

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Statutory Authority: 24 Delaware Code, Section 2906(a)(1) (24 **Del.C.** §2906(a)(1))
24 **DE Admin. Code** 2925

PROPOSED

PUBLIC NOTICE

2925 Real Estate Commission Education Committee

Pursuant to 24 **Del.C.** §2906(a)(1), the Delaware Real Estate Commission has proposed revisions to the Real Estate Commission Education Guidelines (the "Guidelines").

A public hearing will be held on March 10, 2016 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Real Estate Commission, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Commission at the above address. Pursuant to 29 **Del.C.** §10118(a), the final date to receive written comments will be March 25, 2016, which is 15 days following the public hearing. The Commission will deliberate on all of the public comments at its regularly scheduled meeting on April 14, 2016, at which time the Commission will decide whether to adopt the revisions as proposed.

The Commission has proposed a new Rule 4.0 to address distance education. Rule 4.0 provides that prelicensing education, for both salespeople and brokers, and continuing education, may be accomplished through distance education. The proposed rule establishes standards for distance education courses, providers and instructors to ensure that applicants and licensees receive appropriate training. Other rules are revised to accommodate the new Rule 4.0.

2925 Real Estate Commission Education Committee

1.0 Objective

Through education, the licensee shall be reasonably current in real estate knowledge and shall have improved ability to provide greater protection and service to the real estate consumer, thereby supporting the Delaware Real Estate Commission's primary objective of protection of the public. This supplement to the Rules and Regulations of the Delaware Real Estate Commission shall set forth the guidelines for all Real Estate Prelicensing Courses and Continuing Education as mandated under 24 **Del.C.** §2906(a)(6).

2.0 Administration

The Delaware Real Estate Commission has the governing powers to approve or disapprove educational course offerings and instructor approval and reserves the right to suspend or revoke the privilege of conducting any educational course to any course provider(s) or instructor(s) who fail to adhere to the educational guidelines as established by the Commission.

3.0 Education Committee

- 3.1 Committee Structure – With the expiration of the terms of the members of the Committee in office as of the effective date of this Rule, the Committee shall be comprised of nine (9) members, three (3) from each county. Up to three (3) members may be public members and the remaining members shall be professional members.
 - 3.1.1 A public member shall not be, nor have been within the last five (5) years prior to the effective date of appointment, a real estate licensee. A public member shall have a high school diploma, or the equivalent, and shall have a minimum of five (5) years experience in a professional capacity, other than in the real estate profession.
 - 3.1.2 A professional member shall hold an active Delaware real estate license in good standing and shall have a minimum of three (3) years of full time real estate sales or brokerage experience. A professional member shall also demonstrate past or present interest and experience in real estate educational activities and familiarity with the Real Estate Commission's licensing law (Chapter 29 of Title 24 of the Delaware Code) and rules and regulations.
- 3.2 Committee Officers - (Chairperson and Vice-Chairperson) shall be elected from the Committee and shall serve one year terms. Election of said officers will be held in January.
- 3.3 Term of Office

- 3.3.1 With the expiration of the terms of the members of the Committee in office as of the effective date of this Rule, each appointment shall be for three (3) full years. Each appointed committee member may succeed himself or herself for one (1) additional term. Committee members in office as of April 11, 2013, may serve an additional three (3) year term after completion of their current terms. No person who has been appointed to the Committee shall again be appointed to the Committee until an interim period of at least one (1) year has passed since such person last served.
 - 3.3.2 As of the effective date of this Rule, a majority of the members holding appointed office at any given time members shall constitute a quorum; and no recommendation shall be effective without the affirmative vote of a majority of the quorum. Any member who fails to attend three (3) consecutive regular business meetings without a valid excuse, or who fails to attend at least half of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from office and a replacement shall be appointed by the Commission.
 - 3.3.3 Committee members shall be appointed by the Commission. Applications for committee membership will be received by the Commission, via a letter of intent and a current resume 60 days prior to an anticipated vacancy. Committee members may be removed by the Commission for good cause. If an interim vacancy should occur, the Commission shall appoint a person to fill the position for a full four (4) year term commencing with the date of appointment.
- 3.4 Committee Responsibilities
- 3.4.1 It shall be the duty of the Education Committee to oversee the content and conduct of all pre-licensing courses for salesperson and broker as well as continuing education programs offered to fulfill the educational requirements for obtaining and maintaining licensure in the State of Delaware.
 - 3.4.2 The Education Committee shall have the responsibility for reviewing all applications for pre-licensing and continuing education credit as well as review of instructor applicants, to insure that all applications satisfy the requirements.
 - 3.4.3 After this review, the Education Committee shall recommend that an application be approved, disapproved or approved with modifications by the Commission. If approval is recommended with regard to continuing education, the Committee shall indicate the number of full credit hours for the course. In making its decisions, the Education Committee shall follow the provisions contained in these guidelines. Any recommendation for non-approval shall be accompanied by a specific reason. Only the Delaware Real Estate Commission shall have the power to approve or disapprove the application for a course offering or instructor approval.
 - 3.4.4 The Education Committee shall undertake such other duties and responsibilities directly related to education as the Commission shall direct from time to time.
 - 3.4.5 Committee meeting times and places shall be as necessary, but in all cases within two weeks prior to the next regularly scheduled meeting of the Commission. Committee meetings shall be conducted in accordance with the Administrative Procedures Act.
 - 3.4.6 Notwithstanding any rule, regulation, or guideline to the contrary, members of the Education Committee who attend at least eighty percent (80%) of the meetings of the Education Committee during a biennial licensure period may receive one hour of continuing education for each meeting attended and said hour may be applied to any continuing education required for renewal.

17 DE Reg. 443 (10/01/13)

4.0 Distance Education

4.1 Definitions

- 4.1.1 A "distance education course" is one in which instruction takes place in other than a traditional classroom setting, the instructor and student are in physically separate locations, and instructional methods include interactive video-based instruction, computer conferencing, interactive audio, interactive computer software, and internet-based instruction.
- 4.1.2 The term "school" shall include distance education unless otherwise specified in these Guidelines.

4.2 Courses

- 4.2.1 Pre-licensing courses, for both salespeople and brokers, and continuing education courses, may be taken through distance education.
- 4.2.2 All distance education courses shall be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC), or its successor, before being submitted to the Commission for approval and shall retain certification in order to retain Commission approval. This includes pre-licensing and continuing education courses.

- 4.2.3 ARELLO or IDECC certified distance education courses shall follow curriculum requirements as specified by the Commission.
- 4.2.4 The distance education course shall include the same informational content as a course that would otherwise qualify for the requisite number of hours of classroom-based instruction, and students must proceed through and demonstrate comprehension of all the material.
- 4.2.5 The distance education course shall include consistent and regular interactive events as appropriate to the medium. 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's learning objectives. The course approval application must identify the types of interactive events included in the course and specify how the interactive events contribute to the achievement of the stated learning objectives.
- 4.2.6 The distance education course shall require that the student demonstrate mastery of the learning objectives as designated for each lesson in order to successfully complete the lesson. The course shall provide a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process.
- 4.2.7 Continuing education courses shall be, at minimum, at the intermediate level and shall provide for 50 minutes of seat time for each hour of credit.
- 4.2.8 The Commission may withdraw approval for any distance education course that is not offered in accordance with Commission requirements as set forth in these Guidelines.

4.3 Providers

- 4.3.1 A provider offering pre-licensing distance education courses shall be approved as a school by the Commission prior to offering education for Delaware.
- 4.3.2 The course provider shall measure, at regular intervals, the student's progress toward and completion of the mastery requirement of each lesson or module covering all the required subject matter. In the case of computer-based instruction, the course software shall include automatic shutdown after a ten minute period of inactivity.
- 4.3.3 The course provider shall demonstrate that approved instructors are available to answer student questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, e-mail, and fax. Communication by written postal correspondence alone is insufficient to satisfy the requirements of this Guideline.
- 4.3.4 The course provider shall provide reasonable security to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the provider and the student must certify in writing that the student has successfully completed the course.
- 4.3.5 The course provider shall require that the student pass an appropriate exam to successfully complete and receive credit. An examination will be considered appropriate if it contains at least five multiple-choice questions for each hour of credit and requires a minimum passing score of 80 percent.
- 4.3.6 The course provider shall give distance education students instructions on how they can electronically submit a course evaluation.
- 4.3.7 The Commission may withdraw approval for any distance education provider who is not in compliance with Commission requirements for distance education courses.

4.4 Instructors

- 4.4.1 Instructors of distance education courses shall be approved by the Commission. Instructors shall not receive approval until they receive the Distance Education Instructor Certification from IDECC (or its successor), which is a subsidiary of ARELLO, and submit verification of the certification to the Commission. The Distance Education Instructor Certification shall be renewed and kept current in order for the instructor to continue offering distance education courses for Delaware.

45.0 Requirements for the Salesperson Prelicensing Course

- 45.1 Purpose: To provide the prospective licensee with the background necessary to:
 - 45.1.1 Understand the basics of real estate sales, law and mathematics.
 - 45.1.2 To provide the prospective licensee with a working knowledge of federal and state laws and regulations affecting the real estate profession.
- 45.2 Course Objective:
 - 45.2.1 To provide an overview of the real estate profession and to insure the prospective salesperson understands the application of professional ethics as applied to real estate transactions.
 - 45.2.2 To provide the prospective licensee with an understanding of:
 - 45.2.2.1 Real property characteristics, definitions, ownership, restrictions and transfer

- 45.2.2.2 Assessing and explaining property valuation and the appraisal process
- 45.2.2.3 Contracts, agency relationships with buyers and sellers, and federal requirements
- 45.2.2.4 Financing, the transaction and settlement
- 45.2.2.5 Leases, rents, and property management
- 45.2.2.6 The duties and powers of the Commission
- 45.2.2.7 Licensing requirements
- 45.2.2.8 Statutory requirements governing the activities of licensees
- 45.2.2.9 Other aspects of Delaware law which impact the real estate issues
- 45.3 To prepare the prospective licensee for passing the real estate sales licensing examination for the State of Delaware.
- 45.4 Major Course Topics and Hours:
 - 45.4.1 Real Estate Orientation (3 hours)
 - 45.4.2 Real Estate Sales (36 hours)
 - 45.4.3 Real Estate Law (33 hours)
 - 45.4.4 Real Estate Mathematics (24 hours)
 - 45.4.5 Review for Sales, Law, Mathematics (3 hours)
 - 45.4.6 Total minimum: 99 hours
- 45.5 The hours as outlined are the minimum hours to be offered; a school or ~~on-line~~ distance education program presenting the Delaware Real Estate Pre-Licensing Course may offer a course with more hours.
- 45.6 ~~Up to 60 hours of any on-line pre-licensing course, accredited by Delaware or another state, may be used towards the total 99 required salesperson pre-licensing hours. An applicant may also take 39 hours of Delaware Real Estate Law on-line.~~ The total 99 required salesperson pre-licensing hours may be taken through distance education. An applicant may also take 39 hours of Delaware Real Estate Law on-line.
- 45.7 The presentation which follows includes topics to be covered and the number of hours to be devoted to each. The manner in which the school or ~~online-~~ distance education program sequences the topics does not have to follow the sequence listed. Individual schools or ~~online-~~ distance education programs should develop a topical understanding of the material and for the instructors' presentation.
- 45.8 Where the course is given in a school, the time to be devoted to each topic is listed as "hours". An hour is defined as fifty (50) minutes of direct contact and ten (10) minutes of break. The three 10 minute break periods, or a total of thirty (30) minutes, can be taken in any means felt appropriate by the instructor.
- 45.9 Orientation - One three (3) hour session consisting of:
 - 45.9.1 Real estate Sales Pre-Licensing Course requirements.
 - 45.9.2 Delaware Real Estate Sales Licensing requirements.
 - 45.9.3 General discussion of actual business practices on the part of the licensee to successfully conduct an agent's business; i.e., compensation, hours, taxes, automobile liability, business liability, cooperation with other brokers and agents, and demands of public on agent's time, expertise, and services.
 - 45.9.4 School or ~~on-line~~ distance education program shall offer a math pretest for those students who wish to exempt themselves from ~~attendance, or participation, where on-line,~~ of the math portion of this course. This optional math pretest shall be equivalent to the final test given at the conclusion of the math section in content and length. The content of the pretest shall cover each of the topics covered in the course. The students shall be permitted to use calculators when taking the test and a passing score of 80 percent shall exempt a student from taking the math section of this course.
- 45.10 Real Estate Sales – 36 Total hours with sessions consisting of:
 - 45.10.1 Brokerage, Agency, Dual Agency, Buyer Brokerage - (3) hours
 - 45.10.2 Listing procedures including practical exercises in taking a listing and preparing the data necessary for a listing - (3) hours
 - 45.10.3 Sales including practical exercises of writing an offer of purchase and sale - (6) hours
 - 45.10.4 Financing limited to practical knowledge including how to qualify buyers, types of financing - (6) hours
 - 45.10.5 Preparing competitive market analysis (CMA) – (2) hours
 - 45.10.6 Construction – (2) hours
 - 45.10.7 Property management limited to practical aspects – (1) hour
 - 45.10.8 Fair housing – (3) hours
 - 45.10.9 Ethics – (3) hours
 - 45.10.10 Environmental concerns, including soil analysis, septic systems wells, wetlands, radon, asbestos, storage tanks – (3) hours

- 45.10.11 Wood destroying insect infestation – (1) hour
- 45.10.12 Examination – (3) hours
- 45.11 Real Estate Law – 33 Total Hours with sessions consisting of:
 - 45.11.1 Real Estate License Laws, Rules and Regulations – (3) hours
 - 45.11.2 Real Estate Interests, Legislative Update – (3) hours
 - 45.11.3 Forms of Ownership – (3) hours
 - 45.11.4 Legal descriptions and surveys, title transfers and title records – (3) hours
 - 45.11.5 Real Estate Contracts including listings and real estate contracts including discussion of widely used form contracts – (3) hours
 - 45.11.6 Financing limited to legal aspects, content of notes, bonds, mortgages, concepts of foreclosure – (3) hours
 - 45.11.7 Leases including Delaware Landlord Tenant Code, Delaware Agricultural Lease Act – (3) hours
 - 45.11.8 Subdivision, property development, zoning – (3) hours
 - 45.11.9 Settlement procedures including examination of settlement sheet – (3) hours
 - 45.11.10 Tax aspects of real estate including tax aspects of home ownership, tax deferral of exchanges, one time exclusion of gain, investment real estate, tax treatment of vacation homes, transfer tax – (3) hours
 - 45.11.11 Examination – (3) hours
- 45.12 Real Estate Mathematics – 24 Total hours with sessions consisting of:
 - 45.12.1 Basic mathematics review as deemed necessary by the instructor – (3) hours
 - 45.12.2 The relationship between list price, sales price, commission rate, amount of commission – (3) hours
 - 45.12.3 Computation of PITI monthly mortgage payment and qualifying a buyer for that payment; computation of simple interest and the amortization of a mortgage loan; computation of discount points; computation of PMI – (6) hours
 - 45.12.4 The relationship between assessed value, tax rate and the amount of taxes; computation of transfer tax; proration of mortgage interest and property tax, etc. – (3) hours
 - 45.12.5 Real estate geometry (area, volume) and the computation of heated square footage; calculation of depreciation, appreciation, and appraisal mathematics (market comparison vs. cost approach vs. income approach) – (3) hours
 - 45.12.6 Computation of cash needed by buyer at closing and monies received by seller at closing – (3) hours
 - 45.12.7 Examination – (3) hours
- 45.13 Coordinator: The institution or ~~on-line~~ distance education program sponsoring the course shall appoint a course coordinator who shall have the following responsibilities:
 - 45.13.1 Selection of instructors as required by the guidelines
 - 45.13.2 Where the course is offered by a school, rather than by ~~an on-line~~ a distance education provider, selection of facilities as required by the Delaware Department of ~~Public Instruction~~ Education
 - 45.13.3 Coordination of course content
 - 45.13.4 Coordination of orientation, math pretest, final examinations and retest examinations
 - 45.13.5 Coordination of required texts and reference material
 - 45.13.6 Issuance of course certificate of completion
 - 45.13.7 Dissemination of information concerning application to take the licensing examination administered by testing service
 - 45.13.8 Conduct evaluation of course, instructor, facilities and coordination, and to forward evaluation results to the Real Estate Commission within ten (10) days of completion of the education course
 - 45.13.9 Submission of course to Delaware Real Estate Commission for approval prior to offering course. Accountability for the quality of the course given shall remain with the sponsoring organization.
- 45.14 Instruction: Three individuals are preferred for instruction of the course:
 - 45.14.1 a Delaware attorney whose practice has an emphasis on real estate transactions,
 - 45.14.2 a practicing Delaware licensed resident broker with a minimum of 5 years of experience as a Delaware licensee, or a practicing Delaware licensed nonresident broker with 5 years broker practice experience
 - 45.14.3 an individual knowledgeable in performing real estate business mathematics computations
 - 45.14.4 no more than 1 primary instructor from any one real estate firm will be allowed. Additionally, when a specialized topic is presented, it is encouraged that a specialist be used for that particular session, e.g., an environmentalist to cover environmental concerns including soil analysis, septic systems, etc. ~~Where the course is an on-line offering, instructor(s) qualified at these levels must be accessible to the student. For on-line programs, the instructors must be approved by ARELLO.~~

- 45.14.5 Because there is some overlapping of material among the three major topics, it is desirable, where appropriate, that the course coordinator schedule a meeting of the instructors prior to orientation to: (1) coordinate the presentation of material, and (2) decide who will give major emphasis to specific topics. During this meeting, it must be remembered that some of the students may not, because of exemption, be attending the mathematics portion of the course.
- 45.15 Location: Where the provider is a school, rather than distance learning, the location of any pre-licensing course must be a DOE approved facility.
- 4.16 ~~On-line Programs: Any on-line pre-licensing course must be accredited by Delaware or another state and the instructors must be approved by ARELLO.~~
- 45.176 Successful Completion - Successful completion is defined as: (1) having attended, and (2) having successfully completed the real estate legal, sales and mathematics examinations. Precise definitions for attendance and examination completion are presented below.
- 45.187 Following successful completion, students shall receive ~~from the institution or on-line program~~ verification of this status. Verification shall be in certificate form as described in the Guidelines for Fulfilling the Delaware Real Estate Education Requirements.
- 45.198 Attendance: Where the course is given in a school, it is strongly recommended that students do not miss any sessions. However, students may miss four sessions, but not more than two in any one subject area (legal, sales or mathematics) and still successfully complete the course. Being absent from a session will not relieve a student of the responsibility for the material covered.
- 45.2019 Examinations: All examinations shall be developed by the respective educational institution and/or instructor. Scores for successful examination completion shall be mathematics, 70 percent correct; sales 70 percent correct; and legal, 70 percent correct.
- 45.240 An ~~institution~~ school or ~~on-line~~ distance education program shall allow a student to take or sit for a minimum of one retake examination in each area, legal, sales, mathematics, prior to documenting course failure. It is required that a new examination be developed for students who request retake examinations.
- 45.221 Evaluation: ~~Where the course is given in a school, a~~ At the conclusion of the course, the course coordinator shall conduct a student evaluation of the course, facilities, instructors and the coordination of the course on the form approved by the Commission. They shall submit those evaluations to the Delaware Real Estate Commission's Education Committee within fifteen (15) days of completion of the course with the evaluation summary report form mandated by Education Guideline ~~8.4~~ 9.5. Prelicensing providers will also conduct a regular post prelicensing survey on the form following as the final page of this course guideline. Completed forms received by the provider must be retained for a two year period. The provider must furnish the forms upon request from the Commission.
- 45.232 Text and Material:
- 45.232.1 Text covering principles and practices of real estate as selected by course provider
 - 45.232.2 Chapter 29, Title 24, Real Estate License Act, Delaware Code
 - 45.232.3 Rules and Regulations of the Delaware Real Estate Commission
 - 45.232.4 Chapter 46, Title 6, Fair Housing Act, Delaware Code.
 - 45.232.5 Chapters 1, 3, and 7, Title 25, Ownership, Delaware Code
 - 45.232.6 Chapter 21, Title 25, Mortgages on Real Estate, Delaware Code
 - 45.232.7 Chapter 22, Title 25, Unit Properties, Delaware Code and Chapter ~~80~~ 81 Title 25 ~~GDUCIOA~~
 - 45.232.8 Chapter 27, Title 25, Mechanics Liens, Delaware Code
 - 45.232.9 Chapter 27, Subchapter II, Title 6, Statute of Frauds Delaware Code
 - 45.232.10 Chapters 29, 31, Title 25, Liens, Delaware Code
 - 45.232.11 Chapters 51-65, Title 25, Landlord Tenant Code, Delaware Code
 - 45.232.12 Chapter 67, Title 25, Agricultural Lease Act, Delaware Code
 - 45.232.13 Chapter 54, Title 30, Transfer Tax, Delaware Code
 - 45.232.14 Chapter 25, Subchapter VII, Title 6, Buyer Property Protection Act and Radon Disclosure, Delaware Code
 - 45.232.15 Delaware Real Estate Candidate Handbook - Testing Service
- 45.243 Instructors may and are encouraged to use additional references and hand out materials as needed. Instructors are encouraged to use sample contracts, sample leases, and sample settlement sheets. All real estate information should be generic in nature with no implications of any Real Estate firm. No recruiting of any nature will be allowed by an instructor.

45.254 The License Law and the Rules and Regulations of the Commission are readily available on the Commission's web site at www.dpr.delaware.gov. The current Delaware Code is available on line at www.delcode.state.de.us. The Real Estate Candidate Handbook is available from the testing service at www.pearsonvue.com.

56.0 Requirements for the Associate Broker and Broker Licensing Course

56.1 Purpose:

- 56.1.1 To protect the public by increasing the knowledge and professionalism of brokers.
- 56.1.2 To provide the Delaware real estate sales agent with the knowledge needed to operate as a Delaware real estate broker.
- 56.1.3 To prepare the experienced Delaware real estate sales agent to open an independent real estate brokerage firm and employ sales agents in his or her name.
- 56.1.4 To present a review of basic real estate math.
- 56.1.5 To prepare the Delaware real estate sales agent to successfully complete the Delaware real estate broker's licensing examination.

56.2 Objectives:

- 56.2.1 To present the real estate profession's ethics and discuss the integration of these ethics in the professional's everyday business practices.
- 56.2.2 To provide the prospective licensee with an understanding of:
 - 56.2.2.1 Real property characteristics, definitions, ownership, restrictions and transfer
 - 56.2.2.2 Assessing and explaining property valuation and the appraisal process
 - 56.2.2.3 Contracts, agency relationships with buyers and sellers, and federal requirements
 - 56.2.2.4 Financing, the transaction and settlement
 - 56.2.2.5 Leases, rents, and property management
 - 56.2.2.6 The duties and powers of the Commission
 - 56.2.2.7 Licensing requirements
 - 56.2.2.8 Statutory requirements governing the activities of licensees
 - 56.2.2.9 Other aspects of Delaware law which impact the real estate issues
 - 56.2.2.10 Broker issues including examination of records, eligibility for licensing, and place of business

56.3 Course Outline – a Total of 96 Classroom or on-line program plus Final Examination:

56.3.1 Brokerage (Sales Management and Business Management) (30 Hours):

- 56.3.1.1 Agency Relationship
- 56.3.1.2 Operating Philosophy - Listing Control
- 56.3.1.3 Statutory Requirements Under Delaware Law
- 56.3.1.4 Settlement Procedures
- 56.3.1.5 Organizing and Opening an Office
- 56.3.1.6 Sales Management, Recruiting, and Training
- 56.3.1.7 Advertising and Promotion
- 56.3.1.8 MLS Co-Brokerage
- 56.3.1.9 Multi-Offer, Presenting the Offer, Negotiating
- 56.3.1.10 Broker Responsibilities Under Licensing Law and Rules and Regulations of the Commission: 1) Escrow Deposits; 2) Licensing Including Display of License and Renewal Responsibility; and 3) Responsibility for Associates
- 56.3.1.11 Organizing and Opening an Office
- 56.3.1.12 Risk Reduction - E & O
- 56.3.1.13 Settlement Procedures
- 56.3.1.14 Budgeting
- 56.3.1.15 Future Growth
- 56.3.1.16 Independent Contractor/Employee

56.3.3 Real Estate Documents (6 Hours):

- 56.3.3.1 Listing Contracts
- 56.3.3.2 Sales Contracts & Language of Addenda (Warranty, PMM, 2nd Mortgage, etc.)
- 56.3.3.3 Escrow Agreements (Letters of Credit)

- 56.3.3.4 Occupancy Agreements
- 56.3.3.5 Release of Contracts
- 56.3.3.6 Buyers - Brokers Agreement
- 56.3.3.7 Settlement Documents: Deed; Settlement Sheet; Mortgage Inspection Reports; Title Insurance; Site Evaluation; and Note/Bond & Warrant
- 56.3.3.8 Reporting Procedures & Responsibilities Under the Tax Law (i.e. Title Affidavits & Affidavit of Residence & Gain)
- 56.3.4 Valuing Real Property (6 Hours):
 - 56.3.4.1 Distinctions and Definitions: 1) Appraisal (Certified); 2) Opinion of Value 3) C.M.A.
 - 56.3.4.2 Three Approaches of Real Property Valuation
- 56.3.5 Financing (9 Hours):
 - 56.3.5.1 Overview of Government Loans
 - 56.3.5.2 Federal Housing Administration
 - 56.3.5.3 Farmers Home Administration
 - 56.3.5.4 Veterans Administration
 - 56.3.5.5 Government agencies & acts pertaining to real estate finance -- include Regulation A/Truth -in-Lending
 - 56.3.5.6 Anatomy of a mortgage to include special clauses
 - 56.3.5.7 Finance Instruments
 - 56.3.5.8 Conditions & procedures involved in default & foreclosure
 - 56.3.5.9 Non-federal insured mortgages, IRB's
 - 56.3.5.10 Purchase money mortgage
 - 56.3.5.11 Conventional mortgage - Fixed ARM
 - 56.3.5.12 Secondary mortgage market
 - 56.3.5.13 Assistance in arranging financing
 - 56.3.5.14 Other ways to finance - Bridge, Construction, etc.
 - 56.3.5.15 Sources of junior or secondary loans
- 56.3.6 Landlord Tenant Code/Property Management/Condominiums (9 Hours):
 - 56.3.6.1 Landlord-Tenant Code: 1) Rights and remedies of landlord and tenant; and 1) The process of landlord/tenant litigation
 - 56.3.6.2 Property Management: 1)Types of tenancies and leases; negotiating leases; and 2) Aspects of property management
 - 56.3.6.3 Condominiums: 1)Condominiums/cooperatives; conversion requirements; types of ownerships; and 2) State statutes dealing with condominiums
- 56.3.7 Legal and Governmental Aspects of Real Estate (15 Hours):
 - 56.3.7.1 The Delaware Real Estate License Law and the Rules and Regulations
 - 56.3.7.2 The Federal & State Fair Housing Acts (include record-keeping responsibilities VAMA)
 - 56.3.7.3 The Law of Agency
 - 56.3.7.4 Interest in Real Property & Types of Property Ownership
 - 56.3.7.5 Statute of Frauds
 - 56.3.7.6 Mechanic's and Materialman's Liens
 - 56.3.7.7 Federal and State Environmental Regulatory Policies (site evaluation, septic process, well, bulkhead & piers)
 - 56.3.7.8 Planning, subdivisions, zoning, deed restrictions, covenants, right of ways and access
 - 56.3.7.9 Legal implications of public powers over real property (eminent domain, escheat, police power, taxation, etc.)
 - 56.3.7.10 Surveys (types and uses)
 - 56.3.7.11 Assessment, Property Taxes & Taxes, Transfers
 - 56.3.7.12 Tax aspects of buying and selling real estate (Highlights of current law)
- 56.3.8 Real Estate Investment (12 Hours):
 - 56.3.8.1 Characteristics of Investment Real Estate
 - 56.3.8.2 Investment analysis

56.3.8.3 Syndication

56.3.9 Ethics (6 Hours):

56.3.9.1 Ethics Issues Addressed in the Real Estate License Act and the Rules and Regulations

56.3.9.2 Discussion of Ethics as Promulgated by Professional Trade Organizations

56.3.10 Math (3 Hours): Review of Basic Real Estate Math

56.4 Successful Completion: Successful completion is defined as (1) has attended or on line program taken, and (2) has successfully completed an end-of-course examination. Definitions for attendance and examination completion are set forth in Sections 56.5 and 56.6. Following successful completion, students shall receive from the institution verification of this status. Verification shall be in certificate form as set forth in Section 89.4.4.

56.5 Attendance: Where the course is given in a school, it is strongly recommended that students do not miss any sessions. However, students may miss four sessions, (a session is equivalent to three classroom hours) and still successfully complete the course. Being absent from a session will not relieve a student of the responsibility for the material covered.

56.6 Examinations: An end-of-course examination shall be developed and administered by the respective educational institution and/or instructor(s). The score for successful examination completion will be 75 percent correct.

56.6.1 An institution will allow a student take one retake examination to sit for one retake examination prior to documenting course failure. A new examination shall be developed for students who request the retake.

56.6.2 Institutions may elect, and it is encouraged that practice examinations be administered during the conduct of the course.

56.7 Facilities: It is strongly recommended that course material be presented in a classroom setting conducive to learning, except where the course is being provided in a distance learning education format.

6.8 The total 99 required broker prelicensing hours may be taken through distance education.

5-86.9 Instructor and Coordinator: Refer to Sections 89.0 and 101.0.

5-96.10 Texts and Materials:

5-9-6.10.1 Text(s) covering broker aspects of real estate practice as selected by the course provider.

5-9-6.10.2 Chapter 29, Title 24, Real Estate License Act

5-9-6.10.3 Rules and Regulations of the Delaware Real Estate Commission

5-9-6.10.4 Delaware Real Estate Candidate Handbook

5-9-6.10.5 Instructors may and are encouraged to use additional references and hand out materials as they feel these materials are needed.

5-106.11 The License Law and the Rules and Regulations of the Commission are readily available on the Commission's web site at www.dpr.delaware.gov. The current Delaware Code is available on line at www.delcode.state.de.us.

67.0 Continuing Education Course Criteria

67.1 General Requirements - An educational course to be approved as satisfying Delaware's real estate continuing education requirements must be an organized real estate related course, offered under responsible sponsorship, facilitated by an instructor approved by the Commission. The Education Committee and the Real Estate Commission shall liberally construe the Module topic areas to include a broad range of subject matter relevant to real estate practices.

67.2 Areas of Concentration for Acceptable Courses:

67.2.1 Courses of instruction and seminars, to be considered eligible for continuing education credit approval must be in one of each of the following Modules:

67.2.1.1 Module 1- Agency and Fair Housing

67.2.1.2 Module 2 - Professional Standards

67.2.1.3 Module 3 -Real Estate Documents

67.2.1.4 Module 4 - Office Management

67.2.1.5 Module 5 - Legislative Issues

67.2.1.6 Module 6 - Practices of Real Estate

67.2.1.7 Module 7 - Elective Courses

67.2.2 Courses of instruction and seminars, to be considered eligible for Newly Licensed Salesperson continuing education credit approval must be in one of each of the following Modules:

67.2.2.1 New Licensee Module 1- Professional Standards

- 67.2.2.2 New Licensee Module 2 – Agreement of Sale/Buyer Representation
- 67.2.2.3 New Licensee Module 3 -Real Estate Documents/Seller Representation
- 67.2.2.4 New Licensee Module 4 – Real Estate Professionalism

6.3 ~~Distance learning courses must have been certified through The Association of Real Estate License Law Officials (ARELLO) Distance Education Certification Program.~~

6.47.3 In any biennial license period, up to three (3) credits applicable towards Module 5 may be obtained by Delaware Association of Realtors (DAR) members who serve on the State Public Policy/Committee provided that: 1) the member attends no less than eighty percent (80%) of the annual State Government Affairs Committee meetings; and 2) the DAR Executive Vice President or DAR President certifies attendance in the form and manner prescribed by the Commission.

6.57.4 Programs shall be a minimum of one (1) hour and delivered in one (1) hour increments.

6.67.5 Completion of broker's licensing course.

6.67.5.1 Delaware broker's licensing course: Upon successful completion of an approved Delaware broker's licensing course, a licensee shall receive 21 hours of continuing education credit. These 21 hours shall satisfy the continuing education requirements (Modules 1 – 7) for the biennial licensing period in which the course was completed. The course provider shall provide the licensee with a certificate stating that Modules 1 – 7 have been satisfied upon successful completion of the broker's licensing course. This Rule shall be retroactive for all licensees who have successfully completed the broker's licensing course after May 1, 2012.

6.67.5.2 Out-of-state broker's licensing course: Upon successful completion of a broker's licensing course in a state outside of Delaware, consisting of at least 99 hours of education, a licensee shall receive 18 hours of continuing education credit, satisfying Modules 1 – 4 and 6 – 7, for the biennial licensing period in which the course was completed. This Rule shall be retroactive for all licensees who have successfully completed the broker's licensing course after May 1, 2012.

6.77.6 Licensees successfully completing a minimum of 6 hours of a National Accreditation Program during a licensure renewal period and receiving a nationally recognized designation or providing proof of successfully completing a section towards a nationally recognized designation may submit pursuant to Section ~~7.2~~ 8.2 for six (6) credit hours to satisfy Modules 6 and 7. The instructor shall be considered an approved instructor.

17 DE Reg. 443 (10/01/13)

78.0 Course Approval Process

78.1 An application for course approval (on forms approved and provided by the Commission), course outline, all applicable fees and any other documentation that may be required, must be filed by the course sponsor or provider, with the Division of Professional Regulation, Delaware Real Estate Commission, Education Committee, 861 Silver Lake Boulevard, Suite 203, Dover, Delaware 19904-2467, at least sixty (60) days prior to the date that the course is to be held. Failure to file within the appropriate time limit may be cause for rejection. Recommendations of the Education Committee shall be made to the Commission within thirty (30) days after the Education Committee receives and reviews the completed application. An application that is incomplete when filed may not be considered to have been filed.

78.2 An application for an individual student request for approval of an educational course (on forms approved and provided by the Commission), including the course outline, instructor resume of a qualified instructor, and any other documentation that may be required, may be filed by the individual student with the Delaware Real Estate Education Committee within twelve (12) months. An instructor resume is not required where the course will be taught by a Commission or ARELLO approved instructor. Recommendations of the Education Committee shall be made to the Commission within thirty (30) days after the Education Committee receives and reviews the completed application. An application that is incomplete when filed may not be considered to have been filed. The subject educational course must comply with Section ~~6.0~~ 7.0 herein and any other applicable Guidelines. ~~An application that is incomplete when filed, may not be considered to have been filed.~~

78.3 Courses approved for Modules 1 – 6 automatically qualify for credit for Module 7. Students are not required to submit a separate application for Module 7 approval for courses in Modules 1 – 6. This Rule does not apply to out-of-state courses.

17 DE Reg. 443 (10/01/13)

17 DE Reg. 1195 (06/01/14)

89.0 Provider Responsibilities

- 89.1 The organization receiving approval of a course or program must maintain a record of the course for not less than three years from the date of the course offering. The record shall include the documents as listed in "Maintenance and Availability of Records".
- 89.1.1 Maintenance and Availability of Records - An individual record of participation must be maintained by the sponsoring organization for a period of not less than three (3) years from the date of the course and upon request made readily available as an official statement to each student of his or her participation. Information which must be included as part of this record is:
- 89.1.1.1 Name and address of the organization offering the course
 - 89.1.1.2 Name of course topic
 - 89.1.1.3 Title of the course
 - 89.1.1.4 Name and instructor approval of each instructor
 - 89.1.1.5 Completion date of the course offering
 - 89.1.1.6 Number of approved credit hours
 - 89.1.1.7 A detailed outline of the course
 - 89.1.1.8 A copy of the course approval letter received from the Commission
 - 89.1.1.9 A copy of the individual instructor(s) approval(s) letter(s) issued by the Commission.
 - 89.1.1.10 A copy of the individual student evaluations on forms provided by the Commission.
 - 89.1.1.11 A copy of the course sign in sheet, with the licensees printed name, signatures of the students, license numbers, and their completion status, e.i., satisfactory or unsatisfactory.
- 89.2 Organization and Facilities – The sponsoring organization must have a designated individual responsible for the administration and coordination of the education program. That designee shall be responsible to report to the Commission and/or the Committee for the proper conduct of each such program. Facilities - The sponsoring organization must provide or arrange for appropriate educational facilities, and when necessary, library and reference materials and all instructional aids and equipment consistent with the content, format, and objective of each learning experience.
- 89.3 A course may be approved for a period of two (2) calendar years, provided the course is conducted by the sponsor or provider making application, the curriculum and course length remains exactly as approved, and approved instructors are utilized. The Education Committee may recommend a shorter or probationary approval where good cause for limited approval can be demonstrated. Courses cannot be automatically renewed. Sponsors or providers will need to reapply by the course expiration date before conducting further courses. The Education Committee may recommend to the Commission that a provider's privilege of conducting a approved course be revoked for the remainder of the approval period, if the Education Committee determines that the provider is not maintaining the standards.
- 89.4 Sponsors or providers of all education courses shall be wholly and completely responsible for the conduct of their attendees, including faithful and complete student attendance as well as facilities management. Faithful and complete attendance is attentive presence for at least fifty (50) minutes of each credit hour. The course sponsor or provider shall determine whether students may use electronic devices during the course. Students shall be advised whether electronic devices are permitted before the course begins. A student who arrives after the instruction has begun or leaves before instruction is complete shall not be given continuing education credit.
- 89.4.1 Sponsors and providers shall arrange for an on-site monitor in addition to the approved instructor for each course. At no time will self-monitoring be permitted for Continuing Education Course.
 - 89.4.2 Monitors are appointed to assist the course sponsors or providers and instructors. As a minimum, monitors will ensure students provide their own signatures on the course roster and advise the provider of those students who do not comply with faithful and complete attendance.
 - 89.4.3 Monitors may be students for educational credit for that course.
 - 89.4.4 The course sponsor or provider will supply to the student at the completion of the course or program, DREC approved certificate of completion. This certificate must contain, but is not limited to, the following information:
 - Student Name
 - Sponsors Name
 - Module Number
 - Course Title
 - Date course was completed
 - Number of Credit Hours
 - Course Approval Number

- Instructor Name(s)
- Instructor Approval Number(s)
- Student License Number
- Licensure Period

- 89.5** The organization offering the course, shall, within fifteen (15) days after the completion of the course, provide a list of participants, their real estate license numbers (if applicable) and a copy of each student's course and instructor evaluation form and an evaluation summary report form to the Commission's Office. The evaluation summary report form shall be signed by any instructors who participated in the delivery of the course thus indicating each has had the opportunity to review the evaluation result. Failure of the organization to provide this information may be grounds to suspend the approval of that course or educational course, in the absence of a showing of good cause for that failure.
- 89.6** Where the provider is a prelicensing school, the administrator thereof is responsible to apply to the Delaware Department of ~~Public Instruction~~ Education for certification and to maintain such certification. Proof of current certification must be attached to the application for course approval submitted to the Education Committee.
- 89.7** By the second class meeting, Prelicensing schools are to solicit the names of students interested in being contacted by recruiters. Any students joining after the first class must be informed of the opportunity to be a part of the recruiting roster at the first class attended. Schools must supply the recruiting roster within seven (7) days of receiving a request from a broker.
- 89.8** Prelicensing schools will also furnish each student with current information regarding the prelicensing examination to include the "Real Estate Candidate Handbook" which is available to prelicensing schools through the testing service for this purpose.
- 89.9** Members of the Real Estate Commission, Education Committee or Division of Professional regulation staff shall have the right to audit any approved course without notice.

17 DE Reg. 1195 (06/01/14)

910.0 Instructor Qualifications

- 910.1** It is the stated policy of the Delaware Real Estate Commission that qualified instructors must be directly involved in presenting any professional educational course. Qualifications are determined by:
- 910.1.1** Competence in the subject matter (may be evidenced by experience in which command of subject matter is recognized by the individual's peers, and/or by a formal education or training, and/or by demonstrated knowledge through publication in professional journals or appropriate media); ability to demonstrate knowledge and skill in the instructional methodology.
- 910.1.2** Ability to effectively communicate the educational material to the participants as determined by student evaluations and/or test results from previous instructional assignments;
- 910.2** The person applying for instructor approval must have a minimum of five years full time experience in a real estate related topic in their area of expertise, plus one of the following:
- 910.2.1** A Bachelor's degree with the exception of pre-licensing law which must have a Juris Doctorate degree
- 910.2.2** A Broker's or Associate Broker License
- 910.2.3** Possession of a valid teaching credential or certificate issued in the State of Delaware (or any State with qualifications that are equal to, or that exceed the qualification standards of the State of Delaware), and/or five (5) years of teaching experience in an accredited public, private, or parochial school; and/or five (5) years teaching experience in an accredited junior college, college or university.
- 910.3** The Commission may waive or make an exception of the above requirements contingent upon review of proof of collateral experience in related fields of real estate. The Commission reserves the right to exercise its discretion in denying any applicant who has had a disciplinary action taken against him/her.
- 910.4** In addition to the qualifications listed above, the Commission shall take into consideration evaluations from previous programs that the applicant has instructed. The Commission will also take into consideration recommendations or absence thereof of course providers, course coordinators, administrators and institutions that have employed the applicant.

101.0 Instructor Approval Process

- 101.1** Applicants for instructor shall submit an application (on forms approved and provided by the Commission), resume and any applicable fees to the Division of Professional Regulation, Delaware Real Estate Commission, Education Committee, 861 Silver Lake Boulevard, Suite 203, Dover, DE 19904-2467, at least sixty (60) days prior to the employment starting date. Failure to file within the appropriate time limit may be cause for rejection. Recommendations of the Education Committee shall be made to the Commission within thirty (30) days after

the Education Committee receives and reviews the application. An application that is incomplete when filed may not be considered to have been filed.

- 101.2 An instructor may be approved in more than one subject or topic area for a period of two (2) calendar years. An instructor may only teach courses as approved by the Commission. Instructors will need to reapply by the approval expiration date and before teaching any further courses. Applications are available from the Division of Professional Regulation or via the website, www.dpr.delaware.gov.
- 101.3 An Instructor may receive continuing education credit for teaching a course. This is a one-time credit per Module taught per licensure period.
- 101.4 The Education Committee shall have the right to recommend to the Commission that an approved instructor lose their approval for the remainder of the approval period should the Education Committee determines that the instructor is not maintaining the standards and/or policies required in these guidelines.
- 101.5 It is the Stated Policy of the Delaware Real Estate Commission that at no time during periods of instruction shall any person involved in any approved real estate educational course, use, or attempt to use, the position of instructor, sponsor or provider etc., to solicit employees or licensees.

142.0 Negative Course Evaluation

- 142.1 The following policy is intended to establish procedures for the Education Committee to respond to negative Evaluations received from Course Providers so the Commission may:
 - 142.1.1 Respond in a consistent manner, to each individual Instructor.
 - 142.1.2 Set forth policies and procedures for disciplinary action by the Commission.
- 142.2 A Negative Instructor Evaluation shall be an Evaluation when the instructor rates below a 70% in the "Instructor" and "Course" sections of the class evaluation.
- 142.3 When a Negative Instructor Evaluation is received by the DREC Education Committee, the following shall occur:
 - 142.3.1 After an initial review by Administrative Staff, it will be placed on the next scheduled Education Committee meeting agenda.
 - 142.3.2 A notice shall be sent to the Instructor to notifying them of the Negative Evaluation and the date of the Education Committee meeting in the event the Instructor would choose submit correspondence to the Committee to be considered at the meeting and/or attend the meeting. Instructor attendance is not mandatory.
 - 142.3.3 At the next scheduled Education Committee meeting, the evaluations and any correspondence from the Instructor will be reviewed by the Members of the Education Committee.
- 142.4 Disciplinary actions for the first negative evaluation within a twelve (12) month period:
 - 142.4.1 A letter will be drafted to the instructor to advise them of the negative student reviews and the findings of the Committee. A request may be made to meet with the Instructor.
 - 142.4.2 If a meeting is required, it may take place either by phone or in person and with the Education Committee Chairperson or another designated member of the Committee.
 - 142.4.3 The Committee may choose to designate a Committee Member to attend and observe the next scheduled class of the Instructor.
 - 142.4.4 The Real Estate Commission may elect to waive the Negative Evaluation upon review of the circumstances and the related facts.
- 142.5 Disciplinary actions for the second negative evaluation within the same (12) month period of the first negative evaluation:
 - 142.5.1 A letter will be drafted to the instructor to advise them of the negative student reviews and the findings of the Committee.
 - 142.5.2 A meeting shall take place in person with the Education Committee Chairperson or another designated member of the Committee.
 - 142.5.3 The Committee shall designate a Committee Member to attend and observe the next scheduled class of the Instructor and provide a report to the Committee regarding the observations made at the class.
 - 142.5.4 The Real Estate Commission may elect to waive the Negative Evaluation upon review of the circumstances and the related facts.
- 142.6 Disciplinary actions for the third negative evaluation within the same (12) month period of the first negative evaluation:
 - 142.6.1 The Committee may recommend to the Real Estate Commission to revoke the Instructors approved teaching status for a period up to 12 months

142.6.2 A letter will be drafted to the instructor to advise them of the negative student reviews and the findings of the Committee.

142.6.3 The recommendation shall be presented to the Real Estate Commission at the next scheduled meeting.

142.6.4 The Real Estate Commission may elect to accept the recommendation of the Committee, change the revocation period or waive the Negative Evaluation upon review of the circumstances and the related facts.

142.6.5 Upon revocation a notice of such revocation shall be sent to all approved Course Providers.

142.6.6 An Instructor may re-apply for teaching approval immediately following the expiration of the revocation period.

5 DE Reg. 1071 (11/1/01)

5 DE Reg. 1395 (01/01/02)

5 DE Reg. 1859 (04/01/02)

6 DE Reg. 8 (07/01/02)

6 DE Reg. 516 (10/01/02)

12 DE Reg. 74 (07/01/08)

16 DE Reg. 104 (07/01/12)

17 DE Reg. 443 (10/01/13)

19 DE Reg. 727 (02/01/16) (Prop.)