

The Law Relating to Licensing of Real Estate Brokers And Managing Brokers

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Chapter 18.85 RCW

REAL ESTATE BROKERS AND MANAGING BROKERS

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Real estate salesman or broker on commission not subject to unemployment compensation: RCW 50.04.230.

18.85.011 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advertising" means any attempt by publication or broadcast, whether oral, written, or otherwise, to induce a person to use the services of a real estate firm, broker, managing broker, or designated broker.

(2) "Broker" means a natural person acting on behalf of a real estate firm to perform real estate brokerage services under the supervision of a designated broker or managing broker.

(3) "Business opportunity" means and includes business, business entity, and good will of an existing business or any one or combination thereof when the transaction or business includes an interest in real property.

(4) "Clear and conspicuous" in an advertising statement means the representation or term being used is of such a color, contrast, size, or audibility, and presented in a manner so as to be readily noticed and understood.

(5) "Clock hours of instruction" means actual hours spent in classroom instruction in any tax supported, public technical college, community college, or any other institution of higher learning or a correspondence course from any of the aforementioned institutions certified by such institution as the equivalent of the required number of clock hours, and the real estate commission may certify courses of instruction other than in the aforementioned institutions.

(6) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include a single-family residential lot or single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are part of a larger building or parcel of real estate, unless the property is sold or leased for a commercial purpose.

(7) "Commission" means the real estate commission of the state of Washington.

(8) "Controlling interest" means the ability to control either the operational or financial, or both, decisions of a firm.

(9) "Department" means the Washington department of licensing.

(10) "Designated broker" means:

(a) A natural person who owns a sole proprietorship real estate firm; or

(b) A natural person with a controlling interest in the firm who is designated by a legally recognized business entity such as a corporation, limited liability company, limited liability partnership, or partnership real estate firm, to act as a designated broker on behalf of the real estate firm, and

whose managing broker's license receives an endorsement from the department of "designated broker."

(11) "Director" means the director of the department of licensing.

(12) "Inactive license" means the status of a license that is not expired and is not affiliated with a firm.

(13) "Licensee" means a person holding a license as a real estate firm, managing broker, or broker.

(14) "Managing broker" means a natural person acting on behalf of a real estate firm to perform real estate brokerage services under the supervision of the designated broker, and who may supervise other brokers or managing brokers licensed to the firm.

(15) "Person" includes a natural person, corporation, limited liability company, limited liability partnership, partnership, or public or private organization or entity of any character, except where otherwise restricted.

(16) "Real estate brokerage services" means any of the following services offered or rendered directly or indirectly to another, or on behalf of another for compensation or the promise or expectation of compensation, or by a licensee on the licensee's own behalf:

(a) Listing, selling, purchasing, exchanging, optioning, leasing, renting of real estate, or any real property interest therein; or any interest in a cooperative; or any interest in a floating home or floating on-water residence, as defined in RCW 90.58.270;

(b) Negotiating or offering to negotiate, either directly or indirectly, the purchase, sale, exchange, lease, or rental of real estate, or any real property interest therein; or any interest in a cooperative; or any interest in a floating home or floating on-water residence, as defined in RCW 90.58.270;

(c) Listing, selling, purchasing, exchanging, optioning, leasing, renting, or negotiating the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase, sale, lease, exchange, or rental of the land upon which the manufactured or mobile home is or will be located;

(d) Advertising or holding oneself out to the public by any solicitation or representation that one is engaged in real estate brokerage services;

(e) Advising, counseling, or consulting buyers, sellers, landlords, or tenants in connection with a real estate transaction;

(f) Issuing a broker's price opinion. For the purposes of this chapter, "broker's price opinion" means an oral or written report of property value that is prepared by a licensee under this chapter and is not an appraisal as defined in RCW 18.140.010 unless it complies with the requirements established under chapter 18.140 RCW;

(g) Collecting, holding, or disbursing funds in connection with the negotiating, listing, selling, purchasing, exchanging, optioning, leasing, or renting of real estate or any real property interest; and

(h) Performing property management services, which includes with no limitation: Marketing; leasing; renting; the physical, administrative, or financial maintenance of real property; or the supervision of such actions.

(17) "Real estate firm" or "firm" means a sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, or other legally recognized busi-

ness entity conducting real estate brokerage services in this state and licensed by the department as a real estate firm. [2015 c 133 § 1; 2008 c 23 § 1; 2003 c 201 § 1; 1998 c 46 § 2; 1997 c 322 § 1; 1987 c 332 § 1; 1981 c 305 § 1; 1979 c 158 § 68; 1977 ex.s. c 370 § 1; 1973 1st ex.s. c 57 § 1; 1972 ex.s. c 139 § 1; 1969 c 78 § 1; 1953 c 235 § 1; 1951 c 222 § 1; 1943 c 118 § 1; 1941 c 252 § 2; Rem. Supp. 1943 § 8340-25. Prior: 1925 ex.s. c 129 § 4. Formerly RCW 18.85.010.]

18.85.021 Real estate commission created—Qualifications, terms, appointment of members—Vacancies.

There is established the real estate commission of the state of Washington, consisting of the director who is the chair of the commission and six commission members who shall act in an advisory capacity to the director. The commission shall annually elect a vice chair to conduct the commission meetings in the absence of the director.

The governor must appoint six commission members for a term of six years each. At least two of the commission members shall be selected from the area in the state west of the Cascade mountain range and at least two shall be selected from that area of the state east of the Cascade mountain range. No commission member shall be appointed who has had less than five years' experience in performing real estate brokerage services in this state, or has had at least three years' experience in investigative work of a similar nature, preferably in connection with the administration of real estate license law of this state or elsewhere. The governor must fill by appointment any vacancies on the commission for the unexpired term. [2008 c 23 § 7; 1972 ex.s. c 139 § 6; 1953 c 235 § 17. Formerly RCW 18.85.071.]

18.85.025 Commission—Compensation and travel expenses—Frequency of meetings.

The six board members of the commission shall be compensated in accordance with RCW 43.03.240, plus travel expenses in accordance with RCW 43.03.050 and 43.03.060 when they are called into session by the director or when otherwise engaged in the business of the commission. The commission shall meet four times a year or at the call of the director. [2008 c 23 § 8; 1984 c 287 § 49; 1975-'76 2nd ex.s. c 34 § 49; 1953 c 235 § 4; 1951 c 222 § 6; 1941 c 252 § 14; Rem. Supp. 1941 § 8340-37. Formerly RCW 18.85.080.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.85.031 Commission—Educational conferences—Examinations of applicants for licenses.

The commission shall have authority to hold educational conferences for the benefit of the industry, and shall conduct examinations of applicants for licenses under this chapter. The commission shall ensure that examinations are prepared and administered at examination centers throughout the state and may approve examination locations in foreign jurisdictions. [2008 c 23 § 9; 1997 c 322 § 4; 1977 ex.s. c 24 § 1; 1953 c 235 § 18. Formerly RCW 18.85.085.]

18.85.035 Commission—Home inspector referrals—Procedures. The commission must establish procedures, to be adopted in rule by the director, for real estate agents to fol-

low when providing potential home buyers with home inspector referrals. [2008 c 119 § 24.]

18.85.041 Director—General powers and duties. (1)

The director, with the advice and approval of the commission, may issue rules to govern the activities of real estate brokers, managing brokers, designated brokers, and real estate firms, consistent with this chapter and chapters 18.86 and 18.235 RCW, fix the times and places for holding examinations of applicants for licenses, and prescribe the method of conducting them.

(2)(a) The director shall enforce all laws and rules relating to the licensing of real estate firms, brokers, managing brokers, and designated brokers, grant or deny licenses including temporary licenses to real estate firms, brokers, and managing brokers, and hold hearings.

(b) The director shall enforce all laws and rules relating to the issuance of certificates of approval to real estate schools, real estate school administrators and instructors, and approval of real estate education courses.

(3) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions and for reciprocity including the use of written recognition agreements.

(4) The director may issue rules requiring all applicants to submit to a criminal background check, and the applicant is responsible for the payment of any fees incurred.

(5) The director shall adopt rules and establish standards relating to permissible forms of clear and conspicuous advertising by licensees.

(6) The director shall institute a program of real estate education. The program may include courses at institutions of higher education in Washington, trade schools, private real estate schools, and preapproved forums and conferences. The program shall include establishing minimum levels of ongoing education for licensees relating to the practice of real estate under this chapter. The program may also include the development or implementation of curricula courses, educational materials, or approaches to education relating to real estate when required or approved for continuing education credit. The director may develop and provide educational programs and materials for members of the public. The director may enter into contracts with other persons or entities, whether publicly or privately owned or operated, to assist in developing or implementing the real estate education program.

(7) The director shall charge a fee for the certification of courses of instruction, instructors, and schools.

(8) The director may take disciplinary action against real estate schools and real estate school administrators and instructors based upon conduct, acts, or conditions prescribed by rule, and may impose any or all of the following sanctions and fines:

(a) Withdrawal of the certificate of approval;

(b) Suspension of the certificate of approval for a fixed or indefinite term;

(c) Stayed suspension for a designated period of time;

(d) Censure or reprimand;

(e) Payment of a fine for each violation not to exceed one thousand dollars per day per violation. Each day a violation

continues or occurs is a separate violation for purposes of imposing a penalty;

(f) Denial of an initial or renewal application for a certificate of approval; and

(g) Other corrective action. [2008 c 23 § 3; 2002 c 86 § 229; 1992 c 92 § 1; 1988 c 205 § 2; 1987 c 332 § 2; 1972 ex.s. c 139 § 3; 1953 c 235 § 2; 1951 c 222 § 3; 1941 c 252 § 4; Rem. Supp. 1941 § 8340-27. Prior: 1925 ex.s. c 129 § 2. Formerly RCW 18.85.040.]

Additional notes found at www.leg.wa.gov

18.85.045 Director's seal. The director shall adopt a seal with the words "real estate director, state of Washington," and such other device as the director may approve engraved thereon, by which the director shall authenticate the proceedings of the office. Copies of all records and papers in the office of the director certified to be true copies under the hand and seal of the director shall be received in evidence in all cases equally and with like effect as the originals. The director may authorize one or more assistants to certify records and papers. [2008 c 23 § 6; 1997 c 322 § 3; 1972 ex.s. c 139 § 5; 1941 c 252 § 8; RRS § 8340-31. Prior: 1925 ex.s. c 129 § 7. Formerly RCW 18.85.060.]

18.85.051 Publication of chapter—Distribution. The director may publish a copy of this chapter and information relative to the enforcement of this chapter and may mail a copy of this chapter and the information to each licensed broker, managing broker, and firm. [2008 c 23 § 27; 1997 c 322 § 16; 1972 ex.s. c 139 § 18; 1953 c 235 § 10; 1947 c 203 § 8; 1941 c 252 § 27; Rem. Supp. 1947 § 8340-50. Prior: 1925 ex.s. c 129 § 22. Formerly RCW 18.85.210.]

18.85.053 Controlling interest in a real estate business—Prohibited practices. (1) A real estate licensee or person who has a controlling interest in a real estate business shall not, directly or indirectly, give any fee, kickback, payment, or other thing of value to any other real estate licensee as an inducement, reward for placing title insurance business, referring title insurance business, or causing title insurance business to be given to a title insurance agent in which the real estate licensee or person having a controlling interest in a real estate business also has a financial interest.

(2) A real estate licensee or person who has a controlling interest in a real estate business shall not either solicit or accept, or both, anything of value from: A title insurance company, a title insurance agent, or the employees or representatives of a title insurance company or title insurance agent, that a title insurance company or title insurance agent is not permitted by law or rule to give to the real estate licensee or person who has a controlling interest in a real estate business.

(3) A real estate licensee or person who has a controlling interest in a real estate business shall not prevent or deter a title insurance company, title insurance agent, or their employees or representatives from delivering to a real estate licensee or its employees, independent contractors, and clients printed promotional material concerning only title insurance services as long as:

(a) The material is business appropriate and is not misleading or false;

(b) The material does not malign the real estate licensee, its employees, independent contractors, or affiliates;

(c) The delivery of the materials is limited to those areas of the real estate licensee's physical office reserved for unrestricted public access; and

(d) The conduct of the employees or representatives is appropriate for a business setting and does not threaten the safety or health of anyone in the real estate licensee's office.

(4) A real estate licensee shall not require a consumer, as a condition of providing real estate services, to obtain title insurance from a title insurance agent in which the real estate licensee has a financial interest. [2008 c 110 § 10.]

Severability—2008 c 110: See RCW 48.29.900.

18.85.061 License fees—Real estate commission account. All fees required under this chapter shall be set by the director in accordance with RCW 43.24.086 and shall be paid to the state treasurer. All fees paid under the provisions of this chapter shall be placed in the real estate commission account in the state treasury. All money derived from fines imposed under this chapter shall be deposited in the real estate education program account created in RCW 18.85.321. During the 2013-2015 fiscal biennium, the legislature may transfer to the state general fund such amounts as reflect the excess fund balance in the real estate commission account. [2013 2nd sp.s. c 4 § 955; 2008 c 23 § 29; 1993 c 50 § 1; 1991 c 277 § 1; 1987 c 332 § 8; 1967 c 22 § 1; 1953 c 235 § 11; 1941 c 252 § 7; Rem. Supp. 1941 § 8340-30. Formerly RCW 18.85.220.]

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

18.85.065 Employees. The director shall appoint adequate staff to assist him or her. [2008 c 23 § 2; 1997 c 322 § 2; 1972 ex.s. c 139 § 2; 1951 c 222 § 2; 1945 c 111 § 1, part; 1941 c 252 § 5, part; Rem. Supp. 1945 § 8340-28, part. Formerly RCW 18.85.030.]

18.85.075 Director and employees business interest prohibited. While employed with the department, the director and employees who administer, regulate, or enforce real estate laws and rules must relinquish interest in any real estate business regulated by this chapter. If any real estate licensee is employed by the director as an employee, the license of the broker, real estate firm, or managing broker is placed on inactive status and remains inactive until the cessation of employment with the director. [2008 c 23 § 4; 1972 ex.s. c 139 § 4; 1953 c 235 § 3; 1951 c 222 § 4; 1945 c 111 § 1, part; 1941 c 252 § 5, part; Rem. Supp. 1945 § 8340-28, part. Formerly RCW 18.85.050.]

18.85.081 Licensure of town, city, or county employees conducting real estate transactions. Persons licensed under this chapter who are employed by a town, city, or county, and who are conducting real estate transactions on behalf of the town, city, or county, may hold active licenses under this chapter, and their designated and managing brokers are not responsible for their real estate transactions on behalf of their town, city, or county employer. [2008 c 23 § 5; 1987 c 514 § 2. Formerly RCW 18.85.055.]

Additional notes found at www.leg.wa.gov

18.85.091 Firm license—Requirements. (1) The minimum requirements for a firm to receive a license are that the firm:

(a) Designates a managing broker as the "designated broker" who has authority to act for the firm, and provides the director with the name of the owner or owners or any others with a controlling interest in the firm;

(b) Assures that no person with controlling interest in the firm is the subject of a final departmental order, as provided in chapter 34.05 RCW, suspending or revoking any type of real estate license; and

(c) Does not adopt a name that is the same or similar to currently issued licenses or that implies the real estate firm is a nonprofit or research organization, or is a public bureau or group.

(2) An applicant for a real estate firm's license shall provide the director with:

(a) The firm name and unified business identifier number;

(b) Washington business mailing and street address, contact telephone number, if any, and a mailing and physical address for either the firm's trust account or business records location, or both;

(c) Internet home page site and business email address, if any;

(d) Application fee prescribed by the director; and

(e) Any other information the director may require.

(3) The firm must provide the following to the department for renewal of the firm's license:

(a) Renewal fee;

(b) Notice of any change in controlling interest for the firm; and

(c) Notice of any change in the firm's registration or certificate of authority filed with the secretary of state. [2008 c 23 § 10.]

18.85.101 Broker's license—Requirements—Renewal. (1) The minimum requirements for an individual to receive a broker's license are that the individual:

(a) Is eighteen years of age or older;

(b) Has a high school diploma or its equivalent;

(c) Except as provided in RCW 18.85.141, has furnished proof, as the director may require, that the applicant has successfully completed ninety hours of instruction in real estate. Instruction must include courses as prescribed by the director including fundamentals and practices. Each course must be completed within two years before applying for the broker's license examination and be approved by the director. The applicant must pass a course examination, approved by the director for each course used to satisfy the broker's license requirement; and

(d) Has passed the broker's license examination.

(2) The broker's license may be renewed upon completion of continuing education courses and payment of the renewal fee as prescribed by the director. The education requirements for the first renewal of the broker's license must include ninety hours of courses as prescribed by the director, including real estate law, advance practices, and continuing education.

(3) The broker is licensed to one firm at a time and is supervised by a designated or managing broker. [2008 c 23 § 11; 1994 c 291 § 1; 1985 c 162 § 1; 1972 ex.s. c 139 § 8; 1953 c 235 § 5; 1951 c 222 § 7; 1941 c 252 § 15; Rem. Supp. 1941 § 8340-38. Formerly RCW 18.85.090.]

Additional notes found at www.leg.wa.gov

18.85.111 Managing broker's license—Requirements—Renewal. (1) The minimum requirements for an individual to receive a managing broker's license are that the individual:

(a) Is eighteen years of age or older;

(b) Has a high school diploma or its equivalent;

(c) Has had a minimum of three years of licensed experience as a fulltime real estate broker in this state or in another jurisdiction having comparable requirements within the five years previous to applying for the managing broker's license examination or is otherwise qualified by reason of practical experience in a business allied with or related to real estate as prescribed by rule;

(d) Except as provided in RCW 18.85.141, has furnished proof, as the director may require, that the applicant has successfully completed ninety hours of instruction in real estate. Instruction must include courses as prescribed by the director including real estate brokerage management, business management, and advanced real estate law. The director may approve and accept other related education. Each course must be completed within three years before applying for the managing broker's license examination, be at least thirty clock hours, and be approved by the director. The applicant must pass a course examination, approved by the director for each course that is used to satisfy the managing broker's license requirement; and

(e) Has passed the managing broker's license examination.

(2) A managing broker's license may be renewed upon completion of continuing education courses and payment of the renewal fee as prescribed by the director.

(3) A managing broker can be licensed to one firm only at any one time. [2008 c 23 § 12.]

18.85.121 Designated brokers—Registration—Endorsements. (1) A designated broker must hold a license as a managing broker in accordance with RCW 18.85.111, and may act as a designated broker for more than one firm. The department shall register designated brokers.

(2) A managing broker for a firm must be registered to that firm as its designated broker if that managing broker accepts endorsements from other firms as their designated broker.

(3) Registered designated brokers must immediately notify the department of additional firms for which they serve as designated broker, and shall receive a printed endorsement on their managing broker's licenses indicating the names of all firms for which they serve as designated broker. [2008 c 23 § 13.]

18.85.131 Out-of-state licensees—Requirements in lieu of licensing. (1) Persons with licenses deemed equivalent to licenses held by Washington licensees, as determined by the director, for a fee, commission, or other valuable con-

sideration, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform those acts that require a license under this chapter, with respect to commercial real estate, provided that the out-of-state licensee, as approved by the director, does all of the following:

(a) Works in cooperation with a Washington real estate designated broker who holds a valid, active managing broker license issued under this chapter;

(b) Enters into a written agreement with the Washington firm, through its designated broker, that includes the terms of cooperation, oversight by the Washington designated broker, compensation, and a statement that the approved out-of-state licensee and its agents will agree to adhere to the laws of Washington;

(c) Furnishes the Washington designated broker with a copy of the out-of-state approved licensee's current license in good standing from any jurisdiction where the out-of-state approved licensee maintains an active real estate license;

(d) Consents to jurisdiction that legal actions arising out of the conduct of the approved out-of-state licensee or its agents may be commenced against the approved licensee in the court of proper jurisdiction of any county in Washington where the cause of action arises or where the plaintiff resides;

(e) Includes the name of the Washington broker, managing broker, or firm on all advertising in accordance with RCW 18.85.361(8); and

(f) Deposits all documentation required by this section and records and documents related to the transaction with the Washington broker, managing broker, or firm for a period of three years after the date the documentation is provided, or the transaction occurred, as appropriate.

(2) A person licensed in a jurisdiction where there is no legal distinction between a real estate broker license and a real estate salesperson license must meet the requirements of subsection (1) of this section before engaging in any activity described in this section that requires a real estate broker license in this state. [2008 c 23 § 47; 2003 c 201 § 2. Formerly RCW 18.85.560.]

18.85.141 Substitution of educational requirements—Rules. The director may allow for substitution of the clock-hour requirements in RCW 18.85.101(1)(c) and 18.85.111(1)(d), if the director makes a determination that the individual is otherwise and similarly qualified by reason of completion of equivalent educational coursework in any institution of higher education as defined in RCW 28B.10.016 or any degree-granting institution as defined in RCW 28B.85.010 approved by the director. The director shall establish, by rule, guidelines for determining equivalent educational coursework. [2008 c 23 § 14; 1994 c 291 § 4; 1987 c 332 § 18. Formerly RCW 18.85.097.]

Additional notes found at www.leg.wa.gov

18.85.151 Exemptions from licensing. This chapter shall not apply to:

(1) Any person who purchases or disposes of property and/or a business opportunity for that individual's own account, or that of a group of which the person is a member, and their employees;

(2) Any duly authorized attorney-in-fact acting under a power of attorney without compensation;

(3) An attorney-at-law in the performance of the practice of law;

(4) Any receiver, trustee in bankruptcy, executor, administrator, guardian, personal representative, or any person acting under the order of any court, selling under a deed of trust, or acting as trustee under a trust;

(5) Any secretary, bookkeeper, accountant, or other office personnel who does not engage in any conduct or activity specified in any of the definitions under RCW 18.85.011;

(6) Employees of towns, cities, counties, or governmental entities involved in an acquisition of property for right-of-way, eminent domain, or threat of eminent domain;

(7) Only with respect to the rental or lease of individual storage space, any person who owns or manages a self-service storage facility as defined under chapter 19.150 RCW;

(8) Any person providing referrals to licensees who is not involved in the negotiation, execution of documents, or related real estate brokerage services, and compensation is not contingent upon receipt of compensation by the licensee or the real estate firm;

(9) Certified public accountants if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest;

(10) Any natural persons or entities including title or escrow companies, escrow agents, attorneys, or financial institutions acting as escrow agents if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest;

(11) Investment counselors if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest;

(12) Common interest community managers who, in an advisory capacity and for compensation or in expectation of compensation, provide management or financial services, negotiate agreements to provide management or financial services, or represent themselves as providing management or financial services to an association governed by chapter 64.32, 64.34, or 64.38 RCW, if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest. This subsection (12) applies regardless of whether a common interest community manager acts as an independent contractor to, employee of, general manager or executive director of, or agent of an association governed by chapter 64.32, 64.34, or 64.38 RCW; and

(13) Any person employed or retained by, for, or on behalf of the owner or on behalf of a designated or managing broker if the person is limited in property management to any of the following activities:

(a) Delivering 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 the real estate firm or owner;

(c) Showing a rental unit to any person, or executing leases or rental agreements, and the employee or retaineer is acting under the direct instruction of the owner or designated or managing broker;

(d) Providing information about a rental unit, a lease, an application for lease, or a security deposit and rental amounts to any prospective tenant; or

(e) Assisting in the performance of property management functions by carrying out administrative, clerical, financial, or maintenance tasks. [2012 c 126 § 1; 2008 c 23 § 16; 1997 c 322 § 7; 1989 c 161 § 1; 1988 c 240 § 20; 1977 ex.s. c 370 § 9; 1972 ex.s. c 139 § 10; 1951 c 222 § 9; 1941 c 252 § 3; Rem. Supp. 1941 § 8340-26. Prior: 1925 ex.s. c 129 § 4. Formerly RCW 18.85.110.]

Additional notes found at www.leg.wa.gov

18.85.171 Applications—Conditions—Fees. (1) A person desiring a license as a real estate firm shall apply on a form prescribed by the director. A person desiring a license as a real estate broker or managing broker must pay an examination fee and pass an examination. The person shall apply for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

(a) Furnish other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, which may include fingerprints and criminal background checks, of any applicants for a license, or of the officers of a corporation, limited liability company, other legally recognized business entity, or the partners of a limited liability partnership or partnership, making the application;

(b) If the applicant is a corporation, furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is a foreign corporation, the applicant shall furnish a certified copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a limited liability company or other legally recognized business entity, the applicant shall furnish a list of the members and managers of the company and their addresses. If the applicant is a limited liability partnership or partnership, the applicant shall furnish a list of the partners thereof and their addresses;

(c) Unless the applicant is a corporation or limited liability company, complete a fingerprint-based background check through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant must submit the fingerprints and required fee for the background check to the director for submission to the Washington state patrol. The director may consider the recent issuance of a license that required a fingerprint-based national criminal information background check, or recent employment in a position that required a fingerprint-based national criminal information background check, in addition to fingerprints to accelerate the licensing and endorsement process. The director may adopt rules to establish a procedure to allow a person covered by this section to have the person's background rechecked under this subsection upon application for a renewal license.

(2) The director must develop by rule a procedure and schedule to ensure all applicants for licensure have a fingerprint and background check done on a regular basis. [2008 c 23 § 17; 1997 c 322 § 8; 1987 c 332 § 4; 1980 c 72 § 1; 1979 c 25 § 1. Prior: 1977 ex.s. c 370 § 3; 1977 ex.s. c 24 § 2; 1973 1st ex.s. c 42 § 1; 1953 c 235 § 6; 1951 c 222 § 10. Formerly:

(i) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11. (ii) 1947 c 203 § 3; 1945 c 111 § 6; 1941 c 252 § 16; Rem. Supp. 1947 § 8340-39. Formerly RCW 18.85.120.]

18.85.181 Examinations—Sample questions—Scope—Moneys from sale. The director shall provide each original applicant for an examination a sample list of questions and answers pertaining to real estate law and the operation of the business and may provide the same at cost to any licensee or to other members of the public. The director shall ascertain by written examination, that each applicant has:

- (1) An appropriate knowledge of the English language, including reading, writing, and mathematics;
- (2) An understanding of the principles of conveying real estate and the general purposes and legal effect of deeds, finance contracts, and leases;
- (3) An understanding of the principles of real estate investment, property valuation, and appraisals;
- (4) An understanding of real estate broker agency relationships;
- (5) An understanding of the principles of real estate practice and the canons of business ethics pertaining thereto; and
- (6) An understanding of the provisions of chapters 18.86 and 18.235 RCW and this chapter.

The examination for real estate managing brokers shall be more exacting than that for real estate brokers.

All moneys received for the sale of educational literature to licensees and members of the public shall be placed in the real estate commission fund. [2008 c 23 § 18; 1997 c 322 § 9; 1972 ex.s. c 139 § 11; 1951 c 222 § 11. Formerly: 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340-35, part. Formerly RCW 18.85.130.]

18.85.191 License fees—Expiration—Renewal—Identification cards—Background checks. Before receiving a license, every real estate broker, managing broker, and firm must pay a license fee as prescribed by the director by rule. A license issued under the provisions of this chapter expires two years from the issuance date. Licenses issued to real estate firms that are partnerships, limited liability partnerships, limited liability companies, corporations, and other legally recognized business entities expire on the date when the registration or certificate of authority filed with the secretary of state expires. Licenses must be renewed every two years on or before the date established under this section and a biennial renewal license fee as prescribed by the director by rule must be paid. A license is considered expired when the licensee fails to meet the renewal requirements as of the date of renewal for that license.

If the director does not receive the application for a renewal license on or before the renewal date, a penalty fee as prescribed by the director by rule shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of a person whose license renewal fee is not received within one year from the date of expiration is canceled. This person may obtain a new license by satisfying the

procedures and requirements as prescribed by the director by rule.

The director may issue to each active licensee a license and a pocket identification card in the form and size as prescribed by rule.

The director must develop by rule a procedure and a schedule to ensure all active licensees and licensees applying for active status, renewal, or reinstatement have a fingerprint and background check done on a regular basis. [2008 c 23 § 19; 1997 c 322 § 10; 1991 c 225 § 2; 1989 c 161 § 2; 1987 c 332 § 5; 1979 c 25 § 2. Prior: 1977 ex.s. c 370 § 4; 1977 ex.s. c 24 § 3; 1972 ex.s. c 139 § 12; 1953 c 235 § 7; 1951 c 222 § 12. Formerly: (i) 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 834035, part. (ii) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 834034, part; prior: 1925 ex.s. c 129 §§ 10, 11. Formerly RCW 18.85.140.]

Additional notes found at www.leg.wa.gov

18.85.201 Responsibility for conduct of subordinates. Responsibility for any real estate broker, managing broker, or branch manager in conduct covered by this chapter shall rest with the designated broker to which such licensees shall be licensed.

In addition to the designated broker, a branch manager shall bear responsibility for brokers and managing brokers operating under the branch manager at a branch office. [2008 c 23 § 20; 1997 c 322 § 12; 1977 ex.s. c 370 § 6; 1972 ex.s. c 139 § 14. Formerly RCW 18.85.155.]

18.85.211 Licenses—Renewal—Continuing education. All real estate brokers and managing brokers shall furnish proof as prescribed by rule of the director that they have successfully completed at least the required minimum number of thirty clock hours of instruction every two years in real estate courses approved by the director to renew their licenses. The director may adopt rules to limit the number of hours of distance education courses that may be used for license renewal. Up to fifteen clock hours of instruction in excess of the required thirty clock hours acquired within the immediately preceding two-year period may be carried forward for credit in a subsequent two-year period. Examinations shall not be required to fulfill any part of the education requirement in this section. [2008 c 23 § 22; 1997 c 322 § 13; 1991 c 225 § 1; 1988 c 205 § 1. Formerly RCW 18.85.165.]

18.85.221 Licenses—Names—Restrictions as to use. No license issued under the provisions of this chapter shall authorize any person other than the person named on the license to do any act by virtue thereof nor to operate in any other manner than under the name appearing on the license. A real estate firm has the option to utilize one or more assumed names in the conduct and operation of the firm's real estate business. However, before using a name other than that appearing on the license, the firm must obtain a separate license for each and every additional assumed name. All real estate brokerage services shall be conducted in the name of the real estate firm or its licensed assumed name or names. [2008 c 23 § 23; 1997 c 322 § 14; 1972 ex.s. c 139 § 16; 1951 c 222 § 14; 1945 c 111 § 2; 1941 c 252 § 10; Rem. Supp. 1945

§ 8340-33. Prior: 1925 ex.s. c 129 § 9. Formerly RCW 18.85.170.]

18.85.231 Licenses—Office or records depositories required—Record maintenance and production. Every licensed real estate firm must have and maintain an office or records depositories accessible in this state to representatives of the director. The firm must maintain and produce a complete set of records as required by this chapter. The director may prescribe rules for alternative and electronic record storage. [2008 c 23 § 24; 1997 c 322 § 15; 1957 c 52 § 41; 1951 c 222 § 15. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.180.]

18.85.241 Licenses—Branch office. A designated broker may apply to the director for authority to establish one or more branch offices under the same name as the real estate firm upon the payment of a fee as prescribed by the director by rule. The director shall issue a duplicate license for each of the branch offices showing the location of the real estate firm and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. Each branch office shall be required to have a branch manager who shall be a managing broker authorized by the designated broker to perform the duties of a branch manager.

A branch office license shall not be required where real estate sales activity is conducted on and, limited to a particular subdivision or tract, if a licensed office or branch office is located within thirty-five miles of the subdivision or tract. [2008 c 23 § 25; 1989 c 161 § 3; 1987 c 332 § 6; 1977 ex.s. c 24 § 5; 1972 ex.s. c 139 § 17; 1957 c 52 § 42. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.190.]

18.85.255 Licenses—Change of location. A designated broker, managing broker, or firm shall give notice in writing to the director of any change of that licensee's business or records depository location. Upon the surrender of the original license for the business and a payment of a fee as prescribed by the director by rule, the director shall issue a new license covering the new location. [2008 c 23 § 26; 1987 c 332 § 7; 1971 ex.s. c 266 § 17; 1957 c 52 § 43. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.200.]

18.85.265 Inactive licenses. (1) Any license issued under this chapter and not otherwise revoked is deemed "inactive" at any time it is delivered to the director. Until reissued under this chapter, the holder of an inactive license is prohibited from conducting real estate brokerage services.

(2) An inactive license may be renewed on the same terms and conditions as an active license, except that a person with an inactive license need not comply with the education requirements of RCW 18.85.101(1)(c) or 18.85.211. Failure to renew shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with this chapter and the rules adopted pursuant thereto. If a holder has an inactive license for more than three years, the holder must show proof of successfully completing a thirty clock hour course in real estate within one year before the application for active status. Holders employed by the state and conducting real estate transactions on behalf of the state are exempt from this course requirement.

(4) The provisions of this chapter relating to the denial, suspension, and revocation of a license are applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [2008 c 23 § 28; 1994 c 291 § 3; 1988 c 205 § 4. Prior: 1987 c 514 § 1; 1987 c 332 § 17; 1985 c 162 § 4; 1977 ex.s. c 370 § 8. Formerly RCW 18.85.215.]

Additional notes found at www.leg.wa.gov

18.85.275 Designated broker or managing broker—Authority and duties. (1) The designated broker or managing broker shall supervise the conduct of brokers and managing brokers for compliance with this chapter, chapter 18.235 RCW, and RCW 18.86.030.

(2) Listings, transactions, management agreements, and other contracts relating to providing brokerage services are property of the real estate firm. Brokers shall timely deliver to their appointed managing broker all funds and records required to be held or maintained by the real estate firm. A managing broker is responsible for such funds and records only after they are received from the broker. A managing broker shall timely deliver to the designated broker all funds and records required to be held or maintained by the real estate firm. The designated broker is responsible for such funds and records only after they are received from the managing broker or broker.

(3) The designated broker may delegate by written agreement the duties of safe handling of client funds, maintenance of trust accounts, and transaction and trust account records, along with supervision of brokers, to a managing broker licensed to the firm. The designated broker shall maintain a record of the firm's managing brokers and delegations to managing brokers.

(4) The designated broker or the designated broker's delegate has the authority to amend, modify, bind, create, rescind, terminate, or release real estate brokerage service contracts on behalf of the real estate firm. The designated broker has the authority to accept new or transferred licensees to represent the real estate firm.

(5) A broker who supervises or exercises right of control over other brokers in the performance of real estate brokerage services must be licensed as a managing broker.

(6) During the first two years of a broker's licensure, a managing broker must provide a heightened level of supervision as provided by rule of the director. [2008 c 23 § 21.]

18.85.285 Transactions and recordkeeping—Trust accounts—Requirements. (1) Brokers and managing brokers must submit complete copies of their transactions to

their firm. The designated broker shall keep adequate records of all real estate transactions handled by or through the firm or firms to which the designated broker is registered. The records shall include, but are not limited to, a copy of the purchase and sale agreement, earnest money receipt, and an itemization of the receipts and disbursements with each transaction. These records and all other records specified by the director by rule are open to inspection by the director or the director's authorized representatives.

(2) If any licensee exercises control over real estate transaction funds, those funds are considered trust funds.

(3) Every real estate licensee shall deliver or cause to be delivered to all parties signing the same, within a reasonable time after signing, purchase and sale agreements, listing agreements, and all other like or similar instruments signed by the parties.

(4) Every real estate firm that keeps separate real estate trust fund accounts must keep the accounts in a recognized Washington state depository. A real estate firm must maintain an adequate amount of funds in the trust fund accounts to facilitate the opening of the trust fund accounts or to prevent the closing of the trust fund accounts.

(5) All licensees shall keep separate and apart and physically segregated from the licensees' own funds, all funds or moneys including advance fees of clients that are being held by the licensees pending the closing of a real estate sale or transaction, or that have been collected for the clients and are being held for disbursement for or to the clients.

(6) A firm is not required to maintain a trust fund account for transactions concerning a purchase and sale agreement that instructs the broker to deliver the earnest money check directly to a named closing agent or to the seller.

(7) Brokers must deposit all funds into their firm's trust bank account the next banking day following receipt of the funds unless the purchase and sale agreement provides for deferred deposit or delivery. In that event, the broker must promptly deposit or deliver funds in accordance with the terms of the purchase and sale agreement.

(8)(a) If a real estate broker receives or maintains earnest money or client funds for deposit, the real estate firm shall maintain a pooled interest-bearing trust account for deposit of client funds, with the exception of property management trust accounts.

(b) The interest accruing on this account, net of any reasonable and appropriate financial institution service charges or fees, shall be paid to the state treasurer for deposit in the Washington housing trust fund created in RCW 43.185.030 and the real estate education program account created in RCW 18.85.321. Appropriate service charges or fees are those charges made by financial institutions on other demand deposit or "now" accounts. The firm or designated broker is not required to notify the client of the intended use of the funds.

(c) The department shall adopt rules that will serve as guidelines in the choice of an account specified in this subsection.

(9) If trust funds are claimed by more than one party, the designated broker or designated broker's delegate must promptly provide written notification to all contracting parties to a real estate transaction of the intent of the designated broker or designated broker's delegate to disburse client

funds. The notification must include the names and addresses of all parties to the contract, the amount of money held and to whom it will be disbursed, and the date of disbursement that must occur no later than thirty consecutive days after the notification date.

(10) For an account created under subsection (8) of this section, the designated or managing broker shall direct the depository institution to:

(a) Remit interest or dividends, net of any reasonable and appropriate service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the state treasurer for deposit in the housing trust fund created by RCW 43.185.030 and the real estate education program account created in RCW 18.85.321; and

(b) Transmit to the *director of community, trade, and economic development a statement showing the name of the person or entity for whom the remittance is spent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of the statement to be transmitted to the depositing person or firm.

(11) The *director of community, trade, and economic development shall forward a copy of the reports required by subsection (10) of this section to the department to aid in the enforcement of the requirements of this section consistent with the normal enforcement and auditing practices of the department.

(12)(a) This section does not relieve any real estate broker, managing broker, or firm of any obligation with respect to the safekeeping of clients' funds.

(b) Any violation by real estate brokers, managing brokers, or firms of any of the provisions of this section, RCW 18.85.361, or chapter 18.235 RCW is grounds for disciplinary action against the licenses issued to the brokers, managing brokers, or firms. [2008 c 23 § 37; 1999 c 48 § 1; 1995 c 399 § 7; 1993 c 50 § 2; 1988 c 286 § 2; 1987 c 513 § 1; 1957 c 52 § 44; 1953 c 235 § 13; 1951 c 222 § 19. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.310.]

*Reviser's note: The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

18.85.291 Brokers and managing brokers—Termination of affiliation with firm—Notice. The licenses of a real estate broker and managing broker shall be kept at all times by their firm and when real estate brokers or managing brokers cease to represent the firm, their licenses shall cease to be in force. Brokers and managing brokers must submit written notification to the designated broker for their firm when they terminate affiliation with their firm. The firm, through the designated broker, shall give notice to the director and such notice shall be accompanied by and include the surrender of the broker's or managing broker's license. Failure of any designated broker for the firm to promptly notify the director of a broker's or managing broker's termination after demand by the affected broker or managing broker shall be grounds for disciplinary action against the firm and designated broker. Upon application of the broker or managing

broker, and the payment of a fee as prescribed by the director by rule, the director shall issue a new license for the unexpired term, if the broker or managing broker is otherwise entitled thereto. When the firm terminates a broker's or managing broker's services for a violation of this chapter, or chapter 18.86 or 18.235 RCW, the firm shall immediately file a written statement of the facts in reference thereto with the director. [2008 c 23 § 40; 1987 c 332 § 14; 1953 c 235 § 14; 1947 c 203 § 7; 1943 c 118 § 7; 1941 c 252 § 26; Rem. Supp. 1947 § 8340-49. Prior: 1925 ex.s. c 129 § 21. Formerly RCW 18.85.320.]

18.85.301 Sharing commissions. (1) Except under subsection (4) of this section, it is unlawful for any licensed firm, broker, or managing broker to pay any part of the licensee's commission or other compensation to any person who performs real estate brokerage services and who is not a licensed firm, real estate broker, or managing broker in any state of the United States or its possessions or any foreign jurisdiction with a real estate regulatory program.

(2) Except under subsection (4) of this section, it is unlawful for any licensed real estate firm to pay any part of the firm's commission from brokerage services or other compensation to a real estate broker or managing broker not licensed to do business for the firm.

(3) Except under subsection (4) of this section, it is unlawful for licensed brokers or managing brokers to pay any part of their commission from brokerage services or other compensation to any person, whether licensed or not, except through the firm's designated broker.

(4) A commission may be shared with a manufactured housing retailer, licensed under chapter 46.70 RCW, on the sale of personal property manufactured housing sold in conjunction with the sale or lease of land. [2008 c 23 § 41; 1998 c 46 § 3; 1997 c 322 § 20; 1953 c 235 § 15; 1943 c 118 § 6; 1941 c 252 § 24; Rem. Supp. 1943 § 8340-47. Formerly RCW 18.85.330.]

18.85.311 Distribution of interest from brokers' trust accounts. Remittances received by the state treasurer pursuant to RCW 18.85.285 shall be divided between the housing trust fund created by RCW 43.185.030, which shall receive seventy-five percent and the real estate education program account created by RCW 18.85.321, which shall receive twenty-five percent. [2008 c 23 § 38; 1993 c 50 § 3; 1987 c 513 § 9. Formerly RCW 18.85.315.]

Additional notes found at www.leg.wa.gov

18.85.321 Real estate education program account. The real estate education program account is created in the custody of the state treasurer. All moneys received for credit to this account pursuant to RCW 18.85.311 and all moneys derived from fines imposed under this chapter shall be deposited into the account. Expenditures from the account may be made only upon the authorization of the director or a duly authorized representative of the director, and may be used only for the purposes of carrying out the director's programs for education of real estate licensees, others in the real estate industry, and members of the public as described in RCW 18.85.041(6). All expenses and costs relating to the implementation or administration of, or payment of contract fees or

charges for, the director's real estate education programs may be paid from this account. The account is subject to appropriation under chapter 43.88 RCW. [2008 c 23 § 39; 1997 c 322 § 19; 1993 c 50 § 4. Formerly RCW 18.85.317.]

Additional notes found at www.leg.wa.gov

18.85.331 License required—Prerequisite to suit for commission. It is unlawful for any person to act as a real estate broker, managing broker, or real estate firm without first obtaining a license therefor, and otherwise complying with the provisions of this chapter.

No suit or action shall be brought for the collection of compensation as a real estate broker, real estate firm, managing broker, or designated broker, without alleging and proving that the plaintiff was a duly licensed real estate broker, managing broker, or real estate firm before the time of offering to perform any real estate transaction or procuring any promise or contract for the payment of compensation for any contemplated real estate transaction. [2008 c 23 § 15; 1997 c 322 § 6; 1972 ex.s. c 139 § 9; 1951 c 222 § 8. Formerly: (i) 1941 c 252 § 6; Rem. Supp. 1941 § 8340-29. (ii) 1941 c 252 § 25; Rem. Supp. 1941 § 8340-48. Formerly RCW 18.85.100.]

18.85.341 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any natural person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Before the suspension, the agency must provide the individual an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The individual's license shall not be reissued until the individual provides the director a written release issued by the lending agency stating that the individual is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the individual has continued to meet all other requirements for licensure during the suspension, reinstatement is automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [2008 c 23 § 30; 1996 c 293 § 14. Formerly RCW 18.85.225.]

Additional notes found at www.leg.wa.gov

18.85.351 License suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend the license of any broker or managing broker who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as an individual who is not in compliance with a support order or a visitation order. If the individual has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the director's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order. [2008 c 23 § 31; 1997 c 58 § 826. Formerly RCW 18.85.227.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.85.361 Disciplinary action—Grounds. In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action against any person engaged in the business or acting in the capacity of a real estate broker, managing broker, designated broker, or real estate firm, regardless of whether the transaction was for the person's own account or in a capacity as broker, managing broker, designated broker, or real estate firm, and may impose any of the sanctions and fines specified in RCW 18.235.110 for any holder or applicant who is guilty of:

(1) Violating any of the provisions of this chapter or any lawful rules made by the director pursuant thereto or violating a provision of chapter 64.36, 19.105, or 18.235 RCW or RCW 18.86.030 or the rules adopted under those chapters or section;

(2) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions, or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(3) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(4) Accepting the services of, or continuing in a representative capacity, any broker or managing broker who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(5) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to the person's own use or to the use of that person's principal or of any other person, when delivered in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract, or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, is prima facie evidence of such conversion;

(6) Failing, upon demand, to disclose any information within the person's knowledge, or to produce any document, book, or record in the person's possession for inspection by the director or the director's authorized representatives acting by authority of law;

(7) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(8) Advertising in any manner without including the real estate firm's name or assumed name as licensed in a clear and conspicuous manner in the advertisement; except, that real estate brokers, managing brokers, or firms advertising their personally owned real property must only disclose that they hold a real estate license;

(9) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner before

the owner's acceptance of the offer to purchase, and such fact is shown in the purchase and sale agreement;

(10) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure in writing of all the facts to all the parties interested in the transaction;

(11) Accepting, taking, or charging any undisclosed commission, rebate, or direct profit on expenditures made for the principal;

(12) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(13) Issuing a report on any real property in which the broker, managing broker, or real estate firm has an interest unless that interest is clearly stated in the report;

(14) Misrepresentation of membership in any state or national real estate association;

(15) Discrimination against any person in hiring or in real estate brokerage service activity, on the basis of any of the provisions of any local, county, state, or federal antidiscrimination law;

(16) Failing to keep an escrow or trustee account of funds deposited relating to a real estate transaction, for a period of three years, showing to whom paid, and other pertinent information as the director may require, such records to be available to the director, or the director's representatives, on demand, or upon written notice given to the bank;

(17) In the case of a firm and its designated broker, failing to preserve records relating to any real estate transaction for three years following the submission of the records to the firm;

(18) Failing to furnish a copy of any listing, sale, lease, or other contract relevant to a real estate transaction to all signatories thereof within a reasonable time following execution;

(19) In the case of a broker or managing broker, acceptance of a commission or any valuable consideration for the performance of any acts specified in this chapter, from any person, except the licensed real estate firm with whom the broker or managing broker is licensed;

(20) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing the expectation to his or her principal;

(21) Buying, selling, or leasing directly, or through a third party, any interest in real property without disclosing in writing that the person is a real estate licensee;

(22) In the case of real estate firms, and managing and designated brokers, failing to exercise adequate supervision over the activities of their brokers and managing brokers within the scope of this chapter;

(23) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness, or incompetence;

(24) Acting as a vehicle dealer, as defined in RCW 46.70.011, without having a license to do so; or

(25) Failing to ensure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile or manufactured home as a broker, managing or designated broker, or firm. [2008 c 23 § 32; 2002 c 86 § 230;

1999 c 46 § 1; 1997 c 322 § 17; 1996 c 179 § 18; 1990 c 85 § 1; 1988 c 205 § 5. Prior: 1987 c 370 § 15; 1987 c 332 § 9; 1979 c 25 § 4; prior: 1977 ex.s. c 261 § 1; 1977 ex.s. c 204 § 1; 1972 ex.s. c 139 § 19; 1967 c 22 § 3; 1953 c 235 § 12; 1951 c 222 § 16; 1947 c 203 § 5; 1945 c 111 § 8; 1943 c 118 § 5; 1941 c 252 § 19; Rem. Supp. 1947 § 8340-42; prior: 1925 ex.s. c 129 § 13. Formerly RCW 18.85.230.]

False advertising: Chapter 9.04 RCW.

Obstructing justice: Chapter 9A.72 RCW.

Additional notes found at www.leg.wa.gov

18.85.370 Disciplinary action—Director's delegation of authority. The director may authorize one or more assistants to perform the director's duties with reference to disciplinary action. [2008 c 23 § 33; 1988 c 205 § 6; 1987 c 332 § 10; 1957 c 52 § 45. Prior: 1945 c 111 § 9, part; 1941 c 252 § 20, part; 1925 ex.s. c 129 § 14, part; Rem. Supp. 1945 § 8340-43, part. Formerly RCW 18.85.240.]

18.85.380 Disciplinary action—Hearing—Conduct of. The hearing officer shall cause a transcript of all adjudicative proceedings to be kept by a reporter and shall upon request after completion thereof, furnish a copy of the transcript to the licensed person or applicant accused in the proceedings at the expense of the licensee or applicant. The hearing officer shall certify the transcript of proceedings to be true and correct. If the director finds that the statement or accusation is not proved by a fair preponderance of evidence, the director shall notify the licensee or applicant and the person making the accusation and shall dismiss the case. [2008 c 23 § 34; 2002 c 86 § 231; 1987 c 332 § 12; 1951 c 222 § 24. Formerly RCW 18.85.261.]

Additional notes found at www.leg.wa.gov

18.85.390 Disciplinary action—Order—Appeal. If the director decides, after an adjudicative hearing, that the evidence supports the accusation by a preponderance of evidence, the director may impose sanctions authorized under RCW 18.85.041. In such event the director shall enter an order to that effect and shall file the same in the director's office and immediately mail a copy to the affected party at the address of record with the department. Upon instituting appeal in the superior court, the appellant shall give a cash bond to the state of Washington, which bond shall be filed with the clerk of the court, in the sum of one thousand dollars to be approved by the judge of said court, conditioned to pay all costs that may be awarded against an appellant in the event of an adverse decision, the bond and notice to be filed within thirty days from the date of the director's decision. [2008 c 23 § 35; 2002 c 86 § 232; 1989 c 175 § 66; 1988 c 205 § 8; 1987 c 332 § 13; 1972 ex.s. c 139 § 20; 1951 c 222 § 25. Formerly RCW 18.85.271.]

Additional notes found at www.leg.wa.gov

18.85.401 Appeal—Transcript—Cost. The director shall prepare at appellant's expense and shall certify a transcript of the whole record of all matters involved in the appeal, which the director shall deliver to the court in which the appeal is pending. The appellant is notified of the filing of the transcript and the cost thereof and shall within fifteen days thereafter pay the cost of said transcript. If the cost is not

paid in full within fifteen days the appeal is dismissed. [2008 c 23 § 36; 1997 c 322 § 18; 1951 c 222 § 26. Formerly RCW 18.85.281.]

18.85.411 Violations—Penalty. Any person acting as a real estate broker, managing broker, or real estate firm, without a license, or violating any of the provisions of this chapter, is guilty of a gross misdemeanor. [2008 c 23 § 42; 1997 c 322 § 21; 1951 c 222 § 20; 1941 c 252 § 23; Rem. Supp. 1941 § 8340-46. Prior: 1925 ex.s. c 129 § 17. Formerly RCW 18.85.340.]

18.85.420 Attorney general as legal advisor. The attorney general shall give the director opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the director, and shall act as attorney for the director in all actions and proceedings brought by or against the director under or pursuant to any provisions of this chapter. [2008 c 23 § 43; 1997 c 322 § 23; 1941 c 252 § 9; Rem. Supp. 1941 § 8340-32. Prior: 1925 ex.s. c 129 § 8. Formerly RCW 18.85.345.]

18.85.430 Enforcement provisions. The director may refer a complaint for violation of any section of this chapter before any court of competent jurisdiction.

The prosecuting attorney of each county shall prosecute any violation of the provisions of this chapter that occurs in the prosecuting attorney's county, and if the prosecuting attorney fails to act, the director may request the attorney general to take action in lieu of the prosecuting attorney.

Process issued by the director shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record, or may be mailed by certified mail, return receipt requested, to the licensee's last business address of record in the office of the director.

Whenever the director believes from evidence satisfactory to the director that a person has violated any of the provisions of this chapter, or any order, license, decision, demand or requirement, or any part or provision thereof, the director may bring an action, in the superior court in the county wherein the person resides, to enjoin that person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof. In this action an order or judgment may be entered awarding a preliminary or final injunction as may be proper.

The director may petition the superior court in any county in this state for the immediate appointment of a receiver to take over, operate or close any real estate office in this state which is found, upon inspection of its books and records to be operating in violation of the provisions of this chapter, pending a hearing. [2008 c 23 § 44; 1997 c 322 § 24; 1967 c 22 § 2; 1957 c 52 § 48; 1953 c 235 § 16. Prior: (i) 1941 c 252 § 21, part; Rem. Supp. 1941 § 8340-44, part. (ii) 1947 c 203 § 6; 1941 c 252 § 22; Rem. Supp. 1947 § 8340-45. Formerly RCW 18.85.350.]

18.85.440 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of

licensees under this chapter. [2002 c 86 § 233. Formerly RCW 18.85.550.]

Additional notes found at www.leg.wa.gov

18.85.451 Fee assessed. (Expires September 30, 2025.)

(1) A fee of ten dollars is created and shall be assessed on each real estate broker and managing broker's original license and upon each renewal of a license with an expiration date after October 1, 1999, including renewals of inactive licenses.

(2) This section expires September 30, 2025. [2015 c 175 § 1; 2010 c 156 § 1; 2008 c 23 § 45; 2005 c 185 § 1; 1999 c 192 § 1. Formerly RCW 18.85.520.]

Effective date—2010 c 156: "This act takes effect July 1, 2010." [2010 c 156 § 4.]

18.85.461 Washington real estate research account—Creation. (Expires September 30, 2025.) (1) The Washington real estate research account is created in the state treasury. All receipts from the fee under RCW 18.85.451 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 18.85.471.

(2) This section expires September 30, 2025. [2015 c 175 § 2; 2010 c 156 § 2; 2008 c 23 § 46; 2005 c 185 § 2; 1999 c 192 § 2. Formerly RCW 18.85.530.]

Effective date—2010 c 156: See note following RCW 18.85.451.

18.85.471 Real estate research center—Purpose. (Expires September 30, 2025.) (1) The purpose of a real estate research center in Washington state is to provide credible research, value-added information, education services, and project-oriented research to real estate licensees, real estate consumers, real estate service providers, institutional customers, public agencies, and communities in Washington state and the Pacific Northwest region. The center may:

(a) Conduct studies and research on affordable housing and strategies to meet the affordable housing needs of the state;

(b) Conduct studies in all areas directly or indirectly related to real estate and urban or rural economics and economically isolated communities;

(c) Disseminate findings and results of real estate research conducted at or by the center or elsewhere, using a variety of dissemination media;

(d) Supply research results and educational expertise to the Washington state real estate commission to support its regulatory functions, as requested;

(e) Prepare information of interest to real estate consumers and make the information available to the general public, universities, or colleges, and appropriate state agencies;

(f) Encourage economic growth and development within the state of Washington;

(g) Support the professional development and continuing education of real estate licensees in Washington;

(h) Study and recommend changes in state statutes relating to real estate; and

(i) Develop a vacancy rate standard for low-income housing in the state.

(2) The director shall establish a memorandum of understanding with an institution of higher learning that establishes

a real estate research center for the purposes under subsection (1) of this section.

(3) This section expires September 30, 2025. [2015 c 175 § 3; 2010 c 156 § 3; 2005 c 185 § 3; 2002 c 294 § 5; 1999 c 192 § 3. Formerly RCW 18.85.540.]

Effective date—2010 c 156: See note following RCW 18.85.451.

Findings—2002 c 294: See note following RCW 36.22.178.

18.85.481 Changes in licensing categories—Effect on status of proceedings, existing rules, forms, and licenses.

(1) The changes made by chapter 23, Laws of 2008 regarding the licensing categories do not affect the status of a complaint, investigation, or other proceeding. A rule or form adopted by the director before July 1, 2010, remains in effect as a rule or form of the department until amended or changed.

(2) After July 1, 2010, a salesperson's license is continued in effect but is recognized by the department as a broker's license; and associate broker's, branch manager's, and designated broker's licenses are continued in effect but are recognized by the department as managing broker's licenses. All licensees are required to take a transition course by the licensee's first renewal date after July 1, 2010. The department shall approve the transition course for continuing education credit. All licenses retain their renewal dates established prior to July 1, 2010. New licenses may be issued after completion of the transition course and at the time of the licensee's first renewal date after July 1, 2010. [2008 c 23 § 48.]

18.85.490 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 6.]

18.85.900 Severability—1941 c 252. If any section, subdivision, sentence or clause in this act shall be held invalid or unconstitutional, such fact shall not affect the validity of the remaining portions of this act. [1941 c 252 § 28.]

18.85.910 Severability—1951 c 222. The provisions of this act are to be severable and if any section, subdivision or clause of this act shall be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of the act. [1951 c 222 § 27.]

18.85.920 Severability—1972 ex.s. c 139. The provisions of this 1972 amendatory act are to be severable and if any section, subdivision, or clause of this act shall be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of the act. [1972 ex.s. c 139 § 22.]

18.85.930 Effective date—2008 c 23. This act takes effect July 1, 2010. [2008 c 23 § 51.]

Chapter 308-124 WAC

REAL ESTATE BROKERS AND MANAGING BROKERS— GENERAL PROVISIONS

WAC

DEFINITIONS AND BRIEF ADJUDICATIVE PROCEEDINGS

308-124-300 Definitions.
 308-124-305 Application of brief adjudicative proceedings.
 308-124-310 Preliminary record in brief adjudicative proceedings.
 308-124-315 Conduct of brief adjudicative proceedings.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-124-001 Promulgation—Authority. [Statutory Authority: RCW 18.85.040. WSR 87-20-091 (Order PM 683), § 308-124-001, filed 10/7/87; Order RE 120, § 308-124-001, filed 9/20/77; Order RE 114, § 308-124-001, filed 7/2/75 (Repealed and amended by Order RE 114, filed 7/2/75); Order RE 107, § 308-124-001, filed 7/20/73; Promulgation to Rules 1-6 (WAC 308-124-010 through 308-124-060), filed 3/24/60.] Repealed by WSR 99-03-042, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02.

308-124-005 Organization. [Statutory Authority: RCW 18.85.040 and chapter 18.86 RCW. WSR 97-01-027, § 308-124-005, filed 12/10/96, effective 1/10/97. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124-005, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124-005, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124-005, filed 10/7/87; WSR 82-17-039 (Order 130), § 308-124-005, filed 8/13/82; WSR 81-05-016 (Order RE 128), § 308-124-005, filed 2/10/81; Order RE 114, § 308-124-005, filed 7/2/75; Rules (part), filed 8/24/67.] Repealed by WSR 99-03-042, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02.

308-124-007 Meetings. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124-007, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124-007, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124-007, filed 10/7/87; Order RE 114, § 308-124-007, filed 7/2/75; Order RE-104, § 308-124-007, filed 2/16/72; Order RE-103, § 308-124-007, filed 12/14/71.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

308-124-010 Credit and character report. [Order RE 107, § 308-124-010, filed 7/20/73; Order RE-101, § 308-124-010, filed 2/17/71; Rule 1, filed 3/24/60.] Repealed by Order RE 114, filed 7/2/75.

308-124-020 Application for license—Credit and character report. [Rule 2, filed 3/24/60.] Repealed by Order RE-101, filed 2/17/71.

308-124-021 Definitions. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124-021, filed 3/29/00, effective 7/1/00; WSR 99-03-042, § 308-124-021, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124-021, filed 12/17/97, effective 1/17/98; WSR 90-23-039, § 308-124-021, filed 11/15/90, effective 12/16/90; WSR 88-24-059 (Order PM 811), § 308-124-021, filed 12/7/88; WSR 87-20-091 (Order PM 683), § 308-124-021, filed 10/7/87; WSR 81-05-016 (Order RE 128), § 308-124-021, filed 2/10/81; WSR 78-11-052 (Order RE 125), § 308-124-021, filed 10/23/78; Order RE 120, § 308-124-021, filed 9/20/77; Order RE 114, § 308-124-021, filed 7/2/75; Order RE-102, § 308-124-021, filed 10/28/71.]

Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

308-124-025 Application of brief adjudicative proceedings. [Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124-025, filed 12/17/97, effective 1/17/98.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

308-124-030 Applicant for license previously licensed in another state. [Rule 3, filed 3/24/60.] Repealed by Order RE 114, filed 7/2/75.

308-124-035 Preliminary record in brief adjudicative proceedings. [Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124-035, filed 12/17/97, effective 1/17/98.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

308-124-040 Corporate or copartnership applicants for licenses—Proof required. [Order RE 107, § 308-124-040, filed 7/20/73; Rule 4, filed 3/24/60.] Repealed by Order RE 114, filed 7/2/75.

308-124-045 Conduct of brief adjudicative proceedings. [Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124-045, filed 12/17/97, effective 1/17/98.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

308-124-050 Corporate or copartnership applications for temporary salesman's permit—Proof required. [Rule 5, filed 3/24/60.] Repealed by Order RE 114, filed 7/2/75.

308-124-060 Renewal of licenses—Exemption of servicemen. [Rules (part), filed 12/21/66; Rule 6, filed 3/24/60.] Repealed by Order RE 114, filed 7/2/75.

308-124-065 Salesman second renewal requirements. [Order RE-105, § 308-124-065, filed 9/1/72.] Repealed by Order RE 114, filed 7/2/75.

308-124-070 Successful applicants must apply for license. [Order RE 110, § 308-124-070, filed 3/27/74; Rule 7, filed 3/24/60.] Repealed by Order RE 114, filed 7/2/75.

308-124-080 Notice required of intention to take examination. [Order RE 107, § 308-124-080, filed 7/20/73; Order RE-105, § 308-124-080, filed 9/1/72; Order 5, § 308-124-080, filed 5/13/69; Rules (part), filed 6/28/67; Rule 8, filed 3/24/60.] Repealed by Order RE 114, filed 7/2/75.

308-124-085 Credit and character report—Temporary permit. [Order RE 107, § 308-124-085, filed 7/20/73.] Repealed by Order RE 114, filed 7/2/75.

308-124-087 No temporary permit issued after examination failure. [Order RE 112, § 308-124-087, filed 1/23/75.] Repealed by Order RE 120, filed 9/20/77.

308-124-090 Unsuccessful broker applicants—Loss of waiver privilege. [Order RE 107, § 308-124-090, filed 7/20/73; Order 09-11-70, § 308-124-090, filed 9/14/70; Rule 9, filed 12/21/66.] Repealed by Order RE 114, filed 7/2/75.

308-124-100 Prevention of the same or deceptively similar real estate firm names. [Rule 10, filed 12/21/66.] Repealed by Order RE 114, filed 7/2/75.

308-124-110 Real estate office in same building as residence requirements. [Order RE-102, § 308-124-110, filed 10/28/71; Rule 11, filed 12/21/66.] Repealed by Order RE 114, filed 7/2/75.

308-124-120 Payment of earned commissions to salesmen or associate brokers by broker. [Rule 12, filed 12/21/66.] Repealed by Order RE 114, filed 7/2/75.

308-124-130 Subdivision advertising—Filing with director. [Order RE 110, § 308-124-130, filed 3/27/74; Rule 13, filed 6/28/67.] Repealed by Order RE 116, filed 4/30/76.

308-124-140 Summary revocation of licenses. [Rules (part), filed 8/24/67.] Repealed by Order RE 116, filed 4/30/76.

308-124-150 Application for license—Fingerprinting. [Rules (part), filed 8/24/67.] Repealed by Order RE 116, filed 4/30/76.

- 308-124-170 Discriminatory acts—Prohibition. [Order 4, § 308-124-170, filed 4/16/68.] Repealed by Order RE 116, filed 4/30/76.
- 308-124-180 Branch offices operating under another name. [Order 5, § 308-124-180, filed 5/13/69.] Repealed by Order RE 116, filed 4/30/76.
- 308-124-190 License fees—Expiration—Renewal. [Order RE-102, § 308-124-190, filed 10/28/71.] Repealed by Order RE 114, filed 7/2/75.
- 308-124-200 Fee brokers prohibited. [Order RE-105, § 308-124-200, filed 9/1/72.] Repealed by Order RE 114, filed 7/2/75.
- 308-124-210 Notification of adverse court action. [Order RE 108, § 308-124-210, filed 9/26/73.] Repealed by Order RE 114, filed 7/2/75.

DEFINITIONS AND BRIEF ADJUDICATIVE PROCEEDINGS

WAC 308-124-300 Definitions. Words and terms used in this chapter shall have the same meaning as each has under chapter 18.85 RCW unless otherwise clearly provided in this chapter, or the context in which they are used in this chapter clearly indicates that they be given some other meaning.

(1) "Branch manager" is the natural person who holds a managing broker's license and has delegated authority by the designated broker to manage a single physical location of a branch office. The department shall issue an endorsement for "branch managers."

(2) "Affiliated licensees" are the natural persons licensed as brokers or managing brokers employed by a firm and who are licensed to represent the firm in the performance of any of the acts specified in chapter 18.85 RCW.

(3) "Brokerage service contracts" include, but are not limited to, purchase and sale agreements, lease or rental agreements, listings, options, agency agreements, or property management agreements.

(4) "Branch office" means:

(a) A separate physical office of the real estate firm; and
(b) Has a different mailing address of the main firm office; and

(c) Uses the real estate firm's UBI (unified business identifier) number.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124-300, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124-300, filed 3/1/10, effective 7/1/10.]

WAC 308-124-305 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth in WAC 308-09-525.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124-305, filed 3/1/10, effective 7/1/10.]

WAC 308-124-310 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for an original or renewal license, for approval of an education course or curriculum, or for the proper issuance of a cease and desist order shall consist of:

(a) The application for the license, renewal, or approval and all associated documents; or the cease and desist order and all associated documents;

(b) All documents relied upon by the program in proposing to deny the license, renewal, or approval; or all docu-

ments relied upon by the program in issuing a cease and desist order; and

(c) All correspondence between the applicant for license, renewal, or approval and the program regarding the application; or all correspondence between the respondent and the program regarding the issuance of the cease and desist order.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the program regarding compliance with the final order or agreement; and

(d) All documents relied upon by the program showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed education loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed education loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

(4) The preliminary record with respect to all other issues subject to a brief adjudicative hearing shall consist of:

(a) All documents relied upon by the program in proposing disciplinary action as provided under RCW 18.235.110; and

(b) All correspondence between the license holder and the program regarding alleged violations.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124-310, filed 3/1/10, effective 7/1/10.]

WAC 308-124-315 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision which resulted in the request for a brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for the decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final

date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124-315, filed 3/1/10, effective 7/1/10.]

- Improvement 97-02. WSR 99-03-042, § 308-124A-200, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124A-200, filed 12/17/97, effective 1/17/98; WSR 90-23-039, § 308-124A-200, filed 11/15/90, effective 12/16/90; WSR 88-20-037 (Order PM 775), § 308-124A-200, filed 9/30/88. Statutory Authority: RCW 18.85.040, 18.85.140 and 18.85.190. WSR 87-17-051 (Order PM 673), § 308-124A-200, filed 8/18/87, effective 10/1/87. Statutory Authority: RCW 18.85.040. WSR 81-05-016 (Order RE 128), § 308-124A-200, filed 2/10/81; Order RE 114, § 308-124A-200, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-205 Corporate license renewal—Proof required. [Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124A-205, filed 12/17/97, effective 1/17/98; WSR 87-20-091 (Order PM 683), § 308-124A-205, filed 10/7/87.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-210 Corporate or copartnership application for land development representative—Proof required. [Order RE 120, § 308-124A-210, filed 9/20/77; Order RE 114, § 308-124A-210, filed 7/2/75.] Repealed by WSR 87-20-091 (Order PM 683), filed 10/7/87. Statutory Authority: RCW 18.85.040.
- 308-124A-310 Salesman second renewal requirements. [Order RE 114, § 308-124A-310, filed 7/2/75.] Repealed by WSR 81-05-016 (Order RE 128), filed 2/10/81. Statutory Authority: RCW 18.85.040.
- 308-124A-400 License fees—Expiration—Renewal. [Order RE 114, § 308-124A-400, filed 7/2/75.] Repealed by Order RE 120, filed 9/20/77.
- 308-124A-410 Application for broker license examination—Two years sales experience. [Statutory Authority: RCW 18.85.040. WSR 87-20-091 (Order PM 683), § 308-124A-410, filed 10/7/87; WSR 81-05-016 (Order RE 128), § 308-124A-410, filed 2/10/81.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-420 Application for broker license examination, other qualification or related experience. [Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124A-420, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124A-420, filed 11/15/90, effective 12/16/90; WSR 88-20-037 (Order PM 775), § 308-124A-420, filed 9/30/88; WSR 87-20-091 (Order PM 683), § 308-124A-420, filed 10/7/87; WSR 81-05-016 (Order RE 128), § 308-124A-420, filed 2/10/81.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-422 Application for broker license examination—Clock hour requirements. [Statutory Authority: RCW 18.85.040 and chapter 18.86 RCW. WSR 97-01-027, § 308-124A-422, filed 12/10/96, effective 1/10/97. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124A-422, filed 1/5/95, effective 7/1/95. Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124A-422, filed 11/7/91, effective 12/8/91.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-425 Substitution of clock hours. [Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124A-425, filed 1/5/95, effective 7/1/95. Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124A-425, filed 11/7/91, effective 12/8/91; WSR 88-20-037 (Order PM 775), § 308-124A-425, filed 9/30/88.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-430 Grading of examinations. [Statutory Authority: RCW 18.85.040(1). WSR 06-12-034, § 308-124A-430, filed 5/31/06, effective 7/1/06. Statutory Authority: RCW 18.85.040, [18.85].085, [18.85].090 and [18.85].095. WSR 91-07-029, § 308-124A-430, filed 3/14/91, effective 4/14/91. Statutory Authority: RCW 18.85.040. WSR 88-20-036 (Order PM 774), § 308-124A-430, filed 9/30/88, effective 1/1/89; WSR 86-11-011 (Order PM 595), § 308-124A-430, filed 5/12/86, effective 10/1/86.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-440 Reexamination. [Statutory Authority: RCW 18.85.040(1). WSR 04-08-012, § 308-124A-440, filed 3/25/04, effective 4/25/04. Statutory Authority: RCW 18.85.040. WSR 93-24-096, § 308-124A-440, filed 11/30/93, effective 1/1/94; WSR 88-20-036 (Order PM 774), § 308-124A-440, filed 9/30/88, effective 1/1/89; WSR 86-11-011 (Order PM 595), § 308-124A-440, filed 5/12/86, effective 10/1/86.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-450 Examination procedures. [Statutory Authority: RCW 18.85.040(1). WSR 07-13-062, § 308-124A-450, filed 6/18/07, effective 7/19/07. Statutory Authority: RCW 18.85.040. WSR 93-24-096, § 308-124A-450, filed 11/30/93, effective 1/1/94; WSR 90-23-039, § 308-124A-450, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124A-450, filed 10/7/87; WSR 86-11-011 (Order PM 595), § 308-124A-450, filed 5/12/86, effective 10/1/86.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-460 Real estate brokers and salespersons and land development representative fees. [Statutory Authority: RCW 18.85.040(1). WSR 05-12-057, § 308-124A-460, filed 5/26/05, effective 6/26/05. Statutory Authority: RCW 18.85.040(1), 43.24.086. WSR 02-03-057, § 308-124A-460, filed 1/10/02, effective 5/1/02. Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124A-460, filed 1/14/99, effective 7/1/99. Statutory Authority: RCW 18.85.040. WSR 93-24-096, § 308-124A-460, filed 11/30/93, effective 1/1/94; WSR 90-23-039, § 308-124A-460, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124A-460, filed 10/7/87; WSR 86-11-011 (Order PM 595), § 308-124A-460, filed 5/12/86, effective 10/1/86.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-570 Reinstatement of a cancelled license for nonpayment of renewal fee. [Statutory Authority: RCW 18.85.040 and chapter 18.86 RCW. WSR 97-01-027, § 308-124A-570, filed 12/10/96, effective 1/10/97. Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124A-570, filed 11/7/91, effective 12/8/91.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-590 Salesperson first active license renewal—Post license requirements. [Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124A-590, filed 1/5/95, effective 7/1/95.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-595 License activation. [Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124A-595, filed 1/5/95, effective 7/1/95.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-600 Continuing education clock hour requirements. [Statutory Authority: RCW 18.85.040(1), 43.24.086. WSR 02-03-080, § 308-124A-600, filed 1/15/02, effective 2/15/02. Statutory Authority: RCW 18.85.040 and chapter 18.86 RCW. WSR 97-01-027, § 308-124A-600, filed 12/10/96, effective 1/10/97. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124A-600, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124A-600, filed 11/7/91, effective 12/8/91.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-605 Defining prescribed core curriculum. [Statutory Authority: RCW 18.85.040(1), 43.24.086. WSR 02-03-080, § 308-124A-605, filed 1/15/02, effective 2/15/02.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124A-787 Previously licensed salesperson—First active renewal. [Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-787, filed 3/1/10, effective 7/1/10.] Repealed by WSR 14-16-054, filed

7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.041.

RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-707, filed 3/1/10, effective 7/1/10.]

LICENSING PROCESSES

WAC 308-124A-700 Application for a license—Fingerprinting. (1) New applicants applying for their first broker's license under chapter 18.85 RCW will be required to submit a fingerprint card.

(2) Applicants applying for their first managing broker's license using alternative qualifications will be required to submit a fingerprint card.

(3) Fingerprint cards and background checks are required for every active renewal every six years. If the department background check was within the last six years, then no new background check is required to activate a license.

(4) An application submitted without the required fingerprint card is considered incomplete.

(5) When a fingerprint card is rejected, the licensee or applicant must submit to the department a new fingerprint card within twenty-one calendar days of written notice to the address of record with the real estate program. Failure to submit a new fingerprint card will result in a suspension of the real estate license until the fingerprint card is received by the department.

(6) If the fingerprint card is rejected, the applicant must pay a new fee for fingerprinting and background processing.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-700, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-705 Application examination process. (1) Any person desiring to take an examination for a broker or a managing broker license must contact the testing service at least one business day prior to the desired test date to schedule and pay for an examination after receiving written notice that the requirements have been met.

(2) Any person desiring to take a broker or managing broker license examination who received clock hours in another jurisdiction must submit proof of education to be substituted for clock hours required under WAC 308-124A-755. After receiving written notice that the qualifications for the examination have been met, the candidate shall contact the testing service at least one business day prior to the desired test date to schedule and pay for an examination.

[Statutory Authority: RCW 18.85.041, 18.85.101, and 18.85.181. WSR 11-09-009, § 308-124A-705, filed 4/8/11, effective 5/9/11. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-705, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-707 Exam scheduling. (1) Candidates requesting a morning or afternoon exam will be scheduled immediately for an examination and will be provided a registration number confirming their reservation.

(2) A candidate shall be assessed the full examination fee for any examination in which the candidate fails to provide two days notice to the testing service for changing their examination date or for failing to arrive and take an examination at the time the examination is scheduled or rescheduled.

[Statutory Authority: RCW 18.85.041, 18.85.101, and 18.85.181. WSR 11-09-009, § 308-124A-707, filed 4/8/11, effective 5/9/11. Statutory Authority:

(7/29/14)

WAC 308-124A-710 Successful applicants must apply for a license. Examination results are valid for one year only. Any person who has passed the examination for broker or managing broker must become licensed within one year from the date of such examination. You will be required to take and pass another examination if you do not comply with this provision.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-710, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-713 Application for managing broker license examination—Other qualification or related experience. Applications for a managing broker license examination by persons who do not possess three years of actual experience as a full-time broker as required by RCW 18.85.111 who show qualification by reason of practical experience in a business allied with or related to real estate shall be submitted to the real estate program. The application shall be accompanied by a letter requesting approval of alternative qualifications or experience and indicating the basis for such approval. The letter must include a detailed personal history or work resume, with supporting documentation, and a letter from each of five business references describing from personal knowledge the qualifications and experience of the applicant. The following guidelines are provided as examples of experience which may qualify in lieu of three years of full-time broker experience:

(1) Postsecondary education with major study in real estate together with one year experience as a real estate broker or one year experience under the provisions of subsections (2) through (7) of this section.

(2) Experience as an attorney at law with practice in real estate transactions for not less than one year.

(3) Five years' experience, with decision-making responsibility, in closing real estate transactions for escrow companies, mortgage companies, or similar institutions.

(4) Five years' experience with a commercial bank, savings and loan association, title company or mortgage company, involving all details of real estate transactions.

(5) Five years' experience as a real property fee appraiser or salaried appraiser.

(6) Five years' experience in all phases of land development, construction, financing, selling and leasing of residences, apartments or commercial buildings.

(7) Five years' experience in real estate investment, property management, or analysis of investments or business opportunities.

All time periods referenced in WAC 308-124A-713 shall be within the last seven years prior to the date of application.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-713, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-715 Unsuccessful managing broker applicants—Alternate qualifications. The managing broker applicant who is approved to take the exam based upon alternate qualifications and subsequently fails the exam is not permitted to repeat the exam unless they satisfy the requirements in RCW 18.85.111.

[Ch. 308-124A WAC p. 3]

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-715, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-720 Application for real estate examination, licensed in another jurisdiction. (1) Any person applying for a broker or managing broker examination who is actively licensed in the same or greater capacity in another jurisdiction and has maintained his or her license in good standing or who was actively licensed in the same or greater capacity in good standing within the preceding six months is only required to take the Washington law portion of the examination.

(2) Any person applying to take the examination under this section shall submit evidence of licensure in another jurisdiction by a license verification form completed by the licensure authority in such jurisdiction.

(3) After receiving notification that the qualifications for the examination have been verified by the department, the candidate shall contact the testing service at least one day prior to the desired test date to schedule and pay for an examination. Candidates requesting a morning or afternoon exam shall be scheduled immediately for an examination and will be provided with a registration number confirming their reservation.

(4) The director, upon advice of the Washington state real estate commission, may consider entering into written recognition agreements with other jurisdictions which license brokers and managing brokers similarly to Washington state. The recognition agreement(s) shall require the other jurisdiction to grant the same licensing process to licensees of Washington state as is offered by Washington state to license applicants from other jurisdictions.

[Statutory Authority: RCW 18.85.041, 18.85.101, and 18.85.181. WSR 11-09-009, § 308-124A-720, filed 4/8/11, effective 5/9/11. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-720, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-725 Application for license or endorsement. A person who desires to be licensed as a real estate broker, managing broker or endorsed as a branch manager or designated broker, shall make application on a form approved by the director and the broker and managing broker application shall be signed by the designated broker to whom the license will be issued. The branch manager may sign for the designated broker for licenses to be issued to that branch office.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-725, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-726 Reversion from managing broker to broker license. A managing broker may apply to revert from a managing broker license to a broker license by completing the department form and paying all fees, if applicable. If the managing broker is in active status, the managing broker needs to secure the designated broker's signature acknowledging the reversion of managing broker license to a broker's license. The new broker license renewal date remains the same. To revert to a managing broker license the broker must meet all of the requirements listed in RCW 18.85.111 including taking the examination.

[Ch. 308-124A WAC p. 4]

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124A-726, filed 7/1/13, effective 8/1/13.]

WAC 308-124A-727 Application as broker license for interim period. Applicants for a broker's license may commence working on or after the postmark date of delivery to the department, or on or after the date of hand delivery to the real estate program, of the following:

- (1) Notice of passing the examination;
- (2) License application form;
- (3) Fingerprint card; and
- (4) License and fingerprint fees.

The completed license application form shall serve as an interim license for a period up to forty-five days unless grounds exist to take disciplinary action against the license under RCW 18.235.130 and 18.85.361.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-727, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-730 Broker, managing brokers—Termination of services. (1) A person licensed as a broker or managing broker may perform duties and activities only under the direction and supervision of a licensed managing broker, branch manager or designated broker and as a representative of the firm. This licensed relationship may be terminated unilaterally by either the broker, managing broker, branch manager or designated broker.

(a) All terminations shall be by written notice by the broker or managing broker, or branch manager to the designated broker or the designated broker's delegated representative; or by the designated broker to the broker, managing broker or branch manager.

(b) All notices of termination shall be given to the real estate program without delay and such notice shall be accompanied by and include the surrender of the real estate license.

(c) The managing broker, branch manager or designated broker may not condition his or her surrender of license to the real estate program upon performance of any act by the broker or managing broker.

(d) If the license cannot be surrendered because the managing broker or designated broker is conditioning the surrender of the license, the licensee shall so advise the department in writing.

(e) Upon receipt of the licensee's written statement about the conditioned release of the license, the real estate program shall process the release or license transfer.

(f) The termination date shall be the postmark date, fax date or date the license is hand delivered to the real estate program.

(2) If the license cannot be surrendered to the real estate program because the license has been lost, the licensee and the responsible managing broker, branch manager or the designated broker shall submit a letter of release. No license transfers shall be permitted unless the license is surrendered or the letter of release is submitted and filed with the real estate program.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-730, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-735 Firm licenses. Licenses issued to firms expire two years from the date of issuance.

(7/29/14)

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-735, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-740 Firm license renewal. Proof required. Applicants for renewal of a firm license shall furnish proof of current master business license renewed by authority of the secretary of state.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-740, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-750 Application for managing broker license examination—Clock hour requirements. (1) Applicants for the managing broker's examination shall have successfully completed ninety clock hours of approved real estate instruction in addition to any other clock hours completed and used to satisfy requirements of chapter 18.85 RCW. Instruction must include a course in advanced real estate law, a course in real estate brokerage management, and a course in business management. All courses completed to satisfy this requirement must be approved subject matter as defined in WAC 308-124H-820 and be at least thirty clock hours in length and include a comprehensive examination. Courses must be completed within three years prior to applying for the managing broker's examination.

(2) Courses in advanced real estate law, real estate brokerage management, and business management, used to satisfy continuing education requirements within three years of applying for the managing broker's examination shall satisfy the requirements of subsection (1) of this section provided the applicant successfully completed a comprehensive examination. Licensees will be required to provide additional approved course work if they have submitted advanced real estate law, brokerage management, or business management education classes to satisfy any other continuing educational requirements.

[Statutory Authority: RCW 18.85.041, 18.85.101, and 18.85.181. WSR 11-09-009, § 308-124A-750, filed 4/8/11, effective 5/9/11. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-750, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-755 Substitution of clock hours. (1) The director may allow for substitution of the clock hour requirements in RCW 18.85.141 and 18.85.111 if the individual is qualified by completing equivalent educational course work in any institution of higher education or degree granting institution.

(2) Individuals requesting approval for real estate equivalent educational course work shall submit a transcript of course work completed from an institution of higher education or a degree granting institution together with an application for the license examination. The department may also require certification from an authorized representative of the institution of higher education or degree granting institution that the course work satisfies the department's prescribed course content or curriculum for a given course(s).

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-755, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-760 Grading of examinations. (1) To pass the broker examination a minimum scaled score of 70 is

required on each portion. The broker examination shall consist of two portions:

(a) The national portion consisting of questions that test general real estate practices; and

(b) The state portion consisting of questions that test on Washington laws and regulations related to real estate licensing.

(2) To pass the managing broker examination a minimum scaled score of 75 is required on each portion. The managing broker examination shall consist of two portions:

(a) The national portion consisting of simulation examination questions that test general real estate brokerage practices which include information gathering and decision-making aspects. A candidate must achieve a minimum scaled score of 75 on each aspect to pass the entire portion; and

(b) The state portion consisting of questions that test on Washington laws and regulations related to real estate licensing, and the closing/settlement process.

(3) A passing score for a portion of an examination is valid for a period of six months.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124A-760, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-760, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-765 Reexamination. An applicant who failed the examination or failed to appear for a scheduled examination may apply for reexamination by contacting the testing service to schedule and pay for an examination. Managing broker exam applicants who applied using alternate qualifications and failed the examination must comply with the provisions of WAC 308-124A-750.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-765, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-770 Examination procedures. (1) Each applicant will be required to present one piece of valid government issued photo-bearing identification. Failure to produce the required identification will result in the applicant being refused admission to the examination.

(2) Applicants are prohibited from:

(a) Talking to other examinees during the examination unless specifically directed or permitted to do so by a test monitor.

(b) Attempting to communicate or record any information.

(c) Using unauthorized materials during any portion of the examination.

(d) Removing test materials and/or notes from the testing room.

(e) Disruptive behavior.

(3) Applicants who participate in any activity listed in subsection (2) of this section will be required to turn in their test materials to the test monitor and leave the examination site. Their opportunity to sit for the examination will be forfeited. Their answer sheet will be voided. A voided answer sheet will not be scored and the examination fee will not be refunded. A candidate must then reapply to take the examination.

(4) Any applicant who was removed from the testing site for any of the reasons listed in subsection (2) of this section will be required to submit a letter to the department request-

ing permission to retest and stating the circumstances of the event. After receipt of the applicant's letter, the department will review the proctor's report and the applicant's letter and may deny testing for up to one year.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-770, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-775 Real estate fees. These fees are applicable to all original licenses, examination services, and fee generating services issued or performed after July 1, 2010, and all renewals for existing licenses with expiration date after July 1, 2010. The fees for an original license and renewal include a ten dollar fee which is assessed for the real estate research center for the real estate broker and the real estate managing broker licenses. The following fees shall be charged by the department of licensing:

Title of Fee	Fee
Real estate broker:	
Application/examination	\$138.25
Reexamination	138.25
Original license	146.25
License renewal	146.25
Late renewal with penalty	172.75
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	0.00
Real estate managing broker:	
Application/examination	\$138.25
Reexamination	138.25
Original license	210.00
License renewal	210.00
Late renewal with penalty	236.50
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	0.00
Real estate firm and assumed name license:	
Original license	\$200.00
License renewal	200.00
Late renewal with penalty	226.50
Name or address change	0.00
Duplicate license	26.50
Certification	26.50
Real estate branch:	
Original license	\$189.50
License renewal	189.50
Late renewal with penalty	216.50

Title of Fee	Fee
Certification	26.50
Duplicate license	26.50
Name or address change, transfer or license activation	0.00
Fingerprint processing	\$35.25
Subsequent fingerprint processing	\$30.00
Fingerprints rejected by the department, Washington state patrol or FBI will necessitate subsequent fingerprint processing fees.	
Fingerprinting fee does not include the cost of obtaining prints. Applicants will be responsible for obtaining their fingerprints for their cards.	

[Statutory Authority: RCW 18.85.061 and 18.85.451. WSR 10-15-055, § 308-124A-775, filed 7/15/10, effective 8/15/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-775, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-780 Reinstatement of a canceled license for nonpayment of renewal fee. Any person desiring to be reinstated as a real estate licensee within two years of cancellation may have their license reinstated by satisfying either of the following options:

(1) Submission of an application to the director providing proof of the following:

(a) Successful completion of sixty clock hours of approved real estate course work completed within one year preceding the application for reinstatement. A minimum of thirty clock hours must include real estate law;

(b) Payment of all back renewal fees with penalty at the current rate; and

(c) Payment of a reinstatement penalty fine of one hundred dollars; or

(2) Satisfy the procedures and qualifications for initial licensing, including the following:

(a) Successful completion of any applicable licensing examinations; and

(b) Successful completion of required courses pursuant to RCW 18.85.101 and/or 18.85.111, whichever is applicable, within three years preceding the application for reinstatement.

(3) Former licensees canceled for nonpayment of fees for periods in excess of two years will be required to satisfy the requirements of subsection (2) of this section.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-780, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-785 Broker first active license renewal. The minimum requirements for a broker to be issued the first renewal of an active license are: The broker has furnished proof of successful completion of ninety clock hours commenced after the date first licensed, from a prescribed curriculum approved by the real estate program, including real estate law, advanced practices and thirty hours in approved continuing education, including the core curriculum.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-785, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-788 License activation. (1) An inactive license may be placed on active status pursuant to RCW 18.85.265.

(2) A broker may use a thirty clock hour course from a curriculum approved by the director, in advanced real estate practices or real estate law for both activation of a license that has been inactive for three or more years and for first renewal of an active license as required in WAC 308-124A-785.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124A-788, filed 7/1/13, effective 8/1/13.]

WAC 308-124A-790 Continuing education clock hour requirements. A licensee shall submit to the department evidence of satisfactory completion of clock hours, pursuant to RCW 18.85.211, in the manner and on forms prescribed by the department.

(1) A licensee applying for renewal of an active license shall submit evidence of completion of at least thirty clock hours of instruction in a course(s) approved by the real estate program and commenced within forty-eight months of a licensee's renewal date. A minimum of fifteen clock hours must be completed within twenty-four months of the licensee's current renewal date, and a portion of that fifteen must include three hours of the prescribed core curriculum defined in WAC 308-124A-800. Up to fifteen clock hours of instruction beyond the thirty clock hours submitted for a previous renewal date may be carried forward to the following renewal date. Failure to report successful completion of the prescribed core curriculum clock hours shall result in denial of license renewal.

(2) The thirty clock hours shall be satisfied by evidence of completion of approved real estate courses as defined in WAC 308-124H-820. A portion of the thirty clock hours of continuing education must include three clock hours of prescribed core curriculum defined in WAC 308-124A-800.

(3) Courses for continuing education clock hour credit shall be commenced after issuance of a first license.

(4) A licensee shall not place a license on inactive status to avoid the continuing education requirement or the post-licensing requirements. A licensee shall submit evidence of completion of continuing education clock hours to activate a license if activation occurs within one year after the license had been placed on inactive status and the last renewal of the license had been as an inactive license. A licensee shall submit evidence of completing the post-licensing requirements if not previously satisfied upon returning to active status.

(5) Approved courses may be repeated for continuing education credit in subsequent renewal periods.

(6) Clock hour credit for continuing education shall not be accepted if:

(a) The course is not approved pursuant to chapter 308-124H WAC and chapter 18.85 RCW;

(b) Course(s) was taken to activate an inactive license pursuant to RCW 18.85.265(3);

(c) Course(s) submitted to satisfy the requirements of RCW 18.85.101 (1)(c), broker's license, RCW 18.85.211, 18.85.111, managing broker's license and WAC 308-124A-780, reinstatement.

(7) Instructors shall not receive clock hour credit for teaching or course development.

(7/29/14)

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124A-790, filed 7/29/14, effective 8/29/14; WSR 13-14-077, § 308-124A-790, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.041, 18.85.101, and 18.85.181. WSR 11-09-009, § 308-124A-790, filed 4/8/11, effective 5/9/11. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-790, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-800 Defining prescribed core curriculum. A licensee shall submit to the department evidence of satisfactory completion of at least three clock hours of core curriculum continuing education approved by the director. Core curriculum continuing education is a specific course of study, recommended by the real estate commission for approval by the director that provides practical information on contemporary issues relating to the practices of real estate. The commission may recommend multiple core curricula to address residential, commercial, and property management disciplines or may recommend approval of the same core curriculum if appropriate. Core curriculum may be developed in a separate three clock-hour course or may be three clock hours contained within an approved thirty or less clock-hour course. Core curriculum must be completed within twenty-four months of the licensee's renewal date. Core curriculum commenced within thirty-six months but more than twenty-four months prior to the licensee's renewal date, may not count towards the core curriculum requirement, but may apply as regular continuing education credit for renewal.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-800, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-805 Address on designated broker's endorsement. The address on the designated broker's endorsement will be the location where the designated broker is the managing broker.

The real estate program will register each firm's address where the designated broker accepts endorsement from other firms.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-805, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-815 Prohibited firm and assumed names. (1) Department can deny, suspend, reject firm names or assumed names that are in the department's opinion: Derogatory, similar or the same as other licensed firm names, implies that it is a public agency or government, implies non-profit or research organization.

(2) A real estate firm shall not be issued a license nor advertise in any manner using a name which is in the department's opinion similar to currently issued firm or assumed name licenses or imply that either the real estate firm is a non-profit organization, research organization, public bureau or public group. A bona fide franchisee may be licensed using the name of the franchisor with the firm name of the franchisee.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124A-815, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-815, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-825 Change of designated broker. Submit a statement signed by both the outgoing designated broker and the incoming designated broker, listing all outstanding client trust liabilities, pending transactions, and cer-

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tifying sufficient funds are in trust to meet client trust liabilities.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-825, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-830 Firm closing—Designated broker responsibility. Designated brokers will be responsible for providing the department a closing firm affidavit when closing the firm.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-830, filed 3/1/10, effective 7/1/10.]

WAC 308-124A-835 Courses completed in other jurisdictions. A course completed in another jurisdiction may be approved for clock hour credit if:

(1) The course was offered by a tax-supported, public technical or community college, or any other institution of higher learning, and the director determines that the course substantially satisfies the general requirements for course approval consistent with the intent of this chapter;

(2) The course was approved to satisfy an education requirement for real estate licensing or renewal and offered by an entity approved to offer the course by the real estate licensing agency in that jurisdiction; or

(3) If the director determines that the course substantially satisfies the general requirements for course approval consistent with the intent of this chapter.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124A-835, filed 3/1/10, effective 7/1/10.]

Chapter 308-124B WAC

REAL ESTATE—BROKER'S OFFICE

WAC

REAL ESTATE OFFICE REQUIREMENTS

- 308-124B-200 Display of licenses.
- 308-124B-205 Change of office location.
- 308-124B-207 Real estate firm identification.
- 308-124B-210 Advertising.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 308-124B-010 Prevention of the same or deceptively similar real estate firm names. [Statutory Authority: RCW 18.85.040. WSR 82-17-039 (Order 130), § 308-124B-010, filed 8/13/82; Order RE 114, § 308-124B-010, filed 7/2/75.] Repealed by WSR 88-06-039 (Order PM 711), filed 3/1/88. Statutory Authority: RCW 18.85.040.
- 308-124B-030 Franchise advertising. [Order RE 114, § 308-124B-030, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124B-040 Branch offices operating under another name. [Statutory Authority: RCW 18.85.040. WSR 81-05-016 (Order RE 128), § 308-124B-040, filed 2/10/81; Order RE 114, § 308-124B-040, filed 7/2/75.] Repealed by WSR 87-20-091 (Order PM 683), filed 10/7/87. Statutory Authority: RCW 18.85.040.
- 308-124B-100 Office identification. [Statutory Authority: RCW 18.85.040. WSR 87-20-091 (Order PM 683), § 308-124B-100, filed 10/7/87; Order RE 114, § 308-124B-100, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124B-110 Display of licenses. [Statutory Authority: RCW 18.85.040. WSR 81-05-016 (Order RE 128), § 308-124B-110, filed 2/10/81; Order RE 114, § 308-124B-110, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124B-120 Change of office location. [Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124B-120, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124B-120, filed 10/7/87; WSR 81-05-016 (Order RE 128), § 308-124B-120, filed 2/10/81; Order RE 114, § 308-124B-120, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124B-130 Names prohibited. [Statutory Authority: RCW 18.85.040. WSR 88-06-039 (Order PM 711), § 308-124B-130, filed 3/1/88; WSR 87-20-091 (Order PM 683), § 308-124B-130, filed 10/7/87; Order RE 114, § 308-124B-130, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124B-140 Multiple business usage of office. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124B-140, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 82-17-039 (Order 130), § 308-124B-140, filed 8/13/82.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124B-145 Two or more real estate businesses in same location. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124B-145, filed 1/14/99, effective 2/14/99.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124B-150 Office requirement for brokers actively licensed in another jurisdiction. [Statutory Authority: RCW 18.85.040(1). WSR 03-14-019, § 308-124B-150, filed 6/20/03, effective 7/21/03; WSR 02-03-054, § 308-

124B-150, filed 1/10/02, effective 2/10/02. Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124B-150, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 88-06-039 (Order PM 711), § 308-124B-150, filed 3/1/88.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

REAL ESTATE OFFICE REQUIREMENTS

WAC 308-124B-200 Display of licenses. (1) Licenses of the real estate brokers and real estate managing brokers must be available at the address appearing on the individual license.

(2) All firm and branch office licenses must be displayed in an area visible to the public.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124B-200, filed 3/1/10, effective 7/1/10.]

WAC 308-124B-205 Change of office location. The real estate designated broker of the firm shall submit within ten days a completed change of address application to the real estate program together with the return of all licenses, completed transfer applications, and payment of the correct fees.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124B-205, filed 3/1/10, effective 7/1/10.]

WAC 308-124B-207 Real estate firm identification. Any firm or branch office of the real estate firm shall be identified by displaying the name, visible to the public, of the firm or the assumed name as licensed at the address appearing on the license.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124B-207, filed 7/1/13, effective 8/1/13.]

WAC 308-124B-210 Advertising. A firm must operate under their firm name or an assumed name as licensed.

(1) All advertising or solicitations without limitation for brokerage services, to include the internet-based advertising, web pages, e-mail, newspaper, and other visual media must include the firm name or an assumed name as licensed.

(2) Brokers and managing brokers advertising using a name, title, or brand without obtaining an assumed name license must:

(a) Always use and display the firm's licensed name or the firm's licensed assumed name in a clear and conspicuous manner in conjunction with the use of such name, title, or brand.

(b) Not use a name, title, or brand which suggests a legal entity separate and distinct from the firm, such as "Inc.," "LLC," "LLP," "Corp.," "firm," or "company."

(c) Not use name, title, or brand commonly understood to reference a firm or an office, such as "realty," "realtors," "firm," or "real estate."

(d) Receive advance written approval from the firm's designated broker to use an unlicensed title or brand.

[Statutory Authority: RCW 18.85.041(1) and (5). WSR 10-20-095, § 308-124B-210, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124B-210, filed 3/1/10, effective 7/1/10.]

Chapter 308-124C WAC

REAL ESTATE—RECORDS AND RESPONSIBILITIES

WAC

LICENSE RESPONSIBILITIES

308-124C-105	Required records.
308-124C-110	Accuracy and accessibility of records.
308-124C-115	Suit or complaint notification.
308-124C-125	Designated broker responsibilities.
308-124C-130	Branch manager responsibilities.
308-124C-135	Managing broker responsibilities.
308-124C-137	Managing broker delegated responsibilities.
308-124C-140	Broker responsibilities.
308-124C-145	Broker responsibilities (with less than two years experience).

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-124C-010	Licensee's responsibilities. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124C-010, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124C-010, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124C-010, filed 10/7/87; WSR 81-05-016 (Order RE 128), § 308-124C-010, filed 2/10/81; Order RE 114, § 308-124C-010, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124C-020	Required records. [Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124C-020, filed 11/15/90, effective 12/16/90; WSR 86-06-011 (Order 138R), § 308-124C-020, filed 2/21/86; WSR 85-21-035 (Order 136R), § 308-124C-020, filed 10/11/85; WSR 82-17-039 (Order 130), § 308-124C-020, filed 8/13/82; Order RE 114, § 308-124C-020, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124C-030	Accuracy and accessibility of records. [Statutory Authority: RCW 18.85.040(1). WSR 04-07-151, § 308-124C-030, filed 3/23/04, effective 4/23/04. Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124C-030, filed 12/17/97, effective 1/17/98; WSR 87-20-091 (Order PM 683), § 308-124C-030, filed 10/7/87; WSR 82-17-039 (Order 130), § 308-124C-030, filed 8/13/82; Order RE 120, § 308-124C-030, filed 9/20/77; Order RE 114, § 308-124C-030, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124C-040	Suit or complaint notification. [Statutory Authority: RCW 18.85.040. WSR 90-01-043, § 308-124C-040, filed 12/14/89, effective 1/14/90; WSR 87-20-091 (Order PM 683), § 308-124C-040, filed 10/7/87; Order RE 114, § 308-124C-040, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124C-050	Home inspector referrals. [Statutory Authority: RCW 18.85.040(1) and 18.85.035. WSR 09-02-026, § 308-124C-050, filed 12/30/08, effective 1/30/09.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

LICENSE RESPONSIBILITIES

WAC 308-124C-105 Required records. The designated broker is required to keep the following on behalf of the firm:

- (1) Trust account records:
 - (a) Duplicate receipt book or cash receipts journal recording all receipts;

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(b) Sequentially numbered, nonduplicative checks with check register, cash disbursements journal or check stubs;

(c) Validated duplicate bank deposit slips or daily verified bank deposit;

(d) Client's accounting ledger summarizing all moneys received and all moneys disbursed for each real estate or business opportunity transaction or each property management account, contract or mortgage collection account;

(e) In conjunction with (d) of this subsection, separate ledger sheets for each tenant (including security deposit), lessee, vendee or mortgagor; for automated systems, the ledger sheets may be a computer generated printout which contains required entries;

(f) Reconciled bank statements and canceled checks for all trust bank accounts.

(2) Other records:

(a) An accurate, up-to-date log of all agreements or contracts for brokerages services submitted by the firm's affiliated licensees.

(b) A legible copy of the transaction or contracts for brokerage services shall be retained in each participating real estate firm's files.

(c) A transaction folder containing all agreements, receipts, contracts, documents, leases, closing statements and material correspondence for each real estate or business opportunity transaction, and for each rental, lease, contract or mortgage collection account.

(d) All required records shall be maintained at one location where the firm is licensed. This location may be the main or any branch office.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124C-105, filed 7/29/14, effective 8/29/14; WSR 13-14-077, § 308-124C-105, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-105, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-110 Accuracy and accessibility of records. (1) Accuracy. All required real estate records shall be accurate, posted and kept up to date.

(2) Location. All required real estate records shall be kept at an address where the real estate firm is licensed to maintain a real estate office. Transactions that have been closed for at least one year can be maintained at one central facility located in Washington. Transactions not stored at the firm location must be available upon demand of the department and maintained in a manner to be readily retrievable. A listing of all transactions must be maintained at the firm's licensed office for all the transactions stored at the remote facility. All records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years.

(3) Alternative storage. Records may be stored on permanent storage media, such as optical disk or microfilm, or other storage media, provided the retrieval process does not permit modification of the documents. Retrieval must be possible.

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sible at the firm's licensed office and allow for viewing and printing the document in its original form. The permanent media storage shall be nonerasable and prevent changes to the stored documents or records. The designated broker must maintain equipment at firm's location in good repair to allow viewing and printing upon demand by the department. The storage media must be indexed to allow for immediate retrieval of all documents.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-110, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-115 Suit or complaint notification.

Every licensee shall, within twenty days after service or knowledge thereof, notify the real estate program of the following:

(1) Any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

(2) Entry of a civil court order, verdict, or judgment, against the licensee in any court of competent jurisdiction in which the subject matter therein involves any real estate or business-related activity by the licensee. Notification is required regardless of any pending appeal.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-115, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-125 Designated broker responsibilities. Designated broker responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Ensuring accessibility of the firm's offices and records to the director's authorized representatives, and ensure that copies of required records are made available upon demand.

(4) Ensuring monthly reconciliation of trust bank accounts are completed, up-to-date and accurate.

(5) Ensuring monthly trial balances are completed, accurate and up-to-date.

(6) Ensuring that the trial balance and the reconciliation show the account(s) are in balance.

(7) Ensuring policies or procedures are in place to account for safe handling of customer or client funds or property.

(8) Maintaining up-to-date written assignments of delegations of managing brokers and branch manager duties. The delegation agreement(s) must be signed by all parties to the agreement. Delegations must:

(a) Only be made to managing brokers licensed to the firm.

(b) Address duties of record maintenance, advertising, trust accounting, safe handling of customer/client funds and property, authority to bind, review of contracts, modify or terminate brokerage service contracts on behalf of the firm, supervision of brokers and managing brokers, and heighten supervision of brokers that are licensed for less than two years.

(c) Address hiring, transferring and releasing licensees to or from the firm.

(9) Maintaining, implementing and following a written policy that addresses:

(a) Procedures for referring a home inspector to buyers or sellers. The policy will address the consumer's right to freely pick a home inspector of the buyer's or seller's choice and prevent any collusion between the home inspector and a real estate licensee. If a licensee refers a home inspector to a buyer or seller with whom they have or have had a relationship including, but not limited to, a business or familial relationship, then full disclosure of the relationship must be provided in writing prior to the buyer or seller using the services of the home inspector.

(b) Levels of supervision of all brokers, managing brokers and branch managers of the firm.

(c) Review of all brokerage service contracts involving any broker of the firm licensed for less than two years. Review must be completed by the designated broker or their delegated managing broker within five business days of mutual acceptance. Documented proof of review shall be maintained at the firm's record locations.

(10) Ensuring that all persons performing real estate brokerage services on behalf of the firm and the firm itself are appropriately licensed.

(11) Ensuring affiliated licensees submit their transaction documents to the designated broker, branch manager or delegated managing broker within two business days of mutual acceptance.

(12) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(13) Within five business days provide the department with a closing firm affidavit when closing the firm.

(14) Within five business days ensure that all brokerage services contracts are either terminated or transferred to another licensed real estate firm with the parties' written authorization.

(15) Within five business days notify all parties to pending brokerage service transaction(s) that the real estate firm is closing and that the firm will either:

(a) Transfer the pending transaction documents, with the parties' written authorization(s) to another real estate firm; or

(b) Ensure the transaction(s) are completed without any new licensable activity.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124C-125, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.041 and 18.85.035. WSR 12-02-065, § 308-124C-125, filed 1/3/12, effective 2/3/12. Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-125, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-125, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-130 Branch manager responsibilities. Branch manager responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Ensuring accessibility of the firm's offices and records to the director's authorized representatives, and

ensuring that copies of required records are made available upon demand.

(4) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(5) Ensuring all persons employed, contracted or representing the firm at the branch location are appropriately licensed.

(6) Overseeing of the branch licensees, employees and contractors.

(7) Ensuring affiliated licensees are submitting their transaction documents to the designated broker or delegated managing broker within two business days of mutual acceptance.

(8) Hiring, transferring and releasing licensees to and from the branch.

(9) Overseeing all activity within the branch office including supervision of brokers and managing brokers, and heightened supervision of brokers licensed for less than two years.

(10) If delegated - Client/customer funds or property:

(a) Ensuring monthly reconciliation of trust bank accounts are completed, up-to-date and accurate.

(b) Ensuring monthly trial balances are completed, accurate and up-to-date.

(c) Ensuring that the trial balance and the reconciliation show the account(s) are in balance.

(d) Ensuring safe handling of customer/client funds and property.

(e) Ensuring policies or procedures are in place to account for safe handling of customer or client funds or property.

(11) If delegated - Other duties:

(a) Record maintenance.

(b) Proper and legal advertising.

(c) Review of contracts.

(d) Modify or terminate brokerage service contracts on behalf of the firm.

(e) Following and implementing the designated brokers written policy:

(i) On referral of home inspectors.

(ii) Addressing levels of supervision of all brokers and managing brokers.

(iii) That includes a review of all brokerage service contracts involving any broker licensed for less than two years. Review must be completed within five business days of mutual acceptance. Documented proof of review shall be maintained at the firm's record locations.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124C-130, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-130, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-130, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-135 Managing broker responsibilities. Managing broker responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(4) Keeping the real estate program informed of his or her current mailing address.

(5) Following the designated broker's written policy on referral of home inspectors.

(6) Being appropriately licensed.

(7) Delivering transaction documents and brokerage service contracts to designated broker or delegated managing broker within two business days of mutual acceptance.

(8) Following licensing laws and rules regarding:

(a) Safe handling of customer/client funds and property.

(b) Timely delivery of customer/client funds or property.

(c) Proper and legal advertising.

(d) Modifying or terminating brokerage service contract on behalf of the firm.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-135, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-135, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-137 Managing broker delegated responsibilities. If delegated by the designated broker, the managing brokers responsibilities include, but are not limited to, ensuring:

(1) Monthly reconciliation of trust bank accounts are completed, up-to-date and accurate.

(2) Monthly trial balances are completed, accurate and up-to-date.

(3) Trial balance and the reconciliation show the account(s) are in balance.

(4) Policies or procedures are in place to account for safe handling of customer or client funds or property.

(5) Required records are maintained and up-to-date.

(6) Advertising is proper and legal.

(7) Timely review of contracts.

(8) Brokerage service contracts are modified or terminated appropriately on behalf of the firm.

(9) Persons employed, contracted or representing the firm that the managing broker has delegated authority to supervise are appropriately licensed.

(10) Brokers and managing brokers submit their transaction documents to the designated broker or delegated managing broker within two business days of mutual acceptance.

(11) Proper and adequate supervision of brokers and managing brokers, and heighten supervision of brokers that are licensed for less than two years.

(12) Accessibility of the firm's offices and records to the director's authorized representatives, and must ensure that copies of required records are made available upon demand.

(13) All affiliated licensees are following the designated brokers written policy on:

(a) Referral of home inspectors.

(b) Levels of supervision for all brokers and managing brokers.

(c) Review of all brokerage service contracts involving any broker licensed for less than two years. Review must be completed within five business days of mutual acceptance. Documented proof of review shall be maintained by the firm at their record locations.

[Statutory Authority: RCW 18.85.041 (1), 18.85.041 (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-137, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-137, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-140 Broker responsibilities. Broker responsibilities include, but are not limited to:

(1) Assuring all real estate brokerage services in which he/she participated are in accordance with chapters 18.85, 18.86, 18.235 RCW and the rules promulgated thereunder.

(2) Cooperating with the department in an investigation, audit or licensing matter.

(3) Being knowledgeable of chapters 18.85, 18.86, and 18.235 RCW and their related rules.

(4) Keeping the real estate program informed of his or her current mailing address.

(5) Following the designated broker's written policy on referral of home inspectors.

(6) Being appropriately licensed.

(7) Delivering transaction documents and brokerage service contracts to designated broker or delegated managing broker within two business days of mutual acceptance.

(8) Following licensing laws and rules regarding:

(a) Safe handling of customer/client funds and property.

(b) Timely delivery of customer/client funds or property.

(c) Proper and legal advertising.

(d) Modifying or terminating brokerage service contracts on behalf of the firm.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-140, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-140, filed 3/1/10, effective 7/1/10.]

WAC 308-124C-145 Broker responsibilities (with less than two years experience). Broker responsibilities (with less than two years experience) include, but are not limited to:

(1) All the responsibilities listed in WAC 308-124C-140.

(2) Being subject to a heightened degree of supervision for the initial two years of licensing which includes:

(a) Participating in all required reviews of real estate brokerage agreements and services by the designated broker or appointed managing broker.

(b) Submitting evidence of completion of department required clock hour education courses to the designated broker or appointed managing broker.

(c) Securing advice or assistance from the designated broker or appointed managing broker when offering brokerage services beyond the broker's level of expertise.

(d) Timely submission of brokerage service contracts, documents and funds to the appropriate managing broker or designated broker in accordance with designated broker's document and contract review policy.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124C-145, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124C-145, filed 3/1/10, effective 7/1/10.]

Chapter 308-124D WAC

REAL ESTATE—OPERATIONAL PROCEDURES

WAC

BROKERAGE SERVICE REQUIREMENTS AND PROCEDURES

- 308-124D-200 Checks—Payee requirements.
- 308-124D-205 Negotiating agreements and closing.
- 308-124D-210 Expeditious performance.
- 308-124D-215 Management agreements and disclosures.
- 308-124D-220 Office requirement for brokers actively licensed in another jurisdiction.
- 308-124D-225 Multiple business usage of office.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 308-124D-010 Checks—Payee requirements. [Statutory Authority: RCW 18.85.040. WSR 82-17-039 (Order 130), § 308-124D-010, filed 8/13/82; Order RE 114, § 308-124D-010, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124D-020 Negotiating agreements and closing. [Order RE 120, § 308-124D-020, filed 9/20/77; Order RE 114, § 308-124D-020, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124D-030 Expeditious performance. [Statutory Authority: RCW 18.85.040(1). WSR 04-07-152, § 308-124D-030, filed 3/23/04, effective 4/23/04; Order RE 114, § 308-124D-030, filed 7/2/75.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124D-040 Disclosure of agency representation. [Statutory Authority: RCW 18.85.040. WSR 92-21-035, § 308-124D-040, filed 10/15/92, effective 11/15/92; WSR 88-24-058 (Order PM 810), § 308-124D-040, filed 12/7/88; WSR 88-20-037 (Order PM 775), § 308-124D-040, filed 9/30/88; WSR 87-05-065 (Order PM 639), § 308-124D-040, filed 2/18/87, effective 4/1/87; WSR 86-19-062 (Order PM 617), § 308-124D-040, filed 9/16/86, effective 4/1/87.] Repealed by WSR 97-01-027, filed 12/10/96, effective 1/10/97. Statutory Authority: RCW 18.85.040 and chapter 18.86 RCW.
- 308-124D-050 Property management agreements and disclosures. [Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124D-050, filed 11/15/90, effective 12/16/90; WSR 87-20-091 (Order PM 683), § 308-124D-050, filed 10/7/87.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124D-060 Broker supervision of affiliated licensees. [Statutory Authority: RCW 18.85.040. WSR 88-24-059 (Order PM 811), § 308-124D-060, filed 12/7/88.] Repealed by WSR 89-11-032 (Order PM 844), filed 5/12/89. Statutory Authority: RCW 18.85.040.
- 308-124D-061 Broker supervision of affiliated licensees. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124D-061, filed 1/14/99, effective 2/14/99. Statutory Authority: RCW 18.85.040. WSR 98-01-107, § 308-124D-061, filed 12/17/97, effective 1/17/98; WSR 90-01-044, § 308-124D-061, filed 12/14/89, effective 1/14/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124D-065 Broker and affiliated licensees—Written relationship agreement. [Statutory Authority: RCW 18.85.040. WSR 88-24-059 (Order PM 811), § 308-124D-065, filed 12/7/88.] Repealed by WSR 89-11-032 (Order PM 844), filed 5/12/89. Statutory Authority: RCW 18.85.040.
- 308-124D-070 Discriminatory acts—Prohibition. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124D-070, filed 1/14/99, effective 2/14/99.]

Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

308-124D-080 Payment of earned commissions. [Statutory Authority: RCW 18.85.040 and the Governor's Executive Order on Regulatory Improvement 97-02. WSR 99-03-042, § 308-124D-080, filed 1/14/99, effective 2/14/99.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

308-124D-100 Payment of earned commissions. [Statutory Authority: RCW 18.85.040. WSR 82-17-039 (Order 130), § 308-124D-100, filed 8/13/82; Order RE 114, § 308-124D-100, filed 7/2/75.] Repealed by WSR 85-21-036 (Order 137R), filed 10/11/85. Statutory Authority: RCW 18.85.040.

BROKERAGE SERVICE REQUIREMENTS AND PROCEDURES

WAC 308-124D-200 Checks—Payee requirements.

All checks received as earnest money, security or damage deposits, rent, lease payments, contract or mortgage payments on real property or business opportunities owned by clients shall be made payable to the real estate firm as licensed, unless it is mutually agreed in writing by the principals that the deposit shall be paid to the seller or an escrow agent named in the agreement. The real estate firm shall retain a copy of the written agreement.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124D-200, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124D-200, filed 3/1/10, effective 7/1/10.]

WAC 308-124D-205 Negotiating agreements and closing. The real estate licensee shall be responsible for negotiating the agreement between seller and purchaser as follows:

(1) The real estate licensee shall furnish or cause to be furnished to each buyer and to each seller in every real estate or business opportunity transaction wherein the licensee provides brokerage services, at the time the transaction is closed, a complete detailed closing statement as it applies to the buyer and a complete detailed closing statement as it applies to the seller. The firm shall retain a copy of all closing statements of the respective buyers and sellers wherein the licensee provides brokerage services for all transactions even though funds are not handled by a licensee and closing is done elsewhere.

(2) The closing statements of all real estate or business opportunity transactions in which a real estate firm participates shall show the date of closing, the total purchase price of the property, an itemization of all adjustments, money, or things of value received or paid showing to whom each item is credited and/or to whom each item is debited. The dates of the adjustments shall be shown, together with the names of the payees, makers and assignees of all notes paid or made or assumed.

(3) The net proceeds of sale on all real estate transactions closed by a real estate licensee are to be paid direct to the seller unless otherwise provided by written agreement.

(4) Where an agreement for the sale of real estate has been negotiated involving the services of more than one licensee, and funds are to be deposited by the purchaser prior to the closing of the transaction, the firm first receiving such funds shall retain custody and be accountable, until such funds are distributed or delivered in accordance with written instructions signed by all parties to the transaction.

(5) All licensees must keep the party to whom they provided brokerage services informed of the earnest money deposit status and must retain and provide copies of receipts to the principals and participating firms.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124D-205, filed 3/1/10, effective 7/1/10.]

WAC 308-124D-210 Expeditious performance. A real estate licensee shall perform all acts required of the licensee by a real estate agreement as expeditiously as possible. Intentional or negligent delays in such performance shall be considered detrimental to the public interest in violation of RCW 18.85.361(23).

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124D-210, filed 3/1/10, effective 7/1/10.]

WAC 308-124D-215 Management agreements and disclosures. (1) All properties managed by the firm must be supported by a written management agreement signed by the owner and designated broker and retained. The management agreement must state at a minimum:

- (a) The firm's compensation;
- (b) The type (i.e., apartments, industrial) and number of individual units in the project or square footage (if other than residential);
- (c) Whether or not the firm is authorized to collect funds and disburse funds and for what purposes;
- (d) Authorization, if any, to hold security deposits and the manner in which security deposits may be disbursed; and
- (e) The frequency of furnishing summary statements to the owner.

(2) All properties rented or leased by the firm must be supported by a written rental or lease agreement.

(3) Each owner of property managed by the firm must be provided a summary statement as provided in the property management agreement for each property managed showing: (The designated broker is to retain a true copy of this statement.)

- (a) Balance carried forward from previous summary statement.
- (b) Total rent receipts.
- (c) Owner contributions.
- (d) Other itemized receipts.
- (e) Itemization of all expenses paid.
- (f) Ending balance.
- (g) Number of units rented or square footage if other than residential.

(4) The firm may provide other services to owners of properties managed provided full disclosure to the owner is provided in writing of the broker's relationship with any and

all persons providing such services, prior disclosure of fees charged, and permission is granted by the owner.

(5) Any amendment or modification to the property management agreement must be made in written form and signed by the owner and the designated broker and retained.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124D-215, filed 3/1/10, effective 7/1/10.]

WAC 308-124D-220 Office requirement for brokers actively licensed in another jurisdiction. The term "office" in RCW 18.85.231 for a firm actively licensed in another jurisdiction in which the broker's headquarter office is located shall mean the Washington location where trust account and transaction records are maintained. Such records are required to be maintained for three years. The trust account and transaction records shall be open and accessible to representatives of the department of licensing. The parties to the transaction shall have access to the transaction records prepared or retained for the requesting party.

A firm whose headquarter office is actively licensed in another jurisdiction and is seeking licensure in Washington must obtain a firm license. The firm must also register a natural person who qualifies as a managing broker in Washington and has a controlling interest in the firm to be the firm's Washington designated broker. The firm shall notify the real estate program of the location address where the records are maintained in the state of Washington and shall include this address with the headquarter's address on the license application.

The Washington license shall be posted at the licensed Washington location where the records are being maintained.

Within thirty days after mailing of the notice of audit, the broker shall come to the department's office, after making an appointment in Olympia to sign the audit report.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124D-220, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124D-220, filed 3/1/10, effective 7/1/10.]

WAC 308-124D-225 Multiple business usage of office. A firm may conduct real estate brokerage services at an office location where the firm or designated broker concurrently conducts a separate, business activity. The real estate brokerage service activities shall be carried out and business records shall be maintained separate and apart from any other business activities by the firm or designated broker.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124D-225, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124D-225, filed 3/1/10, effective 7/1/10.]

Chapter 308-124E WAC

REAL ESTATE—TRUST ACCOUNT PROCEDURES

WAC

CLIENT FUNDS

308-124E-100	Delivery of client funds and negotiable instruments.
308-124E-105	Administration of funds held in trust—General procedures.
308-124E-110	Administration of funds held in trust—Real estate and business opportunity transactions.
308-124E-115	Administration of funds held in trust—Property management.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-124E-010	Administration of trust accounts. [Statutory Authority: RCW 18.85.040. WSR 81-05-015 (Order RE 129), § 308-124E-010, filed 10/7/87; WSR 85-21-035 (Order 136R), § 308-124E-011, filed 10/7/87; WSR 85-21-035 (Order 136R), § 308-124E-011, filed 10/11/85; WSR 82-17-039 (Order 130), § 308-124E-011, filed 8/13/82.] Repealed by WSR 82-17-039 (Order 130), filed 8/13/82. Statutory Authority: RCW 18-85-040.
308-124E-011	Administration of funds held in trust. [Statutory Authority: RCW 18.85.040. WSR 87-20-091 (Order PM 683), § 308-124E-011, filed 10/7/87; WSR 85-21-035 (Order 136R), § 308-124E-011, filed 10/11/85; WSR 82-17-039 (Order 130), § 308-124E-011, filed 8/13/82.] Repealed by WSR 88-06-040 (Order PM 712), filed 3/1/88. Statutory Authority: RCW 18.85.310.
308-124E-012	Administration of funds held in trust—General procedures. [Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124E-012, filed 11/7/91, effective 12/8/91; WSR 91-12-012, § 308-124E-012, filed 5/30/91, effective 6/30/91; WSR 90-01-045, § 308-124E-012, filed 12/14/89, effective 1/14/90; WSR 88-24-059 (Order PM 811), § 308-124E-012, filed 12/7/88. Statutory Authority: RCW 18.85.310. WSR 88-06-040 (Order PM 712), § 308-124E-012, filed 3/1/88.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124E-013	Administration of funds held in trust—Real estate and business opportunity transactions. [Statutory Authority: RCW 18.85.040(1). WSR 03-21-019, § 308-124E-013, filed 10/6/03, effective 11/6/03. Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124E-013, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124E-013, filed 11/7/91, effective 12/8/91; WSR 90-23-039, § 308-124E-013, filed 11/15/90, effective 12/16/90; WSR 88-20-037 (Order PM 775), § 308-124E-013, filed 9/30/88. Statutory Authority: RCW 18.85.310. WSR 88-16-102 (Order 755), § 308-124E-013, filed 8/3/88; WSR 88-06-040 (Order PM 712), § 308-124E-013, filed 3/1/88.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124E-014	Administration of funds held in trust—Property management. [Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124E-014, filed 11/7/91, effective 12/8/91. Statutory Authority: RCW 18.85.040 and 18.85.310. WSR 90-09-014, § 308-124E-014, filed 4/6/90, effective 5/7/90. Statutory Authority: RCW 18.85.040. WSR 90-01-046, § 308-124E-014, filed 12/14/89, effective 1/14/90. Statutory Authority: RCW 18.85.310. WSR 88-06-040 (Order PM 712), § 308-124E-014, filed 3/1/88.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.

CLIENT FUNDS

WAC 308-124E-100 Delivery of client funds and negotiable instruments. All brokers and managing brokers will physically deliver all funds, moneys, negotiable instruments or items of value to the appropriate managing broker, branch manager or their designated broker within the shorter of the following:

(1) Two business days of the client's/customer's signature (business days are not Saturday, Sunday or other legal holidays as defined in RCW 1.16.050); or

(2) Sooner if the terms of the client/customer contract necessitate quicker delivery than two business days.

[Statutory Authority: RCW 18.85.041 (1), (7), (12)(a), and 18.85.275. WSR 10-20-100, § 308-124E-100, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124E-100, filed 3/1/10, effective 7/1/10.]

WAC 308-124E-105 Administration of funds held in trust—General procedures. Any real estate broker who receives funds or moneys from any principal or any party to a real estate or business opportunity transaction, property management agreement, contract/mortgage collection agreement, or advance fees, shall hold the funds or moneys in trust for the purposes of the brokerage service contract or transaction, and shall not utilize such funds or moneys for the benefit of the broker, managing broker, real estate firm or any person not entitled to such benefit. Designated brokers are responsible for ensuring their affiliated licensees safeguard client funds by following these rules. Funds or moneys received in trust shall be deposited in a bank, savings association, or credit union insured by the Federal Deposit Insurance Corporation or the share insurance fund of the National Credit Union Administration, or any successor federal deposit insurer. The financial institution must be able to accept service in Washington state. The designated broker is responsible for the administration of trust funds and accounts to include, but not be limited to:

- Depositing;
 - Holding;
 - Disbursing;
 - Receipting;
 - Posting;
 - Recording;
 - Accounting to principals;
 - Notifying principals and cooperating licensees of material facts; and
 - Reconciling and properly setting up a trust account.
- The designated broker is responsible for handling trust funds as provided herein.

(1) Bank accounts shall be designated as trust accounts in the firm name or assumed name as licensed.

(2) Interest credited to a client's account must be recorded as a liability on client ledger. Interest assigned or credited by written assignment agreement to the firm may not be maintained in the trust account. The designated broker is responsible for making arrangements with the financial institution to credit this interest to the general account of the firm.

(3) The designated broker shall establish and maintain a system of records and procedures approved by the real estate program that provides for an audit trail accounting of all funds received and disbursed. All funds must be identified to the account of each individual client.

(4) Alternative systems of records or procedures proposed by a designated broker shall be approved in advance in writing by the real estate program.

(5) The designated broker shall be responsible for deposits, disbursements, or transfers of clients' funds received and held in trust.

(6) All funds or moneys received for any reason pertaining to the sale, renting, leasing, optioning of real estate or business opportunities, contract or mortgage collections or advance fees shall be deposited in the firm's real estate trust bank account not later than the next banking day following receipt thereof; except:

(a) Cash must be deposited in the firm's trust account not later than the next banking day;

(b) Checks received as earnest money deposits when the earnest money agreement states that a check is to be held for a specified length of time or until the occurrence of a specific event; and

(c) For purposes of this section, Saturday, Sunday, or other legal holidays as defined in RCW 1.16.050 shall not be considered a banking day.

(7) All checks, funds or moneys received shall be identified by the date received and by the amount, source and purpose on either a cash receipts journal or duplicate receipt retained as a permanent record.

(8) All deposits to the trust bank account shall be identified by the source of funds and transaction to which it applies.

(9) An individual client's ledger sheet shall be established and maintained for each client for whom funds are received in trust, which shows all receipts and disbursements. The firm will maintain the minimum amount required by the financial institution in the trust account to prevent the trust account from being closed. A ledger sheet identified as "opening account" will be required for funds that are used to open the account or to keep the trust account from being closed. The credit entries must show the date of deposit, amount of deposit, and item covered including, but not limited to "earnest money deposit," "down payment," "rent," "damage deposit," "rent deposit," "interest," or "advance fee." The debit entries must show the date of the check, check number, amount of the check, name of payee and item covered. The "item covered" entry may indicate a code number per chart of accounts, or may be documented by entry in a cash receipts journal, cash disbursements journal, or check voucher.

(10) The reconciled real estate trust bank account balance must be equal at all times to the outstanding trust liability to clients and the funds in the "open account" ledger. The balance shown in the check register or bank control account

must equal the total liability to clients and the "open account" ledger.

(11) The designated broker shall be responsible for preparation of a monthly trial balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account check register or bank control account. The checkbook balance, the bank reconciliation and the client ledgers (including the "open account" ledger) must be in agreement at all times. A trial balance is a listing of all client ledgers, including the "open account" ledger, showing the owner name or control number, date of last entry to the ledger and the ledger balance.

(12) All disbursements of trust funds shall be made by check, or electronic transfer, drawn on the real estate trust bank account and identified thereon to a specific real estate or business opportunity transaction, or collection/management agreement. The number of each check, amount, date, payee, items covered and the specific client's ledger sheet debited must be shown on the check stub or check register and all data must agree exactly with the check as written. No check numbers on any single trust account can be duplicated.

(a) No disbursement from the trust account shall be made based upon wire transfer receipts until the deposit has been verified.

(b) The designated broker must provide a follow-up "hard-copy" debit memo when funds are disbursed via wire transfer.

(c) The designated broker shall retain in the transaction file a copy of instructions signed by the owner of funds to be wire-transferred which identifies the receiving entity and account number.

(13) Voided checks written on the trust bank account shall be permanently defaced and shall be retained.

(14) Commissions owed to another firm may be paid from the real estate trust bank account. Those commissions shall be paid promptly upon receipt of funds. Commissions shared with another firm are a reduction of the gross commissions received.

(15) No deposits to the real estate trust bank account shall be made of funds:

(a) That belong to the designated broker or the real estate firm, except that a designated broker may deposit a minimal amount to open the trust bank account or maintain a minimal amount to keep the account from being closed; or

(b) That do not pertain to a client's real estate or business opportunity sales transaction or are not received in connection with a client's rental, contract or mortgage collection account.

(16) No disbursements from the real estate trust bank account shall be made:

(a) For items not pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account;

(b) Pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account in excess of the actual amount held in the real estate trust bank account in connection with that transaction or collection account;

(c) In payment of a commission owed to any person licensed to the firm or in payment of any business expense of the firm. Payment of commissions to persons licensed to the

firm or of any business expense of the designated broker or firm shall be paid from the regular business bank account of the firm.

(d) For bank charges of any nature, including bank services, checks or other items, except as specified in WAC 308-124E-110 (1)(a) and (d). Bank charges are business overhead expenses of the real estate firm. Arrangements must be made with the bank to have any such charges applicable to the real estate trust bank account charged to the regular business bank account, or to provide a separate monthly statement of bank charges so that they may be paid from the firm's business bank account.

(17) The provisions of this chapter are applicable to manual or computerized accounting systems. For clarity, the following is addressed for computer systems:

(a) The system must provide for a capability to back up all data files.

(b) Receipt, check or disbursement registers or journals, bank reconciliations, and monthly trial balances will be maintained and available for immediate retrieval or printing upon demand of the department.

(c) The designated broker will maintain a dated source document file or index file to support any changes to existing accounting records.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124E-105, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124E-105, filed 3/1/10, effective 7/1/10.]

WAC 308-124E-110 Administration of funds held in trust—Real estate and business opportunity transactions. The procedures in this section are applicable to funds received by the firm in connection with real estate sales, business opportunity transactions or options. These procedures are in addition to the requirements of the general trust account procedures contained in WAC 308-124E-105.

(1) Bank accounts, deposit slips, checks and signature cards shall be designated as trust accounts in the firm or assumed name as licensed. Trust bank accounts for real estate sales or business opportunity transactions shall be interest bearing demand deposit accounts. These accounts shall be established as described in RCW 18.85.285 and this section.

(a) The firm shall maintain a pooled interest-bearing trust account identified as housing trust fund account for deposit of trust funds which are ten thousand dollars or less.

Interest income from this account will be paid to the department by the depository institution in accordance with RCW 18.85.285(8) after deduction of reasonable bank service charges and fees, which shall not include check printing fees or fees for bookkeeping systems.

(b) The licensee shall disclose in writing to the party depositing more than ten thousand dollars that the party has an option between (b)(i) and (ii) of this subsection:

(i) All trust funds not required to be deposited in the account specified in (a) of this subsection shall be deposited in a separate interest-bearing trust account for the particular party or party's matter on which the interest will be paid to the party(ies); or

(ii) In the pooled interest-bearing account specified in (a) of this subsection if the parties to the transaction agree in writing.

(7/1/13)

(c)(i) For accounts established as specified in (a) of this subsection, the designated broker will maintain an additional ledger with the heading identified as "Housing trust account interest." As the monthly bank statements are received, indicating interest credited, the designated broker will post the amount to the pooled interest ledger. When the bank statement indicates that the interest was paid to the state or bank fees were charged, the designated broker will debit the ledger accordingly.

(ii) For accounts established as specified in (b)(i) of this subsection, the interest earned or bank fees charged will be posted to the individual ledger.

(d) When the bank charges/fees exceed the interest earned, causing the balance to be less than trust account liability, the designated broker shall within one banking day after receipt of such notice, deposit funds from the firm's business account or other nontrust account to bring the trust account into balance with outstanding liability. The designated broker may be reimbursed by the party depositing the funds for these charges for accounts established as specified in (b)(i) of this subsection if the reimbursement is authorized in writing by the party depositing the funds. For accounts established under (a) of this subsection, the designated broker will absorb the excess bank charges/fees as a business expense.

(2) A separate check shall be drawn on the real estate trust bank account, payable to the firm as licensed, for each commission earned, after the final closing of the real estate or business opportunity transaction. Each commission check shall be identified to the transaction to which it applies.

(3) No disbursements from the real estate trust bank account shall be made in advance of closing of a real estate or business opportunity transaction or before the happening of a condition set forth in the purchase and sale agreement, to any person or for any reason, without a written release from both the purchaser and seller; except that:

(a) If the agreement terminates according to its own terms prior to closing, disbursement of funds shall be made as provided by the agreement without a written release; and

(b) Funds may be disbursed to the escrow agent designated in writing by the purchaser and seller to close the transaction, reasonably prior to the date of closing in order to permit checks to clear.

(4) When a transaction provides for the earnest money deposit/note or other instrument to be held by a party other than the firm, a licensee shall deliver the earnest money deposit to the party designated by the terms of the purchase and sale agreement to hold the funds. The licensee shall obtain a dated receipt from the party holding the earnest money funds. The licensee shall deliver the receipt to the designated broker or responsible managing broker. The dated receipt shall be placed in and retained in all participating firm's transaction files. The designated broker has the ultimate responsibility for delivery of the funds.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124E-110, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124E-110, filed 3/1/10, effective 7/1/10.]

WAC 308-124E-115 Administration of funds held in trust—Property management. These procedures are applicable to property management and contract/mortgage collec-

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tion agreements, and are in addition to the general trust account procedures in WAC 308-124E-105.

(1) Trust bank accounts for property management transactions are exempt from the interest-bearing requirement of RCW 18.85.285. However, interest-bearing accounts for property management transactions may be established as described in this section.

(a) Interest-bearing trust bank accounts or dividend-earning investment accounts containing only funds held on behalf of an individual owner of income property managed by the firm may be established when directed by written property management agreement or directive signed by the owner: Provided, That all interest or earnings shall accrue to the owner;

(b) Interest-bearing trust bank accounts containing only damage or security deposits received from tenants of residential income properties managed by the firm for an individual owner may be established by the designated broker when directed by written management agreement, and the interest on such trust bank accounts may be paid to the owner, if the firm is by written agreement designated a "representative of the landlord" under the provisions of RCW 59.18.270, Residential Landlord-Tenant Act;

(c) The designated broker is not required to establish individual interest-bearing accounts for each owner when all owners assign the interest to the firm;

(d) A common account, usually referred to as a "clearing account" may be established if desired. This account must be a trust account.

(2) Any property management accounting system is to be an accounting of cash received and disbursed. Any other method of accounting offered to owners for their rental properties, unit and/or complexes are to be supplementary to the firms accounting of all cash received and disbursed through the firms trust account(s). All owners' summary statements must include this accounting.

(3) The preauthorization of disbursements or deductions by the financial institution for recurring expenses such as mortgage payments on behalf of the owner is not permitted if the account contains tenant security deposits or funds belonging to more than one client.

(4) A single check may be drawn on the real estate trust bank account, payable to the firm as licensed, in payment of all property management fees and commissions, if such check is supported by a schedule of commissions identified to each individual client. Property management commissions shall be withdrawn at least once monthly.

(5) No disbursements from the real estate trust bank account shall be made of funds received as damage or security deposit on a lease or rental contract for property managed by the firm to the owner or any other person without the written agreement of the tenant, until the end of the tenancy when the funds are to be disbursed to the person or persons entitled to the funds as provided by the terms of the rental or lease agreement.

(6) When the management agreement between the owner(s) and the firm is terminated, the owner(s) funds shall be disbursed according to the agreement. Funds held as damage or security deposits shall be disbursed to the owner(s) or successor property manager, and the tenants so notified by

the disbursing firm consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124E-115, filed 3/1/10, effective 7/1/10.]

Chapter 308-124H WAC

REAL ESTATE COURSE SCHOOL AND INSTRUCTOR APPROVAL—EDUCATION OF REAL ESTATE BROKERS AND MANAGING BROKERS

WAC

EDUCATION

308-124H-805	Course approval required.		
308-124H-810	Course titles reserved for prescribed curriculum courses.		
308-124H-820	General requirements for course approval.	308-124H-012	Course titles reserved for prescribed curriculum courses. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-012, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-825	Secondary education provider course content approval application.		
308-124H-830	Distance education delivery methods—Defined.		
308-124H-835	Interactive defined.		
308-124H-840	Distance education delivery method approval required.		
308-124H-845	Distance education delivery methods certified by the Association of Real Estate License Law Officials (ARELLO).	308-124H-013	Application process for previously approved courses. [Statutory Authority: RCW 18.85.040 (1) and (4). WSR 07-20-001, § 308-124H-013, filed 9/20/07, effective 10/21/07. Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-013, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-850	Changes and updates in approved courses.		
308-124H-855	Certificate of course completion.		
308-124H-860	Courses offered in a symposium or conference format.		
308-124H-865	Disciplinary action—Procedures—Investigation.		
308-124H-870	Grounds for denial or withdrawal of course approval.		
308-124H-875	Hearing procedure.		
308-124H-880	School and school administrator approval required.		
308-124H-885	Application process for previously approved schools.	308-124H-014	Establishing time frame for approval of core curriculum. [Statutory Authority: RCW 18.85.040(1), 43.24.086. WSR 02-03-055, § 308-124H-014, filed 1/10/02, effective 2/10/02.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-890	Application for school approval.		
308-124H-895	Administrator responsibilities.		
308-124H-900	Affiliated representative of an approved school— Defined—Tasks and duties described.		
308-124H-905	Notice of actions by governmental entities or accrediting commissions.	308-124H-020	Administration. [Statutory Authority: RCW 18.85.040. WSR 85-21-035 (Order 136R), § 308-124H-020, filed 10/11/85; WSR 82-17-039 (Order 130), § 308-124H-020, filed 8/13/82; WSR 81-05-015 (Order RE 129), § 308-124H-020, filed 2/10/81; Order RE 116, § 308-124H-020, filed 4/30/76.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.
308-124H-907	Required publication.		
308-124H-910	Course description.		
308-124H-915	Certificate of school approval.		
308-124H-920	Disciplinary action—Procedures—Investigation.		
308-124H-925	Grounds for denial or withdrawal of school or school administrator approval.		
308-124H-930	Hearing procedure.		
308-124H-935	Record retention.		
308-124H-940	School closing/change of status.	308-124H-021	Approval of courses. [Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124H-021, filed 11/15/90, effective 12/16/90; WSR 90-10-010, § 308-124H-021, filed 4/20/90, effective 8/1/90.] Repealed by WSR 00-08-035, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. and The Governor's Order on Regulatory Improvement 97-02.
308-124H-945	Instructor approval required.		
308-124H-950	Application process for previously approved instructors.		
308-124H-955	Certificate of instructor approval.		
308-124H-960	Qualifications of instructors.		
308-124H-965	Changes in instructors.		
308-124H-970	Guest lecturer(s)—Defined.	308-124H-025	General requirements for course approval. [Statutory Authority: RCW 18.85.040 (1) and (4). WSR 07-20-002, § 308-124H-025, filed 9/20/07, effective 10/21/07. Statutory Authority: RCW 18.85.040(1). WSR 03-02-001, § 308-124H-025, filed 12/19/02, effective 1/19/03. Statutory Authority: RCW 18.85.040(1), 43.24.086. WSR 02-03-055, § 308-124H-025, filed 1/10/02, effective 2/10/02. Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-025, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040 and chapter 18.86 RCW. WSR 97-01-027, § 308-124H-025, filed 12/10/96, effective 1/10/97. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124H-025, filed 1/5/95, effective 7/1/95. Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124H-025, filed 11/7/91, effective 12/8/91. Statutory Authority: RCW 18.85.040, [18.85].085, [18.85].090 and [18.85].095. WSR 91-07-029, § 308-124H-025, filed 3/14/91, effective 4/14/91. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-025, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-975	Disciplinary action—Procedures—Investigation.		
308-124H-980	Grounds for denial or withdrawal of instructor approval.		
308-124H-985	Hearing procedure.		
308-124H-990	Real estate course, school, and instructor approval fees.		

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-124H-010	Approval of real estate courses to satisfy clock hour requirements. [Statutory Authority: RCW 18.85.040, [18.85].085, [18.85].090 and [18.85].095. WSR 91-07-029, § 308-124H-010, filed 3/14/91, effective 4/14/91. Statutory Authority: RCW 18.85.040. WSR 90-01-047, § 308-124H-010, filed 12/14/89, effective 1/14/90; WSR 87-20-091 (Order PM 683), § 308-124H-010, filed 10/7/87; WSR 85-21-035 (Order 136R), § 308-124H-010, filed 10/11/85; WSR 78-11-052 (Order RE 125), § 308-124H-010, filed 10/23/78; Order RE 116, § 308-124H-010, filed 4/30/76.] Repealed by WSR 91-23-006, filed 11/7/91, effective 12/8/91. Statutory Authority: RCW 18.85.040.		
308-124H-011	Course approval required. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-011, filed 3/29/00, effective 7/1/00. Statutory Authority:	308-124H-026	Secondary education provider course content approval application. [Statutory Authority: RCW 18.85.040 and

	The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-026, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.		
308-124H-027	Distance education delivery methods—Defined. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-027, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-038	Course titles. [Statutory Authority: RCW 18.85.040. WSR 87-20-091 (Order PM 683), § 308-124H-038, filed 10/7/87.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.
308-124H-028	Interactive—Defined. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-028, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-039	Changes and updates in approved courses. [Statutory Authority: RCW 18.85.040 (1) and (4). WSR 07-20-003, § 308-124H-039, filed 9/20/07, effective 10/21/07. Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-039, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-029	Distance education delivery method approval required. [Statutory Authority: RCW 18.85.040(1). WSR 03-14-020, § 308-124H-029, filed 6/20/03, effective 7/21/03; WSR 03-02-001, § 308-124H-029, filed 12/19/02, effective 1/19/03. Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-029, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-040	Approval of classes. [Statutory Authority: RCW 18.85.040. WSR 87-20-091 (Order PM 683), § 308-124H-040, filed 10/7/87; WSR 87-01-085 (Order PM 631), § 308-124H-040, filed 12/22/86; WSR 86-11-011 (Order PM 595), § 308-124H-040, filed 5/12/86, effective 10/1/86; WSR 86-06-011 (Order 138R), § 308-124H-040, filed 2/21/86; WSR 85-21-035 (Order 136R), § 308-124H-040, filed 10/11/85; WSR 81-05-015 (Order RE 129), § 308-124H-040, filed 2/10/81; WSR 79-07-063 (Order RE 127), § 308-124H-040, filed 6/27/79; WSR 78-11-052 (Order RE 125), § 308-124H-040, filed 10/23/78; Order RE 116, § 308-124H-040, filed 4/30/76.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.
308-124H-030	Filing of courses. [Statutory Authority: RCW 18.85.040. WSR 89-11-032 (Order PM 844), § 308-124H-030, filed 5/12/89; WSR 88-24-059 (Order PM 811), § 308-124H-030, filed 12/7/88; WSR 87-20-091 (Order PM 683), § 308-124H-030, filed 10/7/87; WSR 85-21-035 (Order 136R), § 308-124H-030, filed 10/11/85; WSR 82-17-039 (Order 130), § 308-124H-030, filed 8/13/82; WSR 81-05-015 (Order RE 129), § 308-124H-030, filed 2/10/81; WSR 78-11-052 (Order RE 125), § 308-124H-030, filed 10/23/78; Order RE 116, § 308-124H-030, filed 4/30/76.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.	308-124H-041	Certificate of course completion. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-041, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124H-041, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-041, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-031	Distance education delivery methods certified by the Association of Real Estate License Law Officials (ARELLO). [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-031, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-042	Courses offered in a symposium or conference format. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-042, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-032	Course eligibility. [Statutory Authority: RCW 18.85.040. WSR 79-07-063 (Order RE 127), § 308-124H-032, filed 6/27/79.] Repealed by WSR 85-21-035 (Order 136R), filed 10/11/85. Statutory Authority: RCW 18.85.040.	308-124H-043	Temporary approval of instructors. [Statutory Authority: RCW 18.85.040. WSR 86-06-011 (Order 138R), § 308-124H-043, filed 2/21/86.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.
308-124H-033	Updating of course materials in the event of a statute or rule change. [Statutory Authority: RCW 18.85.040. WSR 88-24-059 (Order PM 811), § 308-124H-033, filed 12/7/88.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.	308-124H-045	Recordkeeping. [Statutory Authority: RCW 18.85.040. WSR 86-06-011 (Order 138R), § 308-124H-045, filed 2/21/86; WSR 85-21-035 (Order 136R), § 308-124H-045, filed 10/11/85; WSR 81-05-015 (Order RE 129), § 308-124H-045, filed 2/10/81; WSR 78-11-052 (Order RE 125), § 308-124H-045, filed 10/23/78.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.
308-124H-034	Courses completed in other jurisdictions. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-034, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-050	Review applications. [Statutory Authority: RCW 18.85.040. WSR 81-05-015 (Order RE 129), § 308-124H-050, filed 2/10/81; WSR 78-11-052 (Order RE 125), § 308-124H-050, filed 10/23/78; Order RE 116, § 308-124H-050, filed 4/30/76.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.
308-124H-035	Real estate fundamentals course content. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-035, filed 4/20/90, effective 8/1/90; WSR 88-24-059 (Order PM 811), § 308-124H-035, filed 12/7/88; WSR 86-11-011 (Order PM 595), § 308-124H-035, filed 5/12/86, effective 10/1/86.] Repealed by WSR 95-03-012, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040 and SB 6284.	308-124H-051	Disciplinary action—Procedures—Investigation. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-051, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-051, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-036	Real estate brokerage management course content. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-036, filed 4/20/90, effective 8/1/90; WSR 86-11-011 (Order PM 595), § 308-124H-036, filed 5/12/86, effective 10/1/86.] Repealed by WSR 95-03-012, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040 and SB 6284.	308-124H-055	Broker real estate education requirements. [Statutory Authority: RCW 18.85.040. WSR 78-11-052 (Order RE 125), § 308-124H-055, filed 10/23/78.] Repealed by
308-124H-037	Real estate law course content. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-037,		

308-124H-060	WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040. Teachers and/or instructors. [Statutory Authority: RCW 18.85.040. WSR 85-21-035 (Order 136R), § 308-124H-060, filed 10/11/85; WSR 82-17-039 (Order 130), § 308-124H-060, filed 8/13/82; WSR 81-05-015 (Order RE 129), § 308-124H-060, filed 2/10/81; WSR 78-11-052 (Order RE 125), § 308-124H-060, filed 10/23/78; Order RE 118, § 308-124H-060, filed 7/6/76; Order RE 116, § 308-124H-060, filed 4/30/76.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.	308-124H-240	Administrator qualifications. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-240, filed 4/20/90, effective 8/1/90.] Repealed by WSR 00-08-035, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. and The Governor's Order on Regulatory Improvement 97-02.
308-124H-061	Grounds for denial or withdrawal of course approval. [Statutory Authority: RCW 18.85.040(1). WSR 03-14-020, § 308-124H-061, filed 6/20/03, effective 7/21/03; WSR 02-03-056, § 308-124H-061, filed 1/10/02, effective 2/10/02. Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-061, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124H-061, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-061, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-245	Administrator responsibilities. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-245, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-062	Hearing procedure. [Statutory Authority: RCW 18.85.040(1). WSR 02-03-056, § 308-124H-062, filed 1/10/02, effective 2/10/02. Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-062, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-062, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-246	Affiliated representative of an approved school—Defined—Tasks and duties described. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-246, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-065	Inspection of records. [Statutory Authority: RCW 18.85.040. WSR 85-21-035 (Order 136R), § 308-124H-065, filed 10/11/85.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.	308-124H-250	Notice of actions by governmental entities or accrediting commissions. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-250, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-070	Completion of courses. [Statutory Authority: RCW 18.85.040. WSR 87-20-091 (Order PM 683), § 308-124H-070, filed 10/7/87; WSR 78-11-052 (Order RE 125), § 308-124H-070, filed 10/23/78; Order RE 116, § 308-124H-070, filed 4/30/76.] Repealed by WSR 90-10-010, filed 4/20/90, effective 8/1/90. Statutory Authority: RCW 18.85.040.	308-124H-260	Required publication. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-260, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124H-260, filed 11/15/90, effective 12/16/90; WSR 90-10-010, § 308-124H-260, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-080	Courses for license activation. [Statutory Authority: RCW 18.85.040. WSR 85-21-035 (Order 136R), § 308-124H-080, filed 10/11/85.] Repealed by WSR 95-03-012, filed 1/5/95, effective 7/1/95. Statutory Authority: RCW 18.85.040 and SB 6284.	308-124H-270	Course description. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-270, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 91-23-006, § 308-124H-270, filed 11/7/91, effective 12/8/91; WSR 90-10-010, § 308-124H-270, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-210	School and school administrator approval required. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-210, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-210, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-280	Certificate of school approval. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-280, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-220	Approval of schools. [Statutory Authority: RCW 18.85.040. WSR 90-23-039, § 308-124H-220, filed 11/15/90, effective 12/16/90; WSR 90-10-010, § 308-124H-220, filed 4/20/90, effective 8/1/90.] Repealed by WSR 00-08-035, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. and The Governor's Order on Regulatory Improvement 97-02.	308-124H-290	Change of ownership or circumstances. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-290, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-290, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-221	Application process for previously approved schools. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-221, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-300	Disciplinary action—Procedures—Investigation. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-300, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-300, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-230	Application for school approval. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-230, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-230, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.	308-124H-310	Grounds for denial or withdrawal of school or school administrator approval. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-310, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124H-310, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-310, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
308-124H-320		308-124H-320	Hearing procedure. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-320, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-320, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-

- 06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-330 Record retention. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-330, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-340 School closing/change of status. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-340, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-510 Instructor approval required. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-510, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-510, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-520 Approval of instructors. [Statutory Authority: RCW 18.85.040. WSR 91-12-013, § 308-124H-520, filed 5/30/91, effective 6/30/91; WSR 90-23-039, § 308-124H-520, filed 11/15/90, effective 12/16/90; WSR 90-10-010, § 308-124H-520, filed 4/20/90, effective 8/1/90.] Repealed by WSR 00-08-035, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. and The Governor's Order on Regulatory Improvement 97-02.
- 308-124H-525 Application process for previously approved instructors. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-525, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-530 Certificate of instructor approval. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-530, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-530, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-540 Qualifications of instructors. [Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124H-540, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040, [18.85].085, [18.85].090 and [18.85].095. WSR 91-07-029, § 308-124H-540, filed 3/14/91, effective 4/14/91. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-540, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-550 Changes in instructors. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-550, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-551 Guest lecture(s) [lecturer(s)]—Defined. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-551, filed 3/29/00, effective 7/1/00.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-560 Disciplinary action—Procedures—Investigation. [Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-560, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-570 Grounds for denial or withdrawal of instructor approval. [Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124H-570, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-570, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-580 Hearing procedure. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-580, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040. WSR 90-10-010, § 308-124H-580, filed 4/20/90, effective 8/1/90.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-800 Real estate course, school, and instructor approval fees. [Statutory Authority: RCW 18.85.040 and The Governor's Order on Regulatory Improvement 97-02. WSR 00-08-035, § 308-124H-800, filed 3/29/00, effective 7/1/00. Statutory Authority: RCW 18.85.040 and SB 6284. WSR 95-03-012, § 308-124H-800, filed 1/5/95, effective 2/5/95. Statutory Authority: RCW 18.85.040. WSR 91-12-012, § 308-124H-800, filed 5/30/91, effective 6/30/91.] Repealed by WSR 10-06-078, filed 3/1/10, effective 7/1/10. Statutory Authority: RCW 18.85.040 and 18.85.041.
- 308-124H-815 Application process for previously approved courses. [Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-815, filed 3/1/10, effective 7/1/10.] Repealed by WSR 14-16-054, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.041.

EDUCATION

WAC 308-124H-805 Course approval required. (1)

Any education provider or course developer may submit a course to the department for approval.

(2) Course approval by the department is required prior to the date on which the course is offered for clock hour credit.

(3) The course provider must submit a completed course approval application, using the method defined by the department.

(4) The director or designee shall approve, disapprove, or conditionally approve applications based upon criteria established by the commission.

(5) Upon approval, disapproval or conditional approval, the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(6) Approval shall expire four years after the effective date of approval, except for the core course which shall expire after two years.

[Statutory Authority: RCW 18.85.041. WSR 15-16-091, § 308-124H-805, filed 8/3/15, effective 9/3/15; WSR 14-16-054, § 308-124H-805, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-805, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-810 Course titles reserved for prescribed curriculum courses.

Any approved school desiring to offer fundamentals, business management, broker management, real estate law, advanced real estate law, real estate practices, or advanced real estate practices, shall utilize the most recent course curriculum prescribed by the department, and shall include in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "advanced real estate law," "business management," "real estate practices," or "advanced real estate practices," if submitted for approval for clock hours. No other courses shall use these phrases in their titles.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124H-810, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-810, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-820 General requirements for course approval.

Courses shall meet the following requirements:

(1) Be offered by a private entity approved by the director to operate as a school;

(2) Be offered by a tax-supported, public technical or community college or other institution of higher learning that certifies clock hours as indicated in RCW 18.85.011(5), consistent with the approval standards prescribed by the director and this chapter;

(3) Be offered by the Washington real estate commission;

(4) Have a minimum of three hours of course work or instruction for the student. A clock hour is a period of fifty minutes of actual instruction;

(5) Provide practical information related to the practice of real estate in any of the following real estate topic areas:

(a) Department prescribed curricula:

(i) Fundamentals;

(ii) Practices;

(A) Residential;

(B) Commercial;

(iii) Advanced practices;

(A) Residential;

(B) Commercial;

(iv) Real estate law;

(v) Advanced real estate law;

(vi) Brokerage management;

(vii) Business management;

(viii) Core curriculum;

(A) Residential;

(B) Commercial;

(C) Property management;

(b) Open curricula:

(i) Legal aspects;

(ii) Taxation;

(iii) Appraisal;

(iv) Evaluating real estate and business opportunities;

(v) Property management and leasing;

(vi) Construction and land development;

(vii) Ethics and standards of practice;

(viii) Real estate closing practices;

(ix) Current trends and issues;

(x) Principles/essentials;

(xi) Finance;

(xii) Hazardous waste and other environmental issues;

(xiii) Commercial;

(xiv) Real estate sales and marketing;

(xv) Instructor development;

(xvi) Consumer protection;

(xvii) Cross cultural communication;

(xviii) Advanced management practices;

(xix) Use of computers and/or other technologies as applied to the practice of real estate;

(6) Be under the supervision of an instructor approved to teach the topic area, who shall, at a minimum, be available to respond to specific questions from students on an immediate or reasonably delayed basis;

(7) The following types of courses will not be approved for clock hours:

(a) Mechanical office and business skills, such as, keyboarding, speed-reading, memory improvement, grammar, and report writing;

(b) Standardized software programs such as word processing, e-mail, spreadsheets or data bases; an example: A course using spreadsheet program to demonstrate investment analysis would be acceptable, but a course teaching how to use a spreadsheet would not be acceptable;

(c) Orientation courses for licensees, such as those offered by trade associations;

(d) Personal and sales motivation courses or sales meetings held in conjunction with a licensee's general business;

(e) Courses that are designed or developed to serve other professions, unless each component of the curriculum and content specifically shows how a real estate licensee can utilize the information in the practice of real estate;

(f) Personal finance, etiquette, or motivational type courses;

(g) Courses that are designed to promote or offer to sell specific products or services to real estate licensees such as warranty programs, client/customer data base systems, software programs or other devices. Services or products can be offered during nonclock hour time, such as breaks or lunchtime. Letterhead, logos, company names or other similar markings by itself, on course material are not considered promotional;

(h) Clock hours will not be awarded for any course time devoted to meals or transportation;

(8) Courses of thirty clock hours or more which are submitted for approval shall include a comprehensive examination(s) and answer key(s) of no fewer than three questions per clock hour with a minimum of ninety questions, and a requirement of passing course grade of at least 70 percent; essay question examination keys shall identify the material to be tested and the points assigned for each question;

(9) Include textbook or instructional materials approved by the director, which shall be kept accurate and current;

(10) Not have a title which misleads the public as to the subject matter of the course;

(11) The provider's course application shall identify learning objectives and demonstrate how these are related to the practice of real estate;

(12) Courses offering the prescribed core curriculum shall meet the requirements of WAC 308-124A-800;

(13) Only primary providers shall be approved to teach the prescribed core curriculum; and

(14) Course providers offering core curriculum within a course exceeding three clock hours must clearly indicate in the application for approval where the core curriculum elements are met in the course.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-820, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-825 Secondary education provider course content approval application. (1) An approved school may offer courses, except for the mandated courses, that are currently approved for another education provider or course developer provided a secondary provider course content approval application is submitted to the department;

(2) The applicant must also provide written authorization by the original education provider/developer permitting use of the course content by the applicant;

(3) A certificate of course approval will be provided to the secondary education provider;

(4) The applicant must use the course approval number issued by the department on all certificates of course completion;

(5) Course approval is valid only for the dates of the original education provider/course developer's approval; and

(6) Secondary provider course content approval applications may not be used for real estate fundamentals, real estate brokerage management, real estate law, advanced real estate law, business management, real estate practices, advanced real estate practices, or core course.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124H-825, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-825, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-830 Distance education delivery methods—Defined. As used in this chapter, a distance education delivery method is one in which instruction takes place in other than a live classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods such as video-based instruction, computer conferencing, video conferencing, interactive audio, interactive computer software, web cast, webinar, or internet-based instruction are used.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-830, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-835 Interactive defined. (1) As used in this chapter, interactive means the course structure and technologies promote active student involvement with the course content, including the ability to:

- (a) Access or bypass optional content, if applicable;
- (b) Submit questions or answer test items, and receive direct feedback; and
- (c) Communicate with the instructor and/or other students on an immediate or reasonably delayed basis.

(2) Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-835, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-840 Distance education delivery method approval required. Applicants are required to submit an application for each separate distance education delivery method for which they propose to offer approved courses for clock hours. When submitting a distance education delivery method application, the following minimum criteria must be provided by the applicant:

(1) Specify the course learning objectives for each learning unit and clearly demonstrate that the learning objectives cover the subject matter and how these relate to the practice of real estate. Objectives must be specific to ensure that all content is covered adequately to ensure mastery;

(2) Demonstrate how mastery of the material is provided by:

- (a) Dividing the material into major learning units, each of which divides the material into modules of instruction;
- (b) Specifying learning objectives for each learning unit or module of instruction. Learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;

(c) Specifying an objective, quantitative criterion for mastery used for each learning objective and provide a structured learning method designed to enable students to attain each objective;

(3) Demonstrate that the course includes the same or reasonably similar informational content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction and how the provider will know that the student completed the required number of clock hours;

(4) Describe consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student involvement in the learning process, and must directly support the student's achievement of the course learning objectives. The application must identify the interactive events included in the course and specify how the interactive events contribute to achievement of the stated learning objectives;

(5) Demonstrate how the course provides a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process;

(6) Measure, at regular intervals, the student's progress toward completion of the mastery requirement for each learning unit or module. In the case of computer-based instruction, the course software must include automatic shutdown after a period of inactivity;

(7) Demonstrate that approved instructors are available to answer questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, e-mail and fax;

(8) Demonstrate how reasonable security will be provided to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the approved school and the student must certify in writing that the student has completed the course, and the required number of clock hours;

(9) Provide a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the course material and an assessment of the availability and adequacy of the equipment, software, or other technologies to the achievement of the course's instructional claims;

(10) Provide an orientation session with the instructor or an affiliated representative of an approved school. Mechanisms must be clearly in place which allow students an early orientation to discuss course specifics;

(11) Demonstrate how the provider determined the number of clock hours requested in the distance education delivery method approval application; and

(12) Provide with each distance education delivery method approval application a copy of a course evaluation form. The provider must provide each student with the mandatory evaluation form and retain the completed form in the school records as required under WAC 308-124H-895(4).

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-840, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-845 Distance education delivery methods certified by the Association of Real Estate License Law Officials (ARELLO). An applicant who pro-

vides evidence of certification of the distance education delivery method for his or her course by the Association of Real Estate License Law Officials (ARELLO) need not submit an application for approval of the same distance education delivery method when delivering the same course within the state of Washington provided a clock hour enforcement mechanism is in place.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124H-845, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-845, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-850 Changes and updates in approved courses. (1) Course materials shall be updated no later than thirty days after the effective date of a change in federal, state, or local statutes or rules. Course materials shall also be updated no later than thirty days after changes in procedures or other revisions to the practice of real estate which affect the validity or accuracy of the course material or instruction.

(2) Changes in course instructors may be made only if the substitute instructors are currently approved to teach the topic area pursuant to chapter 308-124H WAC.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-850, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-855 Certificate of course completion. Each approved school shall issue a certificate of course completion to students who have satisfactorily completed the course requirements. The certificate shall include the following information:

- (1) Student's name;
- (2) School's name and identification number issued by the department;
- (3) The course commencement date and completion date;
- (4) Course title;
- (5) Clock hours for the course;
- (6) School administrator's signature;
- (7) Course identification number issued by the department;
- (8) Instructor name and number; and
- (9) Completion of a required examination, if applicable.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-855, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-860 Courses offered in a symposium or conference format. (1) Approved schools offering courses in a symposium or conference format with two or more modules of independent instruction may issue certificates of course completion for fewer clock hours than approved by the department on their original course approval application; and

(2) Students must complete a minimum of three clock hours of instruction to receive clock hour credit.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-860, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-865 Disciplinary action—Procedures—Investigation. (1) The department shall have the authority on its own motion or upon complaint made to it to investigate or audit any course to determine compliance with

chapter 18.85 RCW and with the rules and regulations of this chapter.

(2) Complaints concerning approved courses should be made in writing to the department and contain the following information when appropriate:

- (a) The complainant's name, address, and telephone number;
- (b) School name, address, and telephone number;
- (c) Instructor(s) name;
- (d) Nature of complaint and facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, and any other pertinent information;
- (e) An explanation of what efforts if any, have been taken to resolve the problem with the school; and
- (f) Copies of pertinent documents, publications, and advertisements.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-865, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-870 Grounds for denial or withdrawal of course approval. Course approval may be denied or withdrawn if the instructor or any owner, administrator or affiliated representative of a school, or a course provider or developer:

- (1) Submits a false or incomplete course application or any other information required to be submitted to the department;
- (2) Includes in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "advanced real estate law," "business management," "real estate practice," and "advanced real estate practice," if the course was not submitted for approval of clock hours pursuant to WAC 308-124H-810;
- (3) If the title of the course misleads the public and/or licensees as to the subject matter of the course;
- (4) If course materials are not updated within thirty days of the effective date of a change in the statute or rules;
- (5) If course content or material changes are not submitted to the department for approval prior to the date of using the changed course content;
- (6) Failed to meet the requirements under WAC 308-124H-820, 308-124H-825, and 308-124H-840;
- (7) If a course or prescribed core curriculum was approved through the mistake or inadvertence of the director.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124H-870, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-870, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-875 Hearing procedure. Upon notice of course denial or disapproval or withdrawal of course approval, a person is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-124-305, 308-124-310 and 308-124-315. To exercise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of denial, disapproval, or withdrawal of course approval. Any person aggrieved by a final decision of the director or authorized representative of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-875, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-880 School and school administrator approval required. (1) School and school administrator approval by the department is required prior to the date on which courses are offered for clock hour credit.

(2) Each application for approval of a school or school administrator shall be submitted to the department on the appropriate application form provided by the department. The most recent application form shall be obtained from the department prior to submission.

(3) The director or designee shall approve or disapprove applications based upon criteria established by the commission. The director or designee shall approve only complete applications which meet the requirements of this chapter.

(4) Upon approval or disapproval the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(5) No school for which approval is required shall promote a course for clock hour credit prior to approval of the school.

(6) No school shall allow an instructor for whom approval is required to supervise a course for clock hour credit prior to approval of the instructor.

(7) No school shall issue to a student certification for completion of an approved course unless the course had been approved prior to the first day of instruction.

(8) Approval shall expire two years after the effective date of approval.

(9) School names submitted that are similar to those currently approved shall not be granted approval.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-880, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-885 Application process for previously approved schools. (1) If there are no changes in the original school or school administrator approval application for a previously approved school or school administrator, the school or school administrator will be approved upon receipt of a school or school administrator renewal application and payment of the required fee.

(2) If there are changes in the original school or school administrator approval application for previously approved schools or school administrators, the application will not be processed as a renewal, and will require completion of a school or school administrator approval application and payment of required fees.

(3) If a school or school administrator renewal application or a school or school administrator approval application is submitted at least thirty days prior to the current school expiration date, the previous school or school administrator approval shall remain in effect until action to approve or disapprove the application is taken by the director.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-885, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-890 Application for school approval. An application for school approval shall include the following information attested to by the school's adminis-

trator, who shall be responsible for administration of the school:

(1) The complete legal name of the school, current telephone number, current mailing address, the school's administrative office address, and date of establishment;

(2) The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation, limited liability company or limited liability partnership;

(3) If the school is a corporation or a subsidiary of another corporation, current evidence of registration with the Washington secretary of state's office and the name, address, and telephone number of the corporation's registered agent;

(4) The administrator's name, and evidence of previous experience in administration of educational institutions, courses or programs, previous experience in the administration of business activities related to real estate, or administrative experience in the field of real estate;

(5) The publication required under WAC 308-124H-907 and the course description required under WAC 308-124H-910.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-890, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-895 Administrator responsibilities. Each school administrator shall be responsible for performing the following:

(1) Ensure that the school, course(s), and instructor(s) are all currently approved before offering clock hour courses;

(2) Ensure that all instructors are approved to teach in the appropriate topic area(s);

(3) Sign and verify all course completion certificates;

(4) Maintain all required records for five years, including attendance records, required publications, and course evaluations;

(5) Safeguard comprehensive examinations;

(6) Ensure the supervision and demonstrate responsibility for the conduct of employees and individuals affiliated with the school;

(7) Periodically review courses and advise department of content currency as required;

(8) Ensure each student is provided a course curriculum; and

(9) Ensure each student is provided a course evaluation form.

(10) Ensure that all broker candidates' completion dates are entered into the testing center's data base promptly.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124H-895, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-895, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-900 Affiliated representative of an approved school—Defined—Tasks and duties described.

(1) An affiliated representative of an approved school is the natural person employed by or associated with an approved real estate school, and who is authorized by the school administrator to perform the following tasks and duties:

(a) Conduct student orientation sessions;

(b) Provide technical and/or procedural advice regarding course requirements and program operations;

(c) Perform routine or periodic audits of student progress; and

(d) Perform other tasks delegated by the approved school administrator, not requiring the interpretation of course content or subject matter expertise.

(2) Responsibility for an affiliated representative in the performance of the tasks and duties described above shall rest with the approved school administrator.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-900, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-905 Notice of actions by governmental entities or accrediting commissions. School applicants and approved schools shall present the department with written details of any consent orders with the Federal Trade Commission or other jurisdictions and any final actions which have been taken against the school, its administrator, its owners, officers, or directors by any federal or state agencies, including courts or accrediting commissions, of which the school has knowledge and inform the department in writing of actions being taken to correct deficiencies cited. Directors, officers, and owners shall advise the administrator of any such actions taken against the directors, officers, or owners. School applicants and approved schools shall not purposely avoid gaining knowledge of such actions. Final actions shall not include traffic violations or traffic convictions.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-905, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-907 Required publication. Each school shall have available to prospective and enrolled students a publication containing the following information:

- (1) Date of publication;
- (2) Name and address of school. The name of the administrator and telephone number(s) of the school's administrative offices;
- (3) A list of courses, as outlined in WAC 308-124H-910;
- (4) Description of all course prerequisites;
- (5) The school's policy regarding:
 - (a) Admission procedure;
 - (b) Causes for dismissal and conditions for readmission;
 - (c) Attendance requirements, leave, absences, makeup work, and tardiness;
- (d) Standards of progress required of the student, including a definition of the grading system of the school, the minimum grades considered satisfactory, and the conditions for reentrance for those students whose course of study is interrupted;
- (e) Refund policy of registration or tuition fees, record retrieval fee, or any other charges, including procedures a student shall follow to cancel enrollment before or after instruction has begun.
- (6) The statement that: "This school is approved under chapter 18.85 RCW; inquiries regarding this or any other real estate school may be made to the: Washington State Department of Licensing, Real Estate Program, P.O. Box 9015, Olympia, Washington 98507-9015";
- (7) Dated supplements or errata sheets so as to maintain accuracy of the information in the publication, which shall clearly indicate that such information supersedes that which it contradicts and/or replaces elsewhere in the publication.

(8/3/15)

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-907, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-910 Course description. Each approved school shall have available for distribution to prospective and enrolled students a course description containing the following information:

- (1) Name of approved school;
- (2) Date(s) and location of the course;
- (3) The course title;
- (4) The educational objectives of the course;
- (5) The type of instruction (e.g., live classroom or distance education) in the course and the length of time required for completion;
- (6) The number of clock hours approved for the course, or, a statement that an application for approval is pending;
- (7) Name(s) of instructors when available;
- (8) Equipment and supplies which the student must provide;
- (9) Fees for the course;
- (10) The specific education requirements under chapter 18.85 RCW or chapter 308-124H WAC which will be met upon completion of the course students shall be informed, that for courses of thirty clock hours or more, a comprehensive examination is available and is mandatory to satisfy the requirements of RCW 18.85.101 and 18.85.111;
- (11) Cancellation policy; and
- (12) Tuition refund policy.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-910, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-915 Certificate of school approval. Upon approval a school shall be issued a certificate of approval containing the school's name, address, identification number, date of approval, and name of administrator. No school shall adopt or make a change in its name of its administrative office prior to receipt of a new certificate from the department.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-915, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-920 Disciplinary action—Procedures—Investigation. (1) The department shall have the authority, on its own motion or upon complaint made to it, to investigate or audit any school to determine compliance with chapter 18.85 RCW and with the rules and regulations of this chapter.

(2) Complaints concerning approved schools should be made in writing to the department.

(3) All approved schools shall be subject to periodic visits by an official representative for the department who may observe classroom and distance education activities, evaluate course content, exams and instructor proficiency to ensure that courses are being taught in accordance with the provisions of this chapter.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-920, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-925 Grounds for denial or withdrawal of school or school administrator approval.

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Approval may be denied or withdrawn if the instructor or any owner, administrator, or affiliated representative of a school:

- (1) Has had any disciplinary action taken against his/her professional license in this or any other jurisdiction;
- (2) Falsified any student records or clock hour certificates;
- (3) Falsified any application or any other information required to be submitted to the department;
- (4) Attempted in any manner to discover, or to impart to any license candidate, the content of and/or answer to any real estate license examination question(s);
- (5) Violated any provision in chapter 18.85 RCW or the rules promulgated thereunder;
- (6) Failed to cooperate with the department in any investigation or hearing;
- (7) Has been convicted of a crime within the preceding ten years;
- (8) Violated any of the provisions of any local, state, or federal antidiscrimination law;
- (9) Continued to teach or offer any real estate subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections thereto;
- (10) Offered, sold, or awarded any clock hours without requiring the student to successfully complete the clock hours for which the course was approved;
- (11) Accepted registration fees and not supplied the service and/or failed to refund the fees within thirty days of not supplying the service;
- (12) Represented in any manner that the school is associated with a "college" or "university" unless it meets the standards and qualifications of and has been approved by the state agency having jurisdiction;
- (13) Represented that a school is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to offer clock hours under this chapter may state: "This school is approved under chapter 18.85 RCW";
- (14) Advertised, published, printed, or distributed false or misleading information;
- (15) Advertised the availability of clock hour credit for a course in any manner without affixing the name of the school as approved by the department;
- (16) Solicited, directly or indirectly, information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions;
- (17) Has failed to meet the requirements of this chapter;
- (18) Failed to teach a course consistent with the approved course content or curriculum;
- (19) Used a substitute instructor who has not been approved to teach the topic area(s) pursuant to chapter 308-124H WAC.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-925, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-930 Hearing procedure. Upon notice of disapproval or issuance of charges, a person is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-124-305, 308-124-310 and 308-124-315. To exer-

cise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of disapproval or charges. Any person aggrieved by a final decision of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-930, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-935 Record retention. (1) Each school shall maintain for a minimum of five years each student's record and each edition of a required publication;

(2) A "student record" shall include:

- (a) The name, address, and telephone number of the school;
- (b) Full name, address, and telephone number of the student;
- (c) Beginning and ending dates of attendance and date of registration agreement if the refund policy relates to the registration date;
- (d) Clock hour courses completed and examination results;
- (e) Course evaluation form.

(3) Each school shall provide a copy of a student's record to the student upon request.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-935, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-940 School closing/change of status.

(1) A school shall make plans and take measures to protect the rights of present and former students if it goes out of business.

(2) Upon cessation of instruction or termination of approved status, a school shall immediately furnish to the department by certified mail or hand delivery:

- (a) Its certificate of approval;
- (b) Name, address, and telephone number of the person who will be responsible for closing arrangements;
- (c) The student's name, address and telephone number, the name of the course, the amount of class time remaining to complete the course, and the total amount of tuition and fees paid by the student for the course;

(d) A copy of a written notice which shall be mailed to all enrolled students in clock hour courses who have not completed a current course because of cessation of instruction; the notice shall explain the procedures students must follow to secure refunds or to continue their education;

(e) Procedures for disbursement of refunds to enrolled students, in the full amount to which they are entitled, no later than thirty days from the last day of instruction.

(3) Upon closing, a school shall arrange for a person approved by the department to retain the records required under WAC 308-124H-935. If a school closes without arranging for record retention, the department may obtain the records to protect the former students.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-940, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-945 Instructor approval required.

(1) Instructor approval by the department is required prior to the date on which the course is offered for clock hour credit.

(2) Each application for approval of an instructor shall be submitted to the department on the appropriate application form provided by the department.

(3) The director or designee shall approve or disapprove instructor applications based upon criteria established by the commission.

(4) The director or designee shall approve only complete applications which meet the requirements of this chapter.

(5) Upon approval or disapproval the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(6) Approval shall expire two years after effective date of approval.

(7) Applicants shall identify on the application form the specific subject matter topic area or areas he or she proposes to teach.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-945, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-950 Application process for previously approved instructors. (1) If there are no changes in the original instructor approval application for a previously approved instructor, the instructor will be approved upon receipt of an instructor renewal form and payment of the required fee.

(2) If there are changes in an original instructor approval application for a previously approved instructor, the application will not be processed as a renewal, and will require completion of an instructor approval application and payment of required fees.

(3) If an instructor renewal application or an instructor approval application is submitted at least thirty days prior to the current instructor expiration date, the previous instructor approval shall remain in effect until action to approve or disapprove the application is taken by the director.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-950, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-955 Certificate of instructor approval. Upon approval an instructor shall be issued a certificate of approval containing the instructor's name, date of approval, department identification number, and the subject matter topic areas that the instructor is approved to teach.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-955, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-960 Qualifications of instructors. Each instructor shall demonstrate competency based on guidelines established by the commission in the subject matter/topic that they propose to teach and shall be qualified in techniques of instruction. Instructor qualifications in techniques of instruction shall be evidenced by one of the following:

(1) One hundred fifty classroom hours as an instructor within two years preceding application in courses acceptable to the director;

(2) Possession of the professional designation, DREI, from the Real Estate Educators Association (REEA);

(8/3/15)

(3) Successful completion of an instructor training course approved by the director upon recommendation of the commission and two years full-time experience in real estate or a related field within the five years immediately preceding the date of application;

(4) A bachelors or advanced degree in education and either two years teaching experience, or two years experience in real estate or a related field within the last five years;

(5) A current teaching certificate issued by an authorized governmental agency. The instruction must have been in a field allied to that which the instructor has applied to teach;

(6) At least ninety clock hours as an instructor in real estate within two years preceding the application;

(7) Ninety hours as an instructor at an institution of higher learning within two years preceding the application. The instruction must have been in a field allied to that which the instructor has applied to teach;

(8) Selection by a national or state association whose selection criteria have been approved by the director.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-960, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-965 Changes in instructors. Changes in course instructors may be made only if the substitute instructors are currently approved to teach the course pursuant to WAC 308-124H-525.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-965, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-970 Guest lecturer(s)—Defined. A topic area expert(s) may be utilized as a guest lecturer to assist an approved instructor to teach an approved course. The approved instructor is responsible for supervision of the approved course. Guest lecturer(s) shall not be utilized to circumvent the instructor approval requirements of this chapter. Guest lecturers shall be limited to no more than fifteen minutes per clock hour. Guest lecturers can only be used when the approved instructor is present.

[Statutory Authority: RCW 18.85.041. WSR 13-14-077, § 308-124H-970, filed 7/1/13, effective 8/1/13. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-970, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-975 Disciplinary action—Procedures—Investigation. (1) The department shall have the authority, on its own motion or upon complaint made to it, to investigate or audit any instructor to determine compliance with chapter 18.85 RCW and with the rules and regulations of this chapter.

(2) Complaints concerning approved instructors should be made in writing to the department.

(3) All approved instructors shall be subject to periodic visits by an official representative of the department who shall observe classroom activities, evaluate course content and instructor proficiency to ensure that courses are being taught in accordance with the provisions set forth.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-975, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-980 Grounds for denial or withdrawal of instructor approval. Approval may be denied or withdrawn if the instructor:

(1) Has had any disciplinary action taken against his/her professional license in this or any other jurisdiction;

(2) Falsified any student records or clock hour certificates;

(3) Falsified any application or any other information required to be submitted to the department;

(4) Attempted in any manner to discover, or to impart to any license candidate, the content of and/or answer to any real estate license examination question(s);

(5) Violated any provision in chapter 18.85 RCW or the rules promulgated thereunder;

(6) Failed to cooperate with the department in any investigation or hearing;

(7) Has been convicted of a crime;

(8) Violated any of the provisions of any local, state, or federal antidiscrimination law;

(9) Continued to teach or offer any real estate subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections thereto;

(10) Offered, sold, or awarded any clock hours without requiring the student to successfully complete the clock hours which the course was approved;

(11) Accepted registration fees and not supplied the service or failed to refund the fees within thirty days of not supplying the service;

(12) Represented in any manner that the school is associated with a "college" or "university" unless it meets the standards and qualifications of and has been approved by the state agency having jurisdiction;

(13) Represented that a school is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to offer clock hours under this chapter may state: "This school is approved under chapter 18.85 RCW";

(14) Advertised, published, printed, or distributed false or misleading information;

(15) Solicited, directly or indirectly, information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions;

(16) Has failed to meet the requirements of this chapter;

(17) Failed to teach a course consistent with the approved course content or curriculum.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-980, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-985 Hearing procedure. Upon notice of disapproval or issuance of charges, a person is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-124-305, 308-124-310, and 308-124-315. To exercise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of disapproval or charges. Any person aggrieved by a final decision of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-985, filed 3/1/10, effective 7/1/10.]

WAC 308-124H-990 Real estate course, school, and instructor approval fees. (1) The following fees shall be charged for applications for approval of real estate courses, schools, and instructors. An application fee shall accompany each application. Approval for schools and instructors, if granted, shall be two years from the date of approval. Approval for courses, except for the core course, if granted, shall be four years from the date of approval. Applications submitted and disapproved may be resubmitted at no additional fee.

(2) Application for course content approval - A fee of five dollars per clock hour credit being offered, with a minimum fee of fifty dollars per core course. A fee of ten dollars per clock hour credit being offered, with a minimum of one hundred dollars per course other than the core course. Except, the application fee for approval of the sixty clock hour course in real estate fundamentals shall be three hundred dollars.

(3) Application for school approval - A fee of two hundred fifty dollars.

(4) Application for instructor approvals:

(a) Approval to teach a specific course on one occasion - A fee of fifty dollars;

(b) Approval to teach as many subject areas as requested at time of initial application - A fee of seventy five dollars. Approval shall be for two years from the approval date;

(c) Approval to teach additional subject area(s) not requested at time of initial application or renewal - A fee of twenty-five dollars for each application to teach additional subject area(s). Approval, if granted, shall be for remainder of two year approval period. Applications submitted under (a), (b) and (c) of this section and disapproved may be resubmitted at no additional fee.

[Statutory Authority: RCW 18.85.041. WSR 14-16-054, § 308-124H-990, filed 7/29/14, effective 8/29/14. Statutory Authority: RCW 18.85.040 and 18.85.041. WSR 10-06-078, § 308-124H-990, filed 3/1/10, effective 7/1/10.]

Chapter 308-124I WAC

REAL ESTATE—AUDIT/INVESTIGATION PROCEDURES

WAC

308-124I-010	Purpose.
308-124I-020	Recordkeeping.
308-124I-030	Licensee statements and explanations.
308-124I-040	Review of complaints of unprofessional conduct.
308-124I-050	Audits.
308-124I-060	Investigations.

WAC 308-124I-010 Purpose. (1) The director regulates the practice of real estate brokerage for the safety of consumers. Real estate purchases and sales are frequently the largest financial transactions in a consumer's lifetime.

(2) A real estate license is a privilege granted by the state to those persons meeting licensing requirements, maintaining required records, and complying with all laws governing the practice of real estate, including cooperation with an audit/investigation of a licensee's real estate brokerage activities.

(3) The standard of practice for real estate licensees is that of an attorney when completing real estate brokerage transaction documents for consumers.

(4) The director utilizes two primary methods of enforcement regarding the practice of real estate brokerage:

(a) Audits; and

(b) Investigations.

(5) These rules are designed to promote efficiency in conducting audits and investigations and to give licensees notice of what is required of them with respect to audits, investigations, and producing records to the department.

[Statutory Authority: RCW 18.85.041 and 18.85.361. WSR 11-09-017, § 308-124I-010, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-020 Recordkeeping. (1) Licensees are required to create and maintain records of their real estate brokerage activities for the regulatory purpose of this chapter.

(2) Records must be maintained by the licensee and made available to the director for three years from the conclusion of the related services or transaction.

(3) Licensees have no privacy interest in the records they are required to maintain by statute or rule.

[Statutory Authority: RCW 18.85.041 and 18.85.361. WSR 11-09-017, § 308-124I-020, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-030 Licensee statements and explanations. (1) During the course of an investigation or audit, licensees may be required to provide written statements, and/or explanations.

(2) A request for a written statement or explanation can only be issued by an authorized representative of the director, such as an investigator, auditor, program staff, or other designee.

[Statutory Authority: RCW 18.85.041 and 18.85.361. WSR 11-09-017, § 308-124I-030, filed 4/12/11, effective 5/13/11.]

(4/12/11)

WAC 308-124I-040 Review of complaints of unprofessional conduct. (1) Complaints are reviewed to determine if the allegations in the complaint describe an apparent violation of the laws the department administers. Staff may perform some fact-finding for the purposes of determining whether the complaint likely has merit. Even if the complaint is deemed to have merit, the department may decide not to investigate it for reasons such as the gravity of the alleged violation or the resources and priorities of the department.

(2) Department-initiated complaints will be referred to the investigation or audit section. If the complaint is deemed to merit further review, it will be assigned to an investigator or auditor.

(3) During the course of an investigation or audit, if the department's auditor or investigator discovers evidence of additional violations outside the allegations of the complaint, the auditor or investigator may investigate and request records and detailed explanations from the licensee regarding those additional violations.

[Statutory Authority: RCW 18.85.041 and 18.85.361. WSR 11-09-017, § 308-124I-040, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-050 Audits. (1) Real estate firms are subject to routine audits. Routine audits are scheduled approximately every three years.

(2) Audits will be conducted at the location the real estate firm is licensed to conduct real estate brokerage activity or a facility chosen by the department.

(3) All requests for records will be issued by an authorized representative of the director, such as auditors, investigators, program staff or other designee.

(4) An audit can be initiated at any time based upon the results of the previous audit or complaint.

(5) Audits are not scheduled, but they are normally done between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding state holidays. An auditor may not forcibly enter a licensed business location unless accompanied by law enforcement personnel pursuant to a valid search warrant. Licensees are advised that refusal to permit access may result in disciplinary action under chapters 18.85 and 18.235 RCW.

(6) An auditor may appear at a licensed business location, unannounced, during the hours described above. A licensee may be required to produce to the auditor at that time all records the licensee is required to keep by the statutes and rules governing licensees. Licensees are advised that refusal to permit access may result in disciplinary action under chapters 18.85 and 18.235 RCW.

(7) The department may not charge for the cost of routine audits to the licensee. Audit costs may be charged to the licensee pursuant to RCW 18.235.110(2) when the department has audited pursuant to a complaint, violations have

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been found, and the director has issued an order imposing any of the sanctions described in RCW 18.235.110(1).

(8) An auditor and licensee may mutually agree to complete or continue an audit outside the time and date limitations.

[Statutory Authority: RCW 18.85.041 and 18.85.361. WSR 11-09-017, § 308-124I-050, filed 4/12/11, effective 5/13/11.]

WAC 308-124I-060 Investigations. (1) All requests for records will be issued by an authorized representative of the director, such as auditors, investigators, program staff, or other designee.

(2) Requests for records, documents or detailed explanations shall be in writing, by regular mail, facsimile, electronic mail, or in person pursuant to an investigation.

(3) The investigator will not request documents or explanations by telephone unless the telephone request is followed by a request in writing. In the case of a request for records or documents, a licensee will not be charged for failure to cooperate with the department unless the investigator has made a written request for records or documents that the licensee is required to keep, and has described the records or documents with sufficient specificity to notify the licensee of what records or documents are being sought.

(4) An investigator may inspect a licensee's licensed business location and records without a warrant pursuant to an investigation approved or assigned by the director or designee between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding state holidays, or during the hours of an appointment agreed to with the licensee. Licensees are advised that refusal to permit access may result in disciplinary action under chapters 18.85 and 18.235 RCW. An investigator may not forcibly enter a licensed business location unless accompanied by law enforcement personnel pursuant to a valid search warrant.

[Statutory Authority: RCW 18.85.041 and 18.85.361. WSR 11-09-017, § 308-124I-060, filed 4/12/11, effective 5/13/11.]

Chapter 18.86 RCW

REAL ESTATE BROKERAGE RELATIONSHIPS

Sections

18.86.010	Definitions.
18.86.020	Agency relationship.
18.86.030	Duties of broker.
18.86.031	Violation of licensing law.
18.86.040	Seller's agent—Duties.
18.86.050	Buyer's agent—Duties.
18.86.060	Dual agent—Duties.
18.86.070	Duration of agency relationship.
18.86.080	Compensation.
18.86.090	Vicarious liability.
18.86.100	Imputed knowledge and notice.
18.86.110	Application.
18.86.120	Pamphlet on the law of real estate agency—Content—Definition.
18.86.900	Effective date—1996 c 179.
18.86.901	Captions not law—1996 c 179.
18.86.902	Effective date—1996 c 179.

18.86.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency relationship" means the agency relationship created under this chapter or by written agreement between a real estate firm and a buyer and/or seller relating to the performance of real estate brokerage services.

(2) "Agent" means a broker who has entered into an agency relationship with a buyer or seller.

(3) "Broker" means broker, managing broker, and designated broker, collectively, as defined in chapter 18.85 RCW, unless the context requires the terms to be considered separately.

(4) "Business opportunity" means and includes a business, business opportunity, and goodwill of an existing business, or any one or combination thereof when the transaction or business includes an interest in real property.

(5) "Buyer" means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

(6) "Buyer's agent" means a broker who has entered into an agency relationship with only the buyer in a real estate transaction, and includes subagents engaged by a buyer's agent.

(7) "Confidential information" means information from or concerning a principal of a broker that:

(a) Was acquired by the broker during the course of an agency relationship with the principal;

(b) The principal reasonably expects to be kept confidential;

(c) The principal has not disclosed or authorized to be disclosed to third parties;

(d) Would, if disclosed, operate to the detriment of the principal; and

(e) The principal personally would not be obligated to disclose to the other party.

(8) "Dual agent" means a broker who has entered into an agency relationship with both the buyer and seller in the same transaction.

(9) "Material fact" means information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a real estate transaction, or operates to materially impair or defeat the purpose of the transaction. The fact or suspicion that the property, or any neighboring property, is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, gangrelated activity, political or religious activity, or other act, occurrence, or use not adversely affecting the physical condition of or title to the property is not a material fact.

(10) "Principal" means a buyer or a seller who has entered into an agency relationship with a broker.

(11) "Real estate brokerage services" means the rendering of services for which a real estate license is required under chapter 18.85 RCW.

(12) "Real estate firm" or "firm" have the same meaning as defined in chapter 18.85 RCW.

(13) "Real estate transaction" or "transaction" means an actual or prospective transaction involving a purchase, sale, option, or exchange of any interest in real property or a business opportunity, or a lease or rental of real property. For purposes of this chapter, a prospective transaction does not exist until a written offer has been signed by at least one of the parties.

(14) "Seller" means an actual or prospective seller in a real estate transaction, or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

(15) "Seller's agent" means a broker who has entered into an agency relationship with only the seller in a real estate transaction, and includes subagents engaged by a seller's agent.

(16) "Subagent" means a broker who is engaged to act on behalf of a principal by the principal's agent where the principal has authorized the broker in writing to appoint subagents. [2013 c 58 § 1; 1996 c 179 § 1.]

18.86.020 Agency relationship. (1) A broker who performs real estate brokerage services for a buyer is a buyer's agent unless the:

(a) Broker's firm has appointed the broker to represent the seller pursuant to a written agency agreement between the firm and the seller, in which case the broker is a seller's agent;

(b) Broker has entered into a subagency agreement with the seller's agent's firm, in which case the broker is a seller's agent;

(c) Broker's firm has appointed the broker to represent the seller pursuant to a written agency agreement between the firm and the seller, and the broker's firm has appointed the broker to represent the buyer pursuant to a written agency agreement between the firm and the buyer, in which case the broker is a dual agent;

(d) Broker is the seller or one of the sellers; or

(e) Parties agree otherwise in writing after the broker has complied with RCW 18.86.030(1)(f).

(2) In a transaction in which different brokers affiliated with the same firm represent different parties, the firm's designated broker and any managing broker responsible for the supervision of both brokers, is a dual agent, and must obtain the written consent of both parties as required under RCW 18.86.060. In such case, each of the brokers shall solely represent the party with whom the broker has an agency relationship, unless all parties agree in writing that the broker is a dual agent.

(3) A broker may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the broker complies with this chapter in establishing the relationships for each transaction. [2013 c 58 § 2; 1997 c 217 § 1; 1996 c 179 § 2.]

Additional notes found at www.leg.wa.gov

18.86.030 Duties of broker. (1) Regardless of whether a broker is an agent, the broker owes to all parties to whom the broker renders real estate brokerage services the following duties, which may not be waived:

- (a) To exercise reasonable skill and care;
- (b) To deal honestly and in good faith;
- (c) To present all written offers, written notices and other written communications to and from either party in a timely manner, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase;
- (d) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party; provided that this subsection shall not be construed to imply any duty to investigate matters that the broker has not agreed to investigate;
- (e) To account in a timely manner for all money and property received from or on behalf of either party;
- (f) To provide a pamphlet on the law of real estate agency in the form prescribed in RCW 18.86.120 to all parties to whom the broker renders real estate brokerage services, before the party signs an agency agreement with the broker, signs an offer in a real estate transaction handled by the broker, consents to dual agency, or waives any rights, under RCW 18.86.020(1)(e), 18.86.040(1)(e), 18.86.050(1)(e), or 18.86.060(2) (e) or (f), whichever occurs earliest; and
- (g) To disclose in writing to all parties to whom the broker renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the broker, whether the broker represents the buyer, the seller, both parties, or neither party. The disclosure shall be set forth in a separate paragraph entitled "Agency Disclosure" in the agreement between the buyer and seller or in a separate writing entitled "Agency Disclosure."

(2) Unless otherwise agreed, a broker owes no duty to conduct an independent inspection of the property or to conduct an independent investigation of either party's financial condition, and owes no duty to independently verify the accuracy or completeness of any statement made by either party

or by any source reasonably believed by the broker to be reliable. [2013 c 58 § 3; 1996 c 179 § 3.]

18.86.031 Violation of licensing law. A violation of RCW 18.86.030 is a violation of RCW 18.85.361. [2013 c 58 § 4; 1996 c 179 § 14.]

18.86.040 Seller's agent—Duties. (1) Unless additional duties are agreed to in writing signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

- (a) To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;
- (b) To timely disclose to the seller any conflicts of interest;
- (c) To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;
- (d) Not to disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the seller's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.

(2)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers affiliated with the same firm in competing transactions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest. [2013 c 58 § 5; 1997 c 217 § 2; 1996 c 179 § 4.]

Additional notes found at www.leg.wa.gov

18.86.050 Buyer's agent—Duties. (1) Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

- (a) To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;
- (b) To timely disclose to the buyer any conflicts of interest;
- (c) To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;
- (d) Not to disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the buyer's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to

which there is no written agreement to pay compensation to the buyer's agent.

(2)(a) The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers affiliated with the same firm in competing transactions involving the same property does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest. [2013 c 58 § 6; 1997 c 217 § 3; 1996 c 179 § 5.]

Additional notes found at www.leg.wa.gov

18.86.060 Dual agent—Duties. (1) Notwithstanding any other provision of this chapter, a broker may act as a dual agent only with the written consent of both parties to the transaction after the dual agent has complied with RCW 18.86.030(1)(f), which consent must include a statement of the terms of compensation.

(2) Unless additional duties are agreed to in writing signed by a dual agent, the duties of a dual agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:

(a) To take no action that is adverse or detrimental to either party's interest in a transaction;

(b) To timely disclose to both parties any conflicts of interest;

(c) To advise both parties to seek expert advice on matters relating to the transaction that are beyond the dual agent's expertise;

(d) Not to disclose any confidential information from or about either party, except under subpoena or court order, even after termination of the agency relationship;

(e) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and

(f) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a dual agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent.

(3)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers licensed to the same firm in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.

(4)(a) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is sub-

ject to a transaction by a dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers licensed to the same firm in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest. [2013 c 58 § 7; 1997 c 217 § 4; 1996 c 179 § 6.]

Additional notes found at www.leg.wa.gov

18.86.070 Duration of agency relationship. (1) The agency relationships set forth in this chapter commence at the time that the broker undertakes to provide real estate brokerage services to a principal and continue until the earliest of the following:

(a) Completion of performance by the broker;

(b) Expiration of the term agreed upon by the parties;

(c) Termination of the relationship by mutual agreement of the parties; or

(d) Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

(2) Except as otherwise agreed to in writing, a broker owes no further duty after termination of the agency relationship, other than the duties of:

(a) Accounting for all moneys and property received during the relationship; and

(b) Not disclosing confidential information. [2013 c 58 § 8; 1997 c 217 § 5; 1996 c 179 § 7.]

Additional notes found at www.leg.wa.gov

18.86.080 Compensation. (1) In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms.

(2) An agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the broker.

(3) A seller may agree that a seller's agent's firm may share with another firm the compensation paid by the seller.

(4) A buyer may agree that a buyer's agent's firm may share with another firm the compensation paid by the buyer.

(5) A firm may be compensated by more than one party for real estate brokerage services in a real estate transaction, if those parties consent in writing at or before the time of signing an offer in the transaction.

(6) A firm may receive compensation based on the purchase price without breaching any duty to the buyer or seller.

(7) Nothing contained in this chapter negates the requirement that an agreement authorizing or employing a broker to sell or purchase real estate for compensation or a commission be in writing and signed by the seller or buyer. [2013 c 58 § 9; 1997 c 217 § 6; 1996 c 179 § 8.]

Additional notes found at www.leg.wa.gov

18.86.090 Vicarious liability. (1) A principal is not liable for an act, error, or omission by an agent or subagent of the principal arising out of an agency relationship:

(a) Unless the principal participated in or authorized the act, error, or omission; or

(b) Except to the extent that: (i) The principal benefited from the act, error, or omission; and (ii) the court determines that it is highly probable that the claimant would be unable to enforce a judgment against the agent or subagent.

(2) A broker is not liable for an act, error, or omission of a subagent under this chapter, unless that broker participated in or authorized the act, error or omission. This subsection does not limit the liability of a firm for an act, error, or omission by a broker licensed to the firm. [2013 c 58 § 10; 1996 c 179 § 9.]

18.86.100 Imputed knowledge and notice. (1) Unless otherwise agreed to in writing, a principal does not have knowledge or notice of any facts known by an agent or subagent of the principal that are not actually known by the principal.

(2) Unless otherwise agreed to in writing, a broker does not have knowledge or notice of any facts known by a subagent that are not actually known by the broker. This subsection does not limit the knowledge imputed to the designated broker or any managing broker responsible for the supervision of the broker of any facts known by the broker. [2013 c 58 § 11; 1996 c 179 § 10.]

18.86.110 Application. The duties under this chapter are statutory duties and not fiduciary duties. This chapter supersedes the fiduciary duties of an agent to a principal under the common law. The common law continues to apply to the parties in all other respects. This chapter does not affect the duties of a broker while engaging in the authorized or unauthorized practice of law as determined by the courts of this state. This chapter shall be construed broadly. [2013 c 58 § 12; 1996 c 179 § 11.]

18.86.120 Pamphlet on the law of real estate agency—Content—Definition. (1) The pamphlet required under RCW 18.86.030(1)(f) shall consist of the entire text of RCW 18.86.010 through 18.86.030 and 18.86.040 through 18.86.110 with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10-point type, the cover page shall be in print no smaller than 12-point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18-point type. The cover page shall be in the following form:

The Law of Real Estate Agency

This pamphlet describes your legal rights in dealing with a real estate firm or broker. Please read it carefully before signing any documents.

The following is only a brief summary of the attached law:

Sec. 1. Definitions. Defines the specific terms used in the law.

Sec. 2. Relationships between Brokers and the Public. Prescribes that a broker who works with a buyer or tenant represents that buyer or tenant—unless the broker is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also prescribes that in a transaction involving two different brokers licensed to the same real

estate firm, the firm's designated broker and any managing broker responsible for the supervision of both brokers, are dual agents and each broker solely represents his or her client—unless the parties agree in writing that both brokers are dual agents.

Sec. 3. Duties of a Broker Generally. Prescribes the duties that are owed by all brokers, regardless of who the broker represents. Requires disclosure of the broker's agency relationship in a specific transaction.

Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a broker representing the seller or landlord only.

Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a broker representing the buyer or tenant only.

Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a broker representing both parties in the same transaction, and requires the written consent of both parties to the broker acting as a dual agent.

Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.

Sec. 8. Compensation. Allows real estate firms to share compensation with cooperating real estate firms. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.

Sec. 9. Vicarious Liability. Eliminates the liability of a party for the conduct of the party's agent or subagent, unless the principal participated in or benefited from the conduct or the agent or subagent is insolvent. Also limits the liability of a broker for the conduct of a subagent.

Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.

Sec. 11. Interpretation. This law establishes statutory duties which replace common law fiduciary duties owed by an agent to a principal.

Sec. 12. Short Sale. Prescribes an additional duty of a firm representing the seller of owner-occupied real property in a short sale.

(2)(a) The pamphlet required under RCW 18.86.030(1)(f) must also include the following disclosure: When the seller of owneroccupied residential real property enters into a listing agreement with a real estate firm where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate firm to disclose to the seller in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate firm's commission.

(b) For the purposes of this subsection, "owneroccupied real property" means real property consisting solely of a singlefamily residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower. [2013 c 58 § 13; 2012 c 185 § 2; 1997 c 217 § 7; 1996 c 179 § 13.]

Additional notes found at www.leg.wa.gov

18.86.900 Effective date—1996 c 179. This chapter shall take effect on January 1, 1997. This chapter does not apply to an agency relationship entered into before January 1, 1997, unless the principal and agent agree in writing that this chapter will, as of January 1, 1997, apply to such agency relationship. [1996 c 179 § 12.]

18.86.901 Captions not law—1996 c 179. Captions used in this chapter do not constitute any part of the law. [1996 c 179 § 15.]

18.86.902 Effective date—1996 c 179. This act shall take effect January 1, 1997. [1996 c 179 § 19.]

Chapter 18.235 RCW

UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT

Sections

18.235.005	Intent.
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18.235.005 Intent. It is the intent of the legislature to consolidate disciplinary procedures for the licensed businesses and professions under the department of licensing by providing a uniform disciplinary act with standardized procedures for the regulation of businesses and professions and the enforcement of laws, the purpose of which is to assure the public of the adequacy of business and professional competence and conduct.

It is also the intent of the legislature that all businesses and professions newly credentialed by the state and regulated by the department of licensing come under this chapter. [2007 c 256 § 10; 2002 c 86 § 101.]

18.235.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

(2) "Department" means the department of licensing.

(3) "Director" means the director of the department or director's designee.

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or busi-

ness license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term "appointment" under chapter 42.44 RCW, are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so. [2007 c 256 § 11; 2002 c 86 § 102.]

18.235.020 Application of chapter—Director's authority—Disciplinary authority. (1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Whitewater river outfitters under chapter 79A.60 RCW;

(xxi) Home inspectors under chapter 18.280 RCW;

(xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

(xxiii) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority. [2013 c 322 § 29; 2010 c 179 § 18. Prior: 2009 c 412 § 22; 2009 c 370 § 20; 2009 c 102 § 5; 2008 c 119 § 21; 2007 c 256 § 12; 2006 c 219 § 13; 2002 c 86 § 103.]

Severability—Effective date—2010 c 179: See RCW 18.310.900 and 18.310.901.

Short title—Implementation—2009 c 412: See RCW 18.300.900 and 18.300.902.

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Effective date—2006 c 219: See note following RCW 46.82.285.

18.235.030 Disciplinary authority—Powers. The disciplinary authority has the power to:

(1) Adopt, amend, and rescind rules as necessary to carry out the purposes of this chapter, including, but not limited to, rules regarding standards of professional conduct and practice;

(2) Investigate complaints or reports of unprofessional conduct and hold hearings as provided in this chapter;

(3) Issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) Take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(5) Compel attendance of witnesses at hearings;

(6) Conduct practice reviews in the course of investigating a complaint or report of unprofessional conduct, unless the disciplinary authority is authorized to audit or inspect applicants or licensees under the chapters specified in RCW 18.235.020;

(7) Take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice or business pending proceedings by the disciplinary authority;

(8) Appoint a presiding officer or authorize the office of administrative hearings, as provided in chapter 34.12 RCW, to conduct hearings. The disciplinary authority may make the final decision regarding disposition of the license unless the disciplinary authority elects to delegate, in writing, the final decision to the presiding officer;

(9) Use individual members of the boards and commissions to direct investigations. However, the member of the board or commission may not subsequently participate in the hearing of the case;

(10) Enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) Grant or deny license applications, secure the return of a license obtained through the mistake or inadvertence of the department or the disciplinary authority after providing the person so licensed with an opportunity for an adjudicative proceeding, and, in the event of a finding of unprofessional conduct by an applicant or license holder, impose any sanction against a license applicant or license holder provided by this chapter;

(12) Designate individuals authorized to sign subpoenas and statements of charges;

(13) Establish panels consisting of three or more members of the board or commission to perform any duty or authority within the board's or commission's jurisdiction under this chapter; and

(14) Contract with licensees, registrants, endorsement or permit holders, or any other persons or organizations to provide services necessary for the monitoring or supervision of licensees, registrants, or endorsement or permit holders who are placed on probation, whose professional or business activities are restricted, or who are for an authorized purpose subject to monitoring by the disciplinary authority. If the subject licensee, registrant, or endorsement or permit holders may only practice or operate a business under the supervision of another licensee, registrant, or endorsement or permit holder under the terms of the law regulating that occupation or business, the supervising licensee, registrant, or endorsement or permit holder must consent to the monitoring or supervision under this subsection, unless the supervising licensee, registrant, or endorsement or permit holder is, at the time, the subject of a disciplinary order. [2002 c 86 § 104.]

18.235.040 Director's authority. The director has the following additional authority:

(1) To employ investigative, administrative, and clerical staff as necessary for the enforcement of this chapter, except as provided otherwise by statute;

(2) Upon request of a board or commission, to appoint not more than three pro tem members as provided in this subsection. Individuals appointed as pro tem members of a board or commission must meet the same minimum qualifications as regular members of the board or commission. While serving as a pro tem board or commission member, a person so appointed has all the powers, duties, and immunities, and is entitled to the entitlements, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of a regular member of the board or commission; and

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation or adjudicative proceedings as authorized by RCW 34.05.446. [2007 c 256 § 13; 2002 c 86 § 105.]

18.235.050 Statement of charges—Hearing. (1) If the disciplinary authority determines, upon investigation, that there is reason to believe that a license holder or applicant for a license has violated RCW 18.235.130 or has not met a minimum eligibility criteria for licensure, the disciplinary authority may prepare and serve the license holder or applicant a statement of charge, charges, or intent to deny. A notice that the license holder or applicant may request a hearing to contest the charge, charges, or intent to deny must accompany the statement. The license holder or applicant must file a request for a hearing with the disciplinary authority within twenty days after being served the statement of charges or statement of intent to deny. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a decision on the facts available to it.

(2) If a license holder or applicant for a license requests a hearing, the disciplinary authority must fix the time of the hearing as soon as convenient, but not earlier than thirty days after the service of charge, charges, or intent to deny. The disciplinary authority may hold a hearing sooner than thirty days only if the disciplinary authority has issued a summary suspension or summary restriction. [2007 c 256 § 14; 2002 c 86 § 106.]

18.235.060 Procedures governing adjudicative proceedings. The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern all hearings before the disciplinary authority. The disciplinary authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.05 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions. [2002 c 86 § 107.]

18.235.070 Previous denial, revocation, or suspension of license. The department shall not issue a license to any person whose license has been previously denied, revoked, or suspended by the disciplinary authority for that profession or business, except in conformity with the terms

and conditions of the certificate or order of denial, revocation, or suspension, or in conformity with any order of reinstatement issued by the disciplinary authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter. [2002 c 86 § 108.]

18.235.080 Orders. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.05 RCW, or an order of summary suspension entered under this chapter, takes effect immediately upon its being served. The final order, if appealed to the court, may not be stayed pending the appeal unless the disciplinary authority or court to which the appeal is taken enters an order staying the order of the disciplinary authority, which stay shall provide for terms necessary to protect the public. [2007 c 256 § 15; 2002 c 86 § 109.]

18.235.090 Appeal. A person who has been disciplined or has been denied a license by a disciplinary authority may appeal the decision as provided in chapter 34.05 RCW. [2007 c 256 § 16; 2002 c 86 § 110.]

18.235.100 Reinstatement. A person whose license has been suspended or revoked under this chapter may petition the disciplinary authority for reinstatement after an interval of time and upon conditions determined by the disciplinary authority in the order suspending or revoking the license. The disciplinary authority shall act on the petition in accordance with the adjudicative proceedings provided under chapter 34.05 RCW and may impose such conditions as authorized by RCW 18.235.110. The disciplinary authority may require successful completion of an examination as a condition of reinstatement. [2007 c 256 § 17; 2002 c 86 § 111.]

18.235.110 Unprofessional conduct—Finding. (1) Upon finding unprofessional conduct, the disciplinary authority may issue an order providing for one or any combination of the following:

- (a) Revocation of the license for an interval of time;
- (b) Suspension of the license for a fixed or indefinite term;
- (c) Restriction or limitation of the practice;
- (d) Satisfactory completion of a specific program of remedial education or treatment;
- (e) Monitoring of the practice in a manner directed by the disciplinary authority;
- (f) Censure or reprimand;
- (g) Compliance with conditions of probation for a designated period of time;
- (h) Payment of a fine for each violation found by the disciplinary authority, not to exceed five thousand dollars per violation. The disciplinary authority must consider aggravating or mitigating circumstances in assessing any fine. Funds received must be deposited in the related program account;
- (i) Denial of an initial or renewal license application for an interval of time; or
- (j) Other corrective action.

(2) The disciplinary authority may require reimbursement to the disciplinary authority for the investigative costs incurred in investigating the matter that resulted in issuance

of an order under this section, but only if any of the sanctions in subsection (1)(a) through (j) of this section is ordered.

(3) Any of the actions under this section may be totally or partly stayed by the disciplinary authority. In determining what action is appropriate, the disciplinary authority must first consider what sanctions are necessary to protect the public health, safety, or welfare. Only after these provisions have been made may the disciplinary authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

(4) The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct. The stipulations entered into under this subsection are considered formal disciplinary action for all purposes. [2007 c 256 § 18; 2002 c 86 § 112.]

18.235.120 Payment of a fine. Where payment of a fine is required as a result of a disciplinary action under RCW 18.235.060 or 18.235.150 and timely payment is not made as directed in the final order, the disciplinary authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement is in addition to any other rights the disciplinary authority may have as to any licensee ordered to pay a fine but may not be construed to limit a licensee's ability to seek judicial review under RCW 18.235.090. In any action for enforcement of an order of payment of a fine, the disciplinary authority's order is conclusive proof of the validity of the order of a fine and the terms of payment. [2002 c 86 § 113.]

18.235.130 Unprofessional conduct—Acts or conditions that constitute. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession or operation of the person's business, whether the act constitutes a crime or not. At the disciplinary hearing a certified copy of a final holding of any court of competent jurisdiction is conclusive evidence of the conduct of the license holder or applicant upon which a conviction or the final holding is based. Upon a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW

9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(2) Misrepresentation or concealment of a material fact in obtaining or renewing a license or in reinstatement thereof;

(3) Advertising that is false, deceptive, or misleading;

(4) Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another;

(5) The suspension, revocation, or restriction of a license to engage in any business or profession by competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the revocation, suspension, or restriction;

(6) Failure to cooperate with the disciplinary authority in the course of an investigation, audit, or inspection authorized by law by:

(a) Not furnishing any papers or documents requested by the disciplinary authority;

(b) Not furnishing in writing an explanation covering the matter contained in a complaint when requested by the disciplinary authority;

(c) Not responding to a subpoena issued by the disciplinary authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing authorized access, during regular business hours, to representatives of the disciplinary authority conducting an investigation, inspection, or audit at facilities utilized by the license holder or applicant;

(7) Failure to comply with an order issued by the disciplinary authority;

(8) Violating any of the provisions of this chapter or the chapters specified in RCW 18.235.020(2) or any rules made by the disciplinary authority under the chapters specified in RCW 18.235.020(2);

(9) Aiding or abetting an unlicensed person to practice or operate a business or profession when a license is required;

(10) Practice or operation of a business or profession beyond the scope of practice or operation as defined by law or rule;

(11) Misrepresentation in any aspect of the conduct of the business or profession;

(12) Failure to adequately supervise or oversee auxiliary staff, whether employees or contractors, to the extent that consumers may be harmed or damaged;

(13) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession or operation of the person's business. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(14) Interference with an investigation or disciplinary action by willful misrepresentation of facts before the disciplinary authority or its authorized representatives, or by the use of threats or harassment against any consumer or witness to discourage them from providing evidence in a disciplinary action or any other legal action, or by the use of financial inducements to any consumer or witness to prevent or

attempt to prevent him or her from providing evidence in a disciplinary action; and

(15) Engaging in unlicensed practice as defined in RCW 18.235.010. [2007 c 256 § 19; 2002 c 86 § 114.]

18.235.140 Final order issued under RCW 18.235.130—Failure to comply. If a person or business regulated by this chapter violates or fails to comply with a final order issued under RCW 18.235.130, the attorney general, any prosecuting attorney, the director, the board or commission, or any other person may maintain an action in the name of the state of Washington to enjoin the person from violating the order or failing to comply with the order. The injunction does not relieve the offender from criminal prosecution, but the remedy by injunction is in addition to the liability of the offender to criminal prosecution and disciplinary action. [2002 c 86 § 115.]

18.235.150 Investigation of complaint—Cease and desist order/notice of intent to issue—Final determination—Fine—Temporary cease and desist order—Action/who may maintain—Remedies not limited. (1) The disciplinary authority may investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.235.020. In the investigation of the complaints, the director has the same authority as provided the disciplinary authority under RCW 18.235.030.

(2) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in the unlicensed practice of a profession or operation of a business for which a license is required by the chapters specified in RCW 18.235.020.

(3) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in an act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters.

(4) The person to whom such a notice is issued may request an adjudicative proceeding to contest the allegations. The notice shall include a brief, plain statement of the alleged unlicensed activities, act, or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters. The request for hearing must be filed within twenty days after service of the notice of intent to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(5) If the disciplinary authority makes a final determination that a person has engaged or is engaging in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters, the disciplinary authority may issue a permanent cease and desist order. In addition, the disciplinary authority may impose a

civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in the unlicensed practice of a profession or operation of a business for which a license is required by one or more of the chapters specified in RCW 18.235.020. The proceeds of such a fine shall be deposited in the related program account.

(6) The disciplinary authority may issue a temporary cease and desist order if a person is engaged or is about to engage in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters if the disciplinary authority makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. A temporary cease and desist order shall remain in effect until further order of the disciplinary authority. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine.

(7) The cease and desist order is conclusive proof of unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(8) The attorney general, a county prosecuting attorney, the director, a board or commission, or any person may, in accordance with the laws of this state governing injunctions, maintain an action in the name of the state of Washington to enjoin any person practicing a profession or business without a license for which a license is required by the chapters specified in RCW 18.235.020. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be deposited in the related program account.

(9) The civil remedies in this section do not limit the ability to pursue criminal prosecution as authorized in any of the acts specified in RCW 18.235.020 nor do the civil remedies limit any criminal sanctions. [2007 c 256 § 20; 2002 c 86 § 116.]

18.235.160 Violation of injunction—Contempt of court—Civil penalty. A person or business that violates an injunction issued under this chapter may be found in contempt of court under RCW 7.21.010. Upon a finding by a court of competent jurisdiction that the person or business is in contempt, the court may order any remedial sanction as authorized by RCW 7.21.030. Further, the court may, in addition to the remedial sanctions available under RCW 7.21.030, order the person or business to pay a civil penalty to the state in an amount not to exceed twenty-five thousand dollars, which shall be deposited in the related program account. For the purposes of this section, the superior court issuing any injunction retains jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name

of the state may petition for the recovery of civil penalties. [2002 c 86 § 117.]

18.235.170 Misrepresentation—Gross misdemeanor.

A person who attempts to obtain, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor. [2002 c 86 § 118.]

18.235.180 Crime or violation by license holder—Disciplinary authority may give notification. If the disciplinary authority has reason to believe that a license holder has committed a crime, or violated the laws of another regulatory body, the disciplinary authority may notify the attorney general or the county prosecuting attorney in the county in which the act took place, or other responsible official of the facts known to the disciplinary authority. [2002 c 86 § 119.]

18.235.190 Immunity from suit. The director, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary actions or other official acts performed in the course of their duties. [2002 c 86 § 120.]

18.235.200 Use of records—Exchange of information—Chapter does not affect or limit. This chapter does not affect the use of records, obtained from the director or the disciplinary authorities, in any existing investigation or action by any public agency. Nor does this chapter limit any existing exchange of information between the director or the disciplinary authorities and other public agencies. [2002 c 86 § 121.]

18.235.210 Application of chapter—January 1, 2003.

(1) This chapter applies to any conduct, acts, or conditions occurring on or after January 1, 2003.

(2) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to January 1, 2003. The conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted.

(3) Notwithstanding subsection (2) of this section, this chapter applies to applications for licensure made on or after January 1, 2003. [2007 c 256 § 21; 2002 c 86 § 122.]

18.235.900 Short title. This chapter may be known and cited as the uniform regulation of business and professions act. [2002 c 86 § 123.]

18.235.901 Effective date—2002 c 86 §§ 101-123.

Sections 101 through 123 of this act take effect January 1, 2003. [2002 c 86 § 124.]

18.235.902 Part headings not law—2002 c 86. Part headings used in this act are not any part of the law. [2002 c 86 § 402.]

18.235.903 Severability—2002 c 86. If any provision of this act or its application to any person or circumstance is

held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2002 c 86 § 404.]