met.

10. Nothing in this section alters or eliminates the responsibility of a broker as set forth in this section for the conduct and actions of a licensee operating under the broker's license.

11. A transaction broker shall:

(1) Comply with all applicable requirements of sections 339.710 to 339.860, subsection 2 of section 339.010 and all rules and regulations promulgated pursuant to such sections; and

(2) Comply with any applicable federal, state and local laws, rules, regulations and ordinances, including fair housing and civil rights statutes and regulations.

12. If any licensee who represents another party to the same transaction either solely or through affiliate licensees refuses transaction broker status and wants to continue an agency relationship with both parties to the transaction, such licensee shall have the right to become a designated agent or a dual agent as provided for in sections 339.730 to 339.860.

13. In any transaction a licensee may without liability withdraw from representing a client who has not consented to a conversion to transaction brokerage. Such withdrawal shall not prejudice the ability of the licensee or affiliated licensee to continue to represent the other client in the transaction or limit the licensee from representing the client who refused the transaction brokerage representation in another transaction not involving transaction brokerage.

(L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 866)

Effective 1-01-00

----- 339.755 1/1/2000 -----



339.760. Written agreement, adoption by designated broker, scope. — Every designated broker who has affiliated licensees shall adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities.

(L. 1996 S.B. 664 § 6, A.L. 2004 H.B. 985)

----- 339.760 8/28/2004 -----

339.770. Broker disclosure form for residential real estate transaction, provided by licensee, prior agreement, effect. — 1. In a residential real estate transaction, at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a written agreement for services as described in subdivision (5) of section 339.710, the licensee shall provide that person with a written copy of the current broker disclosure form which has been prescribed by the commission.

2. When a seller, landlord, buyer, or tenant has already entered into a written agreement for services with a designated broker, no other licensee shall be required to make the disclosures required by this section.

3. Disclosures made in accordance with sections 339.710 to 339.860 shall be sufficient as a matter of law to disclose brokerage relationships to the public.

(L. 1996 S.B. 664 § 7, A.L. 1997 H.B. 213, A.L. 1998 H.B. 1601, et al., A.L. 2002 H.B. 1964)

----- 339.770 8/28/2002 -----

339.780. Brokerage services, written agreements for, parties to, authorizations by designated broker — written agreements, limited agency, single agent, dual agent or subagent. — 1. All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

3. Before or while engaging in any acts enumerated in section 339.010, except ministerial acts defined in section 339.710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339.740 and the terms of compensation.

4. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a dual agent shall enter into a written agreement with the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The agreement shall include a licensee's duties and responsibilities specified in section 339.750 and the terms of compensation.

5. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a subagent shall enter into a written agreement with the designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client. If a designated broker has made an appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such appointment may enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.

6. A designated broker who intends to act as a transaction broker and who expects to receive compensation from the party he or she assists shall enter into a written transaction brokerage agreement with such party or parties contracting for the broker's service. The transaction brokerage agreement shall include a licensee's duties and responsibilities specified in section 339.755 and the terms of compensation.

7. All exclusive brokerage agreements shall specify that the broker, through the broker or through one or more affiliated licensees, shall provide, at a minimum, the following services:

(1) Accepting delivery of and presenting to the client or customer offers and counteroffers to buy, sell, or lease the client's or customer's property or the property the client or customer seeks to purchase or lease;

(2) Assisting the client or customer in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and the counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and

(3) Answering the client's or customer's questions relating to the offers, counteroffers, notices, and contingencies.

8. Nothing contained in this section shall prohibit the public from entering into written contracts with any broker which contain duties, obligations, or responsibilities which are in addition to those specified in this section.

(L. 1996 S.B. 664 § 8, A.L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 866, A.L. 2004 H.B. 985, A.L. 2005 H.B. 174)

----- 339.780 8/28/2005 -----



339.790. Commencement of agreement, when — duties after termination of agreement. — 1. The relationships set forth in this section commence on the effective date of the real estate broker's agreement and continue until performance, completion, termination or expiration of that agreement.

2. A real estate broker and an affiliated licensee owe no further duty or obligation after termination, expiration, completion or performance of the brokerage agreement, except the duties of:

- (1) Accounting in a timely manner for all money and property related to, and received during, the relationship; and
- (2) Treating as confidential information provided by the client during the course of the relationship that may reasonably be expected to have a negative impact on the client's real estate activity unless:
 - (a) The client to whom the information pertains grants written consent;
 - (b) Disclosure of the information is required by law;
 - (c) The information is made public or becomes public by the words or conduct of the client to whom the information pertains or from a source other than the real estate brokerage or the affiliated licensee; or
 - (d) Disclosure is necessary to defend the designated broker or an affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee.

(L. 1996 S.B. 664 § 9)

Effective 9-01-97

----- 339.790 9/1/1997 -----

339.800. Compensation of designated broker, paid by whom, sharing compensation — payment establishing agency — agreement by seller or buyer on sharing compensation. — 1. In any real estate transaction, the designated broker's compensation may be paid by the seller, the landlord, the buyer, the tenant, or a third party or by sharing the compensation between designated brokers.

2. Payment of compensation by itself shall not establish an agency relationship or transaction brokerage relationship between the party who paid the compensation and the designated broker or any affiliated licensee.

3. A seller or landlord may agree that a designated broker may share with another designated broker the compensation paid by the seller or landlord.

4. A buyer or tenant may agree that a designated broker may share with another designated broker the compensation paid by the buyer or tenant.

5. A designated broker may be compensated by more than one party for services in a transaction with the knowledge of all the parties at or before the time of entering into a written contract to buy, sell, or lease.

6. Nothing contained in this section shall relieve the licensee from the requirement of obtaining a written agreement for brokerage services or other written agreement addressing compensation.

(L. 1996 S.B. 664 § 10, A.L. 1998 H.B. 1601, et al., A.L. 2004 H.B. 985)

----- 339.800 8/28/2004 -----

339.810. Misrepresentation, client liability — licensee liability — liability for subagent, limited agent licensee liability — licensee as subagent, liability. — 1. A client shall not be liable for a misrepresentation of such client's limited agent or subagent arising out of the limited agency agreement unless the client knew or should have known of the misrepresentation.

2. A client shall not be liable for a misrepresentation of such client's transaction broker arising out of the transaction broker agreement unless the client has actual knowledge of the misrepresentation.

3. A licensee who is serving as a limited agent or subagent of a client shall not be liable for misrepresentation of such licensee's client arising out of the brokerage agreement unless the licensee knew or should have known of the misrepresentation.

4. A licensee who is serving as a limited agent of a client shall not be liable for a misrepresentation of any subagent unless the licensee knew or should have known of the misrepresentation. A limited agent licensee shall not be liable for misrepresentation of an affiliated licensee unless such limited agent licensee knew or should have known of the misrepresentation.

5. A licensee who is serving as a subagent shall not be liable for a misrepresentation of the limited agent unless the subagent knew or should have known of the misrepresentation.

6. A licensee who is serving as a transaction broker shall not be liable for misrepresentation of such licensee's client arising out of the brokerage agreement unless the licensee had actual knowledge of the misrepresentation.

(L. 1996 S.B. 664 § 11, A.L. 1998 H.B. 1601, et al.)

Effective 1-01-99

----- 339.810 1/1/1999 -----



339.820. Limited agency agreement, listings or representing client, appointment of affiliated licensees. — 1. A designated broker entering into a limited agency agreement with a client for the listing of property or for the purpose of representing that person in the buying, selling, exchanging, renting, or leasing of real estate may appoint in writing affiliated licensees as designated agents to the exclusion of all other affiliated licensees. A designated broker entering into a written transaction brokerage agreement with a party for the listing of property or for the purpose of assisting that person in buying, selling, exchanging, renting, or leasing of real estate may appoint in writing affiliated licensees as designated transaction brokers to the exclusion of all other affiliated licensees. If a designated broker has made an appointment pursuant to this section, an affiliated licensee assisting a party without a written agreement shall be presumed to be a transaction broker to the exclusion of all other affiliated licensees, unless a different brokerage relationship status has been disclosed to or established with that party.

2. A designated broker shall not be considered to be a dual agent or a transaction broker solely because such broker makes an appointment pursuant to this section, except that any licensee who personally represents both the seller and buyer or both the landlord and tenant in a particular transaction shall be a dual agent or a transaction broker and shall be required to comply with the provisions governing dual agents or transaction brokers.

(L. 1996 S.B. 664 § 12, A.L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 866)

Effective 1-01-00

----- 339.820 1/1/2000 -----

339.830. Designated agents' and transaction brokers' duties to client — licensees' protections from liability. — 1. All designated agents or designated transaction brokers to the extent allowed by their licenses shall have the same duties and responsibilities to the client and customer pursuant to sections 339.730 to 339.755 as the designated broker except as provided in section 339.820.

2. All licensees have the same protections from vicarious liability as provided in sections 339.710 to 339.860 as does their designated broker.

3. The provisions of this section and sections 339.710, 339.720, 339.755, 339.780, and 339.820 shall become effective January 1, 2000.

(L. 1996 S.B. 664 § 13, A.L. 1998 H.B. 1601, et al., A.L. 1999 H.B. 866 §§ 339.830, 1)

Effective 1-01-00

----- 339.830 1/1/2000 -----

339.840. Supersession of agency law, no limitation of civil actions. — Sections 339.710 to 339.860 shall supersede the common law of agency with respect to whom the fiduciary duties of an agent are owed in a real estate transaction. Sections 339.710 to 339.860 shall not be construed to limit civil actions for negligence, fraud, misrepresentation or breach of contract.

(L. 1996 S.B. 664 § 14)

Effective 9-01-97

----- 339.840 9/1/1997 -----

339.845. Notice of delinquent taxes to be sent by commission. — If the commission receives a notice of delinquent taxes from the director of revenue under the provisions of section 324.010 regarding a real estate broker or salesperson, the commission shall immediately send a copy of such notice to the real estate broker with which the real estate broker or salesperson is associated.

(L. 2010 H.B. 1692, et al. merged with S.B. 754)

----- 339.845 8/28/2010 -----

339.850. Rules and regulations, promulgation, authority. — Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated to administer and enforce sections 339.710 to 339.860, shall become effective only if the agency has fully complied with all of the requirements of chapter 536 including but not limited to, section 536.028, if applicable, after January 1, 1999. All rulemaking authority delegated prior to January 1, 1999, is of no force and effect and repealed as of January 1, 1999, however nothing

in this act* shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to January 1, 1999. If the provisions of section 536.028 apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act* shall affect the validity of any rule adopted and promulgated prior to January 1, 1999.

(L. 1996 S.B. 664 § 15, A.L. 1998 H.B. 1601, et al.)

Effective 1-01-99

*"This act" (H.B. 1601, et al., 1998) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

----- 339.850 1/1/1999 -----

339.855. Severability clause. — If any provision of sections 339.710 to 339.860 or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of sections 339.710 to 339.860 which can be given effect without the invalid provision or application and to such end the provisions of sections 339.710 to 339.860 are declared to be severable; however, nothing in this section shall be construed to affect the nonseverable grant of rulemaking authority in section 339.850.

(L. 1998 H.B. 1601, et al.)

Effective 1-01-99

----- 339.855 1/1/1999 -----

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History and Fun Facts

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