

REAL ESTATE BOARD

REAL ESTATE
BROKER
RESPONSIBILITIES

THE PRINCIPAL BROKER...

- ◎ HAS COMPLETE RESPONSIBILITY FOR EVERYTHING THAT HAPPENS IN THE FIRM.



“PRINCIPAL BROKER”

18 VAC 135-20-10

- THE INDIVIDUAL BROKER WHO SHALL BE DESIGNATED BY EACH FIRM TO ASSURE COMPLIANCE WITH CHAPTER 21 (§54.1-2100 ET SEQ.) OF TITLE 54.1 OF THE CODE OF VIRGINIA, AND THIS CHAPTER, AND **TO RECEIVE COMMUNICATIONS AND NOTICES FROM THE BOARD** WHICH MAY AFFECT THE FIRM OR ANY LICENSEE ACTIVE WITH THE FIRM. IN THE CASE OF A SOLE PROPRIETORSHIP, THE LICENSED BROKER WHO IS THE SOLE PROPRIETOR SHALL HAVE THE RESPONSIBILITIES OF THE PRINCIPAL BROKER. THE PRINCIPAL BROKER **SHALL HAVE RESPONSIBILITY FOR THE ACTIVITIES OF THE FIRM AND ALL ITS LICENSEES.** THE PRINCIPAL BROKER **SHALL HAVE SIGNATORY AUTHORITY ON ALL ESCROW ACCOUNTS MAINTAINED BY THE FIRM.**

THE PRINCIPAL BROKER...

- IS RESPONSIBLE FOR MAINTAINING THE LICENSES OF EVERYONE UNDER HIS AUTHORITY AND MAKING THE LICENSES AVAILABLE TO THE PUBLIC.



PLACE OF BUSINESS

18 VAC 135-20-160.C

- ◎ EVERY PRINCIPAL BROKER SHALL HAVE READILY AVAILABLE TO THE PUBLIC IN THE MAIN PLACE OF BUSINESS THE FIRM LICENSE, THE PRINCIPAL BROKER LICENSE AND THE LICENSE OF EVERY SALESPERSON AND BROKER ACTIVE WITH THE FIRM. THE BRANCH OFFICE LICENSE AND A ROSTER OF EVERY SALESPERSON OR BROKER ASSIGNED TO THE BRANCH OFFICE SHALL BE POSTED IN A CONSPICUOUS PLACE IN EACH BRANCH OFFICE.

LICENSURE/BROKER SUPERVISION

◎ LICENSE ACTIVATION (135-20-70.A)

“A LICENSEE WHO SUBMITS AN ACTIVATE APPLICATION TO THE BOARD SHALL NOT CONDUCT BUSINESS WITH THE REAL ESTATE FIRM OR SOLE PROPRIETORSHIP SET FORTH IN THE APPLICATION UNTIL THE APPLICATION IS PROCESSED AND THE LICENSE IS ISSUED BY THE BOARD.”

◎ LICENSE TRANSFER (135-20-70.B)

“ANY LICENSEE MAY TRANSFER FROM ONE LICENSED REAL ESTATE FIRM OR SOLE PROPRIETORSHIP TO ANOTHER BY COMPLETING AND SUBMITTING TO THE BOARD A TRANSFER APPLICATION AND THE FEE...”

LICENSURE/BROKER SUPERVISION

◎ LICENSE TRANSFER (135-20-70.B)

“THE TRANSFER APPLICATION SHALL INCLUDE THE SIGNATURE OF THE NEW PRINCIPAL BROKER OR SUPERVISING BROKER WITH SIGNATURE AUTHORITY WHO WILL BE RESPONSIBLE FOR THE LICENSEE’S REAL ESTATE ACTIVITIES AND SHALL BE EFFECTIVE UPON THE PRINCIPAL BROKER OR SUPERVISING BROKER’S EXECUTION OF THE TRANSFER APPLICATION.”

LICENSURE/BROKER SUPERVISION

- ◎ DUTIES OF SUPERVISING BROKER (135-20-165.5)

“THE SUPERVISING BROKER UNDERTAKES REASONABLE STEPS TO ENSURE COMPLIANCE BY ALL LICENSEES ASSIGNED TO THE BRANCH OFFICE, INCLUDING BUT NOT LIMITED TO ENSURING THE LICENSEES HAVE AN ACTIVE, CURRENT LICENSE.”

LICENSURE/BROKER SUPERVISION

- **REMINDER:** A LICENSEE IS PROHIBITED FROM PRACTICING REAL ESTATE AFTER HIS LICENSE EXPIRES. FOR LICENSEES AFFILIATED WITH A FIRM, DPOR'S SYSTEM WILL LIST THE LICENSEE AS ACTIVE FOR 30 DAYS AFTER LICENSE EXPIRATION SO THAT THE LICENSEE CAN MEET RENEWAL REQUIREMENTS. **THE LICENSEE IS NOT ALLOWED TO PRACTICE DURING THIS 30-DAY PERIOD.** AFTER THIS 30-DAY PERIOD, LICENSE LOOKUP WILL SHOW THE LICENSEE IS INACTIVE IF THE LICENSEE FAILED TO MEET THE RENEWAL REQUIREMENTS. PLEASE SEE THE REGULATION BELOW THAT SETS OUT THIS PROHIBITION:
- ***18 VAC 135-20-140.D STATES, "A LICENSEE MAY NOT PERFORM ACTIVITIES DEFINED IN...THE CODE OF VIRGINIA WITH AN EXPIRED LICENSE. ANY REAL ESTATE ACTIVITY CONDUCTED SUBSEQUENT TO THE EXPIRATION DATE MAY CONSTITUTE UNLICENSED ACTIVITY AND BE SUBJECT TO PROSECUTION".***

FAILING TO SAFEGUARD THE INTERESTS OF THE PUBLIC
18 VAC 135-20-260.11

- ⦿ C. A BROKER FAILING TO ENSURE THE LICENSEES FOR WHOM THE BROKER HAS OVERSIGHT RESPONSIBILITY HOLD ACTIVE LICENSES WHILE PRACTICING REAL ESTATE.

THE PRINCIPAL BROKER...

- ⦿ IS RESPONSIBLE FOR THE FIRM'S ESCROW ACCOUNT(S).



MAINTENANCE AND MANAGEMENT OF ESCROW ACCOUNTS
18 VAC 135-20-180

⦿ A.1. MAINTENANCE OF ESCROW ACCOUNTS

...THE BALANCE IN THE ESCROW ACCOUNTS SHALL BE SUFFICIENT AT ALL TIMES TO ACCOUNT FOR ALL FUNDS THAT ARE DESIGNATED TO BE HELD BY THE FIRM OR SOLE PROPRIETORSHIP. **THE PRINCIPAL BROKER SHALL** BE HELD RESPONSIBLE FOR THESE ACCOUNTS, INCLUDING HAVING SIGNATORY AUTHORITY ON THESE ACCOUNTS. **THE SUPERVISING BROKER MAY** BE HELD RESPONSIBLE FOR THESE ACCOUNTS. ALL SUCH ACCOUNTS, CHECKS AND BANK STATEMENTS SHALL BE LABELED “ESCROW” ...

MAINTENANCE AND MANAGEMENT OF ESCROW ACCOUNTS 18 VAC 135-20-180

- ◎ WHAT MUST GO INTO ESCROW (135-20-180.A.1)
 - DOWN PAYMENTS
 - EARNEST MONEY
 - MONEY RECEIVED UPON FINAL SETTLEMENT
 - PRE-PAID RENT OR ESCROW FUND ADVANCES
 - APPLICATION DEPOSITS
 - RENTAL SECURITY DEPOSITS
 - MONEY ADVANCED BY A BUYER OR SELLER FOR THE PAYMENT OF EXPENSES IN CONNECTION WITH THE CLOSING OF REAL ESTATE TRANSACTIONS.
 - MONEY ADVANCED BY THE BROKER'S CLIENT OR EXPENDED ON BEHALF OF THE CLIENT.

MAINTENANCE AND MANAGEMENT OF ESCROW ACCOUNTS

18 VAC 135-20-180

- ◉ WHEN FUNDS MUST GO INTO ESCROW (135-20-180.B.1.A)
 - UPON THE RATIFICATION OF A CONTRACT, EARNEST MONEY DEPOSITS AND DOWN PAYMENTS RECEIVED BY THE PRINCIPAL BROKER OR SUPERVISING BROKER OR HIS ASSOCIATES MUST BE PLACED IN AN ESCROW ACCOUNT BY THE END OF THE FIFTH BUSINESS BANKING DAY FOLLOWING RATIFICATION, UNLESS OTHERWISE AGREED TO IN WRITING BY THE PRINCIPALS TO THE TRANSACTION... (REGULATION WITH SECOND MOST VIOLATIONS)



MAINTENANCE AND MANAGEMENT OF ESCROW ACCOUNTS
18 VAC 135-20-180

⦿ C. ACTIONS INCLUDING IMPROPER MAINTENANCE OF ESCROW FUNDS INCLUDE:

5. FAILING, AS PRINCIPAL BROKER, TO REPORT TO THE BOARD WITHIN THREE BUSINESS DAYS INSTANCES WHERE THE PRINCIPAL BROKER REASONABLY BELIEVES THE IMPROPER CONDUCT OF A LICENSEE, INDEPENDENT CONTRACTOR, OR EMPLOYEE HAS CAUSED NONCOMPLIANCE WITH THIS SECTION.

THE PRINCIPAL BROKER...

- ◎ IS RESPONSIBLE FOR MAINTAINING FINANCIAL RECORDS AT THE PLACE OF BUSINESS.



MAINTENANCE AND MANAGEMENT OF FINANCIAL RECORDS
18 VAC 135-20-185

A. A COMPLETE RECORD OF FINANCIAL TRANSACTIONS CONDUCTED UNDER AUTHORITY OF THE PRINCIPAL BROKER'S VIRGINIA LICENSE SHALL BE MAINTAINED IN THE PRINCIPAL BROKER'S PLACE OF BUSINESS, OR IN A DESIGNATED BRANCH OFFICE. . . .

MAINTENANCE AND MANAGEMENT OF FINANCIAL RECORDS
18 VAC 135-20-185

B. THE PRINCIPAL BROKER SHALL MAINTAIN A BOOKKEEPING OR RECORD KEEPING SYSTEM WHICH SHALL ACCURATELY AND CLEARLY DISCLOSE FULL COMPLIANCE WITH THE REQUIREMENTS OUTLINED IN THIS SECTION. ACCOUNTING RECORDS WHICH ARE IN SUFFICIENT DETAIL TO PROVIDE NECESSARY INFORMATION TO DETERMINE SUCH COMPLIANCE SHALL BE MAINTAINED.

MAINTENANCE AND MANAGEMENT OF FINANCIAL RECORDS
18 VAC 135-20-185

WHAT INFORMATION SHOULD
FINANCIAL RECORDS CONTAIN?

- ⦿ FROM WHOM MONEY WAS RECEIVED.
- ⦿ THE DATE OF RECEIPT.
- ⦿ THE PLACE OF DEPOSIT.
- ⦿ THE DATE OF DEPOSIT.
- ⦿ THE FINAL DISPOSITION OF FUNDS.

MAINTENANCE AND MANAGEMENT OF FINANCIAL RECORDS
18 VAC 135-20-185

◎ C. ACTIONS CONSTITUTING
IMPROPER RECORDKEEPING BY A
PRINCIPAL BROKER OR SUPERVISING
BROKER INCLUDE:

4. FAILING TO MAINTAIN ANY RECORDS
REQUIRED BY THIS SECTION FOR THREE YEARS.



ADVERTISING BY LICENSEES

18 VAC 135-20-190

B. ALL ADVERTISING MUST BE UNDER THE DIRECT SUPERVISION OF THE PRINCIPAL BROKER OR SUPERVISING BROKER AND IN THE NAME OF THE FIRM. THE FIRM'S LICENSED NAME MUST BE CLEARLY AND LEGIBLY DISPLAYED ON ALL ADVERTISING.



THE PRINCIPAL/SUPERVISING BROKER...

- ◎ IS RESPONSIBLE FOR ALL THE ACTIONS OF ALL LICENSEES UNDER THEIR SUPERVISION, AND IF HE/SHE HAD KNOWLEDGE, IS RESPONSIBLE TO TAKE ACTION.



PRINCIPAL AND SUPERVISING BROKER'S RESPONSIBILITY FOR
ACTS OF LICENSEES AND EMPLOYEES
18 VAC 135-20-330

ANY UNLAWFUL ACT OR VIOLATION OF ANY OF THE PROVISIONS OF CHAPTER 21, (§ 54.1-2100 ET SEQ.) OF TITLE 54.1 OR OF CHAPTER 5.1 (§ 36-96.1 ET SEQ.) OF TITLE 36 OF THE CODE OF VIRGINIA OR OF THE REGULATIONS OF THE BOARD BY ANY REAL ESTATE SALESPERSON, EMPLOYEE, PARTNER OR AFFILIATE OF A PRINCIPAL BROKER, SUPERVISING BROKER, OR BOTH, MAY NOT BE CAUSE FOR DISCIPLINARY ACTION AGAINST THE PRINCIPAL BROKER, SUPERVISING BROKER, OR BOTH, UNLESS IT APPEARS TO THE SATISFACTION OF THE BOARD THAT THE PRINCIPAL BROKER, SUPERVISING BROKER, OR BOTH, **KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR VIOLATION AND FAILED TO TAKE REASONABLE ACTION** UNDER THE CIRCUMSTANCES TO REMEDY THE SITUATION.

DUTIES OF SUPERVISING BROKER

18 VAC 135-20-165

- ◎ EACH PLACE OF BUSINESS SHALL BE SUPERVISED BY A SUPERVISING BROKER. THE SUPERVISING BROKER SHALL EXERCISE REASONABLE AND ADEQUATE SUPERVISION OF THE PROVISION OF REAL ESTATE BROKERAGE SERVICES BY ASSOCIATE BROKERS AND SALESPERSONS ASSIGNED TO THE BRANCH OFFICE.

DUTIES OF SUPERVISING BROKER

18 VAC 135-20-165

6. THE SUPERVISING BROKER UNDERTAKES REASONABLE STEPS TO ENSURE ONLY LICENSEES UNDERTAKE ACTIVITIES REQUIRING A LICENSE, INCLUDING BUT ARE NOT LIMITED TO:
(SIC)

A. SHOW PROPERTY;

B. HOLD AN OPEN HOUSE;

C. ANSWER QUESTIONS ON LISTINGS, TITLE, FINANCING, CLOSING, CONTRACTS, BROKERAGE AGREEMENTS, AND LEGAL DOCUMENTS;

D. DISCUSS, EXPLAIN, INTERPRET, OR NEGOTIATE A CONTRACT, LISTING, LEASE AGREEMENT, OR PROPERTY MANAGEMENT AGREEMENT WITH ANYONE OUTSIDE THE FIRM;
AND

E. NEGOTIATE OR AGREE TO ANY COMMISSION, COMMISSION SPLIT, MANAGEMENT FEE, OR REFERRAL FEE.

DUTIES OF SUPERVISING BROKER

18 VAC 135-20-165

7. THE SUPERVISING BROKER SHALL PROVIDE ADEQUATE SUPERVISION OVER THE UNLICENSED EMPLOYEES OR ASSISTANTS UNDER THE SUPERVISION OF A BROKER AS THEY PERFORM THE FOLLOWING PERMITTED ACTIVITIES:

- A. PERFORM GENERAL CLERICAL DUTIES, INCLUDING ANSWERING THE PHONES, RESPONDING BY ELECTRONIC MEDIA, AND PROVIDING INFORMATION SHOWN ON THE LISTING;
- B. SUBMIT LISTINGS AND CHANGES TO MLS;
- C. FOLLOW UP ON LOAN COMMITMENTS AFTER CONTRACTS HAVE BEEN RATIFIED;
- D. HAVE KEYS MADE FOR LISTINGS;
- E. COMPUTE COMMISSION CHECKS;

DUTIES OF SUPERVISING BROKER

18 VAC 135-20-165

- F. PLACE SIGNS ON PROPERTIES;
- G. ACT AS A COURIER SERVICE;
- H. SCHEDULE APPOINTMENTS;
- I. RECORD AND DEPOSIT EARNEST MONEY DEPOSITS, SECURITY DEPOSITS, AND ADVANCE RENTS;
- J. PREPARE CONTRACT FORMS FOR APPROVAL OF THE LICENSEE AND SUPERVISING BROKER;
- K. PREPARE PROMOTIONAL MATERIALS AND ADVERTISEMENTS FOR APPROVAL OF THE LICENSEE AND SUPERVISING BROKER;
- L. ASSEMBLE CLOSING DOCUMENTS;

DUTIES OF SUPERVISING BROKER

18 VAC 135-20-165

M. OBTAIN REQUIRED PUBLIC INFORMATION FROM GOVERNMENTAL ENTITIES;

N. MONITOR LICENSE AND PERSONNEL FILES;

O. ORDER ROUTINE REPAIRS AS DIRECTED BY LICENSEE;

P. ARE COMPENSATED FOR THEIR WORK AT A PREDETERMINED RATE THAT IS NOT CONTINGENT UPON THE OCCURRENCE OF A REAL ESTATE TRANSACTION; AND

Q. PERFORM ANY OTHER ACTIVITIES UNDERTAKEN IN THE REGULAR COURSE OF BUSINESS FOR WHICH A LICENSE IS NOT REQUIRED.

PROHIBITED ACTS

18 VAC 135-20-260

11. ACTIONS CONSTITUTING FAILING TO ACT AS A REAL ESTATE BROKER OR SALESPERSON IN SUCH A MANNER AS TO SAFEGUARD THE INTERESTS OF THE PUBLIC, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

G. A LICENSEE FAILING TO SUBMIT TO THE BROKER IN A TIMELY MANNER, ALL EARNEST MONEY DEPOSITS, CONTRACTS, LISTING AGREEMENTS, DEEDS OF LEASE, OR ANY OTHER DOCUMENTS FOR WHICH THE BROKER HAS OVERSIGHT RESPONSIBILITY. (THIRD MOST VIOLATED REGULATION)

H. A LICENSEE NEGOTIATING LEASES FOR A THIRD PARTY THROUGH AN UNLICENSED FIRM OR WITHOUT A PRINCIPAL BROKER.

PROHIBITED ACTS

18 VAC 135-20-260

12. ACTIONS CONSTITUTING ENGAGING IN IMPROPER, FRAUDULENT, OR DISHONEST CONDUCT, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

H. A LICENSEE REPRESENTING IN OFFERS HE RECEIVED THE EARNEST MONEY DEPOSIT WHEN HE HAS NOT OR HE KNOWS THE CHECK IS WORTHLESS.

IMPROPER DELIVERY OF INSTRUMENTS

18 VAC 135-20-310

ACTIONS CONSTITUTING IMPROPER DELIVERY OF INSTRUMENTS INCLUDE:

2. FAILING TO PROVIDE IN A TIMELY MANNER TO ALL PRINCIPALS TO THE TRANSACTION WRITTEN NOTICE OF ANY MATERIAL CHANGES TO THE TRANSACTION. (REGULATION WITH THE MOST VIOLATIONS)

OTHER ISSUES

SOME CAUSES OF APPLICATION PROCESSING DELAYS:

- ⦿ APPLICATIONS NOT PROPERLY SIGNED
- ⦿ INFORMATION PROVIDED NOT THE SAME AS THAT PROVIDED TO STATE CORPORATION COMMISSION
- ⦿ WRONG OR OUTDATED APPLICATION FORM SENT
- ⦿ INCOMPLETE APPLICATION PROVIDED (30%)
- ⦿ APPLICANT FAILED TO SUBMIT FINGERPRINTS
- ⦿ APPLICANT HAS PAST CRIMINAL HISTORY OR DISCIPLINARY ACTION
- ⦿ EXPERIENCE WAIVER — APPLICANT CANNOT DOCUMENT REQUIRED EXPERIENCE

OTHER ISSUES

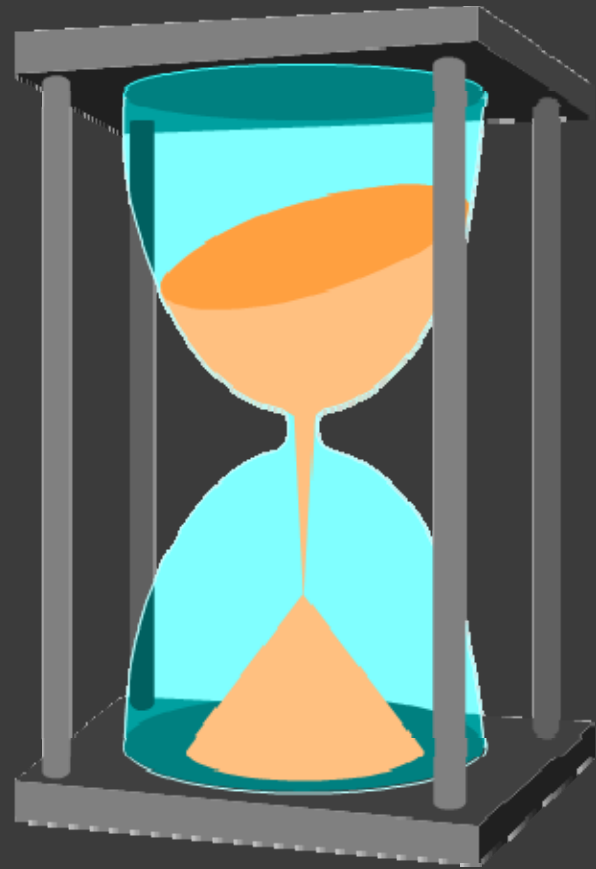
- **BRANCH OFFICE AFFILIATION**

§54.1-2110.1 DUTIES OF SUPERVISING BROKER

D. NO LATER THAN JANUARY 1, 2017, THE SUPERVISING BROKER FOR A BRANCH OFFICE SHALL PROVIDE TO THE BOARD THE NAME AND LICENSE NUMBER OF THE SUPERVISING BROKER FOR THE BRANCH OFFICE. THEREAFTER, **UPON THE RENEWAL OF THE LICENSE OF EACH LICENSEE WORKING IN SUCH BRANCH OFFICE OR UPON THE TRANSFER OF A LICENSEE TO SUCH OFFICE, THE BROKER SHALL PROVIDE TO THE BOARD THE NAME AND LICENSE NUMBER OF EACH REAL ESTATE LICENSEE WORKING IN THE BRANCH OFFICE ON THE BROKER ACKNOWLEDGEMENT FORM CREATED BY THE BOARD.**

- IF THE BROKER DOES NOT RECEIVE THE FORM MAILED BY THE BOARD WHEN A LICENSEE'S RENEWAL IS DUE, THERE IS A FORM AVAILABLE ON THE BOARD'S WEBSITE FOR THE BROKER TO SUBMIT.
- **BOARD STAFF CANNOT RENEW AN INDIVIDUAL'S LICENSE IF IT IS AFFILIATED WITH A BRANCH UNTIL STAFF RECEIVES AFFIRMATION FROM THE BROKER THAT THE LICENSEE IS STILL AFFILIATED WITH HIS BRANCH OFFICE.**

QUESTIONS????



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