

**DEPARTMENT OF STATE  
DIVISION OF PROFESSIONAL REGULATION  
2900 REAL ESTATE COMMISSION**

Statutory Authority: 24 Delaware Code, Section 2906(a)(1) (24 **Del.C.** §2906(a)(1))  
24 **DE Admin. Code** 2900

**FINAL**

**ORDER**

**2900 Real Estate Commission**

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on April 14, 2022 at a scheduled meeting of the Delaware Real Estate Commission ("the Commission") to receive comments regarding proposed amendments to the Commission's Regulations. The Commission proposed revisions to the regulations pertaining to advertising and posting of permanent office signs.

The proposed changes to the Guidelines were published in the *Register of Regulations*, Volume 25, Issue 9, on March 1, 2022. Notice of the April 14, 2022 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 **Del.C.** §10118(a), the date to receive final written comments was April 29, 2022, 15 days following the public hearing. The Commission deliberated on the proposed revisions at its regularly scheduled meeting on May 12, 2022.

**Summary of the Evidence and Information Submitted**

The following exhibits were made a part of the record:

Commission Exhibit 1: *News Journal* Affidavit of Publication.

Commission Exhibit 2: *Delaware State News* Affidavit of Publication.

There was no verbal testimony given at the public hearing on April 14, 2022. Further, no written comments were received by the Commission.

**Findings of Fact and Conclusions**

The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony on the proposed amendments to the Commission's Guidelines. There were no public comments provided to the Commission either in writing or during the public hearing.

Pursuant to 24 **Del.C.** §2906(a)(1), the Commission has the statutory authority to promulgate rules and regulations.

Having received no public comments, the Commission finds no reason to amend the regulations as proposed.

**Decision and Effective Date**

The Commission hereby adopts the changes to Guidelines as proposed, to be effective 10 days following publication of this Order in the *Register of Regulations*. The new regulations are attached hereto as Exhibit A.

**IT IS SO ORDERED** this 12th day of May 2022.

**DELAWARE REAL ESTATE COMMISSION**

/s/ Nora Martin, Professional Member, Chairperson

/s/ Lynn Rogers, Public Member

/s/ Randy Marvel, Professional Member

/s/ Beverly Zimmerman, Public Member

/s/ Deborah Cottrell, Public Member, Secretary

/s/ Jeff Olmstead, Professional Member

/s/ Lynette Scott, Professional Member

/s/ Robert Director, Public Member

/s/ Nikki Lane, Professional Member

**\*Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**2900 Real Estate Commission**

**1.0 Introduction**

- 1.1 Authority [24 **Del.C.** §2906(a)(1)]
  - 1.1.1 Pursuant to 24 **Del.C.** §2906(a)(1), the Delaware Real Estate Commission is authorized and empowered and hereby adopts these Rules and Regulations.
  - 1.1.2 Pursuant to the Administrative Procedure Act, 29 **Del.C.** Ch. 101, the Commission reserves the right to make any amendments, modifications or additions to the Rules and Regulations that, in its discretion, are necessary or desirable.
  - 1.1.3 The Commission reserves the right to grant exceptions to the requirements of the Rules and Regulations upon a showing of good cause by the party requesting such exception, provided such exception is not inconsistent with the requirements of 24 **Del.C.** Ch. 29.
  - 1.1.4 The Commission's Rules and Regulations are available on the Division of Professional Regulation's website, [www.dpr.delaware.gov](http://www.dpr.delaware.gov).
- 1.2 Applicability
  - 1.2.1 The Commission's Rules and Regulations are applicable to all current Licensees and to all applicants for licensure.
- 1.3 Broker's Responsibilities [24 **Del.C.** §§2902(a)(2), 2902(a)(11), 2919(d)]
  - 1.3.1 It is the responsibility of the employing Broker to ensure that the Broker's Licensees comply with the Commission's Rules and Regulations. Every Broker is responsible for making certain that all of the Broker's Salespersons and Associate Brokers are currently licensed, make timely application for license renewal, and meet the Commission's continuing education requirements. The Broker shall co-sign continuing education logs and shall maintain copies of continuing education certificates for the Broker's Salespersons and Associate Brokers for at least three years after the conclusion of each renewal period.
  - 1.3.2 A Broker's failure to satisfy the requirements set forth in subsection 1.3.1 may result in disciplinary action and possible disciplinary sanctions pursuant to 24 **Del.C.** §2914.
  - 1.3.3 Each office location shall be under the direction of a Broker, who shall provide complete and adequate supervision of that office. A Broker shall apply for and obtain a license in the Broker's name for each office and for each branch office. An application for an additional license shall state the location of the branch office and the name of the Designated On-Site Supervisor, who shall be a Delaware Licensee and who shall be in charge of managing the branch office on a full time basis. Pursuant to 29 **Del.C.** §2919(d), the Designated On-Site Supervisor shall be a Licensee with a minimum of five (5) years of continuous Real Estate Services experience, which shall be documented on the office application.
  - 1.3.4 Where an unforeseen event, such as a resignation or termination from employment, death, emergency, illness, call to military service or training, or a sanction imposed by the Commission, causes or necessitates the removal of the sole licensed Broker in an office, a request shall be submitted to the Division of Professional Regulation for substitution of another Broker for said office on a temporary basis.
  - 1.3.5 The employment of a Designated On-Site Supervisor, sales manager, administrative manager, trainer, or other similar administrator shall not relieve the Broker of the responsibilities contained and defined in these Rules and Regulations.
  - 1.3.6 The failure of any Licensee to comply with the provisions of 24 **Del.C.** Ch. 29 and the Commission's Rules and Regulations may also result in disciplinary action against the Broker's license.
- 1.4 Exemptions [24 **Del.C.** §2901(e)(4)]
  - 1.4.1 Pursuant 24 **Del.C.** §2901(e)(4), Auctioneers are exempt from the Commission's licensing law, as the term "Auctioneer" is defined in 30 **Del.C.** §2301(a)(3): "every person engaged in the business of crying sales of real or personal property on behalf of others for profit."
    - 1.4.1.1 For the purpose of the Auctioneer exemption set forth in 24 **Del.C.** §2901(e)(4), the "business of crying sales of real or personal property" shall mean the public event or sale occurring on an advertised date, when an auctioneer engages in the act of crying or calling for, the recognition of, and the acceptance of bids where the sale price of the property offered is determined by the increasing of competitive bids until the highest accepted bidder becomes the purchaser. The exemption shall only apply to the day of the auction.
      - 1.4.1.1.1 Subsection 1.4.1.1 does not prohibit an Auctioneer from advertising the auction prior to the date of the event.
    - 1.4.1.2 Notwithstanding the Auctioneer exemption set forth in 24 **Del.C.** §2901(e)(4), a Licensee acting or providing service under this exemption, may be subject to discipline for violation of 24 **Del.C.** §2912.
    - 1.4.1.3 In the event the property is sold by the broker, either before or after the auction date, the Auctioneer may be paid compensation from the sale of the property according to the terms of the

written cooperation agreement, where an Auctioneer is actively engaged by written agreement with an owner of real property to sell real property at auction.

- 1.5 Duty to update address. Licensees must provide the Division of Professional Regulation with any change of address from that registered with the Division. Any change in address must be reported to the Division within thirty days of such change. All notifications and correspondence pertaining to a Licensee's license that are sent through the mail will be sent only to the most recent address provided by the Licensee. The failure to provide the Division with a current address will not operate to excuse any duty or responsibility of the Licensee and confirmed delivery to the most recent address provided by the Licensee will be considered proper notice.

**15 DE Reg. 1185 (02/01/12)**

**18 DE Reg. 789 (04/01/15)**

**20 DE Reg. 653 (02/01/17)**

**24 DE Reg. 493 (11/01/20)**

## **2.0 Requirements for Obtaining a Salesperson's License [24 Del.C. §2907]**

- 2.1 The Commission shall consider any Salesperson applicant who meets the requirements of 24 Del.C. §2907(b) and the requirements of this section:
  - 2.1.1 Has successfully completed the accredited Salesperson pre-licensing course through an approved course provider, as set forth in the Commission's Real Estate Education Guidelines.
  - 2.1.2 Has passed in no more than 3 attempts, both the general and State portions of the Salesperson real estate examination, through the approved professional testing service. An applicant shall retake the Salesperson pre-licensing course if the applicant is unable to pass the applicable portion or portions of the examination in 3 or less attempts.
  - 2.1.3 Has applied for licensure within 12 months of completing the Salesperson pre-licensing course. If the applicant does not apply for licensure within 12 months of completing the Salesperson pre-licensing course, the applicant shall submit proof of completion of continuing education, pro-rated pursuant to the pro-ration requirements of subsection 14.3.
- 2.2 The licensure application shall be complete and include the following:
  - 2.2.1 A copy of the original school certificate or certificates provided at course completion by the approved course provider or providers.
  - 2.2.2 If the applicant is currently licensed in another jurisdiction, or has ever been licensed in another jurisdiction, a licensure history provided by each licensing jurisdiction dated within 30 days of the application.
  - 2.2.3 Written acceptance by a sponsoring Broker.

**5 DE Reg. 1387 (01/01/02)**

**15 DE Reg. 1185 (02/01/12)**

**16 DE Reg. 99 (07/01/12)**

**24 DE Reg. 493 (11/01/20)**

## **3.0 Requirements for Obtaining an Associate Broker's License [24 Del.C. §2907]**

- 3.1 The Commission shall consider any Associate Broker applicant who meets the requirements of 24 Del.C. §2907(c) and the requirements of this section:
  - 3.1.1 Has been actively licensed in Delaware or another jurisdiction for 5 continuous years immediately preceding application. Licensure shall be considered continuous even where the license has been renewed late, as long as the late renewal occurs within 30 days of the expiration date.
  - 3.1.2 Has successfully completed the accredited Broker pre-licensing course through an approved course provider as set forth in the Commission's Real Estate Education Guidelines. If the applicant is actively licensed as a Broker in another jurisdiction, Broker pre-licensing course hours completed in that jurisdiction may be used towards the course hour requirement.
  - 3.1.3 Has passed in no more than 3 attempts, both the general and State portions of the Broker real estate examination through the approved professional testing service. An applicant shall retake the Broker pre-licensing course if the applicant is unable to pass the applicable portion or portions of the examination in 3 or less attempts.
  - 3.1.4 Has applied for licensure within 12 months of completing the Broker pre-licensing course. Pre-licensing courses included in subsection 3.2.1 are exempt from this 12 month requirement. If the applicant does not submit the application within 12 months of completing the Broker pre-licensing course, the applicant shall submit proof of completion of continuing education, pro-rated pursuant to the pro-ration requirements of subsection 14.3.

- 3.2 The licensure application shall be complete and include the following:
- 3.2.1 A copy of the original school certificate or certificates provided at course completion by the approved course provider or providers.
  - 3.2.2 If the applicant is currently licensed in another jurisdiction, or has ever been licensed in another jurisdiction, licensure history provided by each licensing jurisdiction dated within 30 days of the application.
  - 3.2.3 Written acceptance by a sponsoring Broker.
  - 3.2.4 A list of at least thirty sale or lease transactions completed by the applicant in a licensed capacity within the 5 years immediately preceding application. Upon approval of the Commission, the thirty transactions may include real estate services performed for an employer, while licensed, during the 5 years immediately preceding application. If the applicant, as a designated agent or team leader, has directly supervised licensees who completed the transactions, then the transactions completed by those supervised licensees may be a part of this list. The list of transactions shall be signed by the Broker or Brokers who supervised the transactions.
    - 3.2.4.1 The list shall contain the sale or lease completion date, property address, purchaser/lessee name, seller/lessor name, specify if completed by the applicant or designated agent subordinates and be signed by the applicant.
    - 3.2.4.2 Time share and property management transactions are not considered as eligible sale or lease transactions.
- 3.3 Applications shall include the applicable fees as described in 24 **Del.C.** §2907(g) as a financial prerequisite for licensure. The Guaranty Fund fee shall not be required if the applicant has already paid the fee when obtaining their Salesperson license.

**4 DE Reg. 846 (11/01/00)**

**5 DE Reg. 1387 (01/01/02)**

**15 DE Reg. 1185 (02/01/12)**

**16 DE Reg. 99 (07/01/12)**

**24 DE Reg. 493 (11/01/20)**

#### **4.0 Requirements for Obtaining a Broker's License [24 Del.C. §2907]**

- 4.1 The Commission shall consider the application for a Broker license provided the applicant meets all of the requirements of 24 **Del.C.** §2907(d), Section 3.0, and:
- 4.1.1 Submits evidence that the applicant has been actively engaged in the practice of Real Estate Services, either as a licensed Salesperson or licensed Associate Broker for 3 years immediately preceding application.
  - 4.1.2 Applies for a Real Estate Office Permit along with the fees as set forth in 24 **Del.C.** §2907(g).
- 4.2 An application shall include evidence to support that the Broker applicant has complied with, and will continue to comply with, the Escrow Account provisions set forth in 24 **Del.C.** §2923(a) and Section 6.0.
- 4.3 The Broker shall attest that the Broker is responsible for the day to day management and supervision of the office, as set forth in 24 **Del.C.** §2907(d).
- 4.4 If applying to be a replacement Broker for an established real estate office, the Broker shall submit with the application a letter signed by the current Broker naming the applicant as the replacement Broker. If the replacement Broker cannot supply a letter signed by the current Broker, the replacement Broker shall submit a letter of explanation.

**5 DE Reg. 1387 (01/01/02)**

**15 DE Reg. 1185 (02/01/12)**

**24 DE Reg. 493 (11/01/20)**

#### **5.0 Requirements for Obtaining a Reciprocal License [24 Del.C. §2909]**

- 5.1 In addition to meeting the requirements set forth in 29 **Del.C.** §2909(b), a Salesperson applicant who is seeking licensure pursuant to §2909(b)(1) shall provide a list of at least twenty sale or lease transactions completed by the applicant in a licensed capacity within the 3 years immediately preceding application. Upon approval of the Commission, the twenty transactions may include real estate services performed for an employer, while licensed, during the 3 years immediately preceding application. If the applicant, as a designated agent or team leader, has directly supervised licensees who completed the transactions, then the transactions completed by those supervised licensees may be a part of this list. The list of transactions shall be signed by the Broker or Brokers who supervised the transactions.

- 5.1.1 The list shall contain the sale or lease completion date, property address, purchaser/lessee name, seller/lessor name, specify if completed by the applicant or designated agent subordinates and be signed by the applicant.
- 5.1.2 Time share and property management transactions are not considered as eligible sale or lease transactions.
- 5.2 In addition to meeting the requirements set forth in 29 **Del.C.** §2909(c), an Associate Broker applicant shall provide a list of at least thirty sale or lease transactions completed by the applicant in a licensed capacity within the 5 years immediately preceding application. Upon approval of the Commission, the thirty transactions may include real estate services performed for an employer, while licensed, during the 5 years immediately preceding application. If the applicant, as a designated agent or team leader, has directly supervised licensees who completed the transactions, then the transactions completed by those supervised licensees may be a part of this list. The list of transactions shall be signed by the Broker or Brokers who supervised the transactions.
  - 5.2.1 The list shall contain the sale or lease completion date, property address, purchaser/lessee name, seller/lessor name, specify if completed by the applicant or a designated agent subordinate and be signed by the applicant.
  - 5.2.2 Time share and property management transactions are not considered as eligible sale or lease transactions.
- 5.3 In addition to meeting the requirements set forth in 29 **Del.C.** §2909(d), a Broker applicant shall also meet the requirements of subsections 4.2 and 5.2.

**5 DE Reg. 1070 (11/01/01)**

**4 DE Reg. 457 (09/01/00)**

**15 DE Reg. 1185 (02/01/12)**

**24 DE Reg. 493 (11/01/20)**

## **6.0 Escrow Accounts [24 Del.C. §2923]**

- 6.1 When the real estate transaction is a rental agreement of one hundred twenty (120) days or less, the Broker may, in accordance with written authorization from the Broker's principal, transfer from the escrow account a management fee and an amount specified up to a stated dollar amount for authorized repairs or cleaning expenses. Any amounts transferred in accordance with this subsection shall be reconciled and reflected in a written full accounting.
- 6.2 Unless agreed to in writing by the parties, a Licensee shall not accept, as a good faith or earnest money deposit in connection with a real estate transaction, a photocopy, facsimile, or other copy of a personal check or draft, nor shall a Licensee accept as a good faith or earnest money deposit a check or draft that is postdated.
- 6.3 A Broker shall maintain in the Broker's office, or have available electronically in the Broker's office, a complete record of all moneys received or escrowed on real estate transactions, including the sources of the money, the date of receipt, depository, and date of deposit; and when a transaction has been completed, the final disposition of the moneys. The records shall clearly show the amount of the Broker's personal funds in escrow at all times. Such records shall be retained for at least 3 years.
- 6.4 An Escrow Account shall be opened and maintained by the Broker in a bank with an office located in Delaware in order to receive and maintain a valid license.
- 6.5 The brokerage name on the escrow account shall match the brokerage name on the license, including terms such as "d/b/a".
- 6.6 Interest accruing on money held in escrow belongs to the owner or owners of the funds unless otherwise stated in the agreement of sale or lease.

**15 DE Reg. 1185 (02/01/12)**

**24 DE Reg. 493 (11/01/20)**

## **7.0 Transfer of Licensees**

- 7.1 All Licensees who transfer to another office, or Brokers who open their own offices, but who were associated previously with another Broker, shall submit a completed Change Form to the Commission signed by the individual Broker with whom they were formerly associated, before the license will be transferred.
- 7.2 The Commission reserves the right to waive the requirement of subsection 7.1 upon a determination of good cause.
- 7.3 All Brokers who move the physical location of their office shall notify the Commission in writing at least 30 days, or as soon as practical, prior to such move by submitting a new office application.

**5 DE Reg. 1387 (01/01/02)**

## 8.0 Business Relationships and Practices [24 Del.C. Ch. 29, Subch. II]

- 8.1 Written Listing Agreements [24 Del.C. §2930(a)]
  - 8.1.1 Listing Agreements for the sale, lease or exchange of real property, whether exclusive or non-exclusive, shall be in writing and shall be signed by the seller, owner, Broker or Broker's designee.
- 8.2 Buyer Agency Agreements [24 Del.C. §2930(a)]
  - 8.2.1 Exclusive buyer agency agreements, or buyer agency agreements that obligate the buyer to pay the Broker, shall be in writing and signed by the buyer.
- 8.3 Cooperation agreements between Brokers and Auctioneers shall be in writing and signed by both parties.
- 8.4 Copy of agreements
  - 8.4.1 Every party to a listing agreement, agreement of sale, written buyer agency agreement, cooperation agreement between a Broker and Auctioneer or lease shall be furnished with a copy when the party signs or initials it and a fully executed copy of such agreement or agreements after all parties have signed it. It shall be the responsibility of the Licensee to deliver the fully executed copy of the agreements to the principals within a reasonable length of time after execution by all parties. Copies may be in paper or electronic format.
- 8.5 Real Estate Teams
  - 8.5.1 **"Team"** means two or more Licensees who represent themselves to the public as being part of one entity.
  - 8.5.2 Team Names
    - 8.5.2.1 The word "team" or the word "group" or the word "associates" must be included in the Team name.
    - 8.5.2.2 The Team name may not include terms which suggest that the Team is a separate Brokerage Organization, such as "Realty", "Real Estate", or "Realtors", ~~"Company", "Corporation", "Corp.", "Inc.", "LLC", "LP", or "LLP"~~.
  - 8.5.3 Broker supervision
    - 8.5.3.1 Team members must:
      - 8.5.3.1.1 Work under the direct supervision of the same Broker in the same primary or branch office; and
      - 8.5.3.1.2 Conduct all real estate activity from the primary or branch office where their individual licenses are displayed.
    - 8.5.3.2 The Team's Broker is responsible for the real estate activities of Team members under such Broker's supervision including advertising and posting of signs.
    - 8.5.3.3 A broker must maintain a current list of Teams and Team members and provide such information upon demand to the Commission or a member of the public.
- 8.6 Advertising [24 Del.C. §§2906(a)(1), 2912(a)]
  - 8.6.1 The purpose of the advertising rules is to protect the general public and to prohibit misrepresentation and false, misleading, untrue or deceptive advertising practices by Licensees.
  - 8.6.2 **"Advertising"** means the use of any written, visual, printed, or electronically generated advertisement by a real estate Licensee or any other person on behalf of a real estate Licensee including, but not limited to any correspondence, mailing, newsletter, brochure, business card, for sale or for lease signage or sign rider, billboards, promotional items, automobile signage, telephone directory listing, radio and television broadcasts, telephone solicitation and electronic media to include emails, text messaging, public blogs, podcasts, social media networking websites or internet displays.
  - 8.6.3 A Licensee who violates the advertising rules may be in violation of one or more of the provisions set forth in 24 Del.C. §2912(a) and subject to the disciplinary sanctions set forth in 24 Del.C. §2914.
  - 8.6.4 A Licensee shall not knowingly use, publish or disseminate misrepresentations or any false, misleading, untrue or deceptive advertising in any manner.
  - 8.6.5 Disclosure
    - 8.6.5.1 Any Licensee who advertises real property personally owned or real property in which the Licensee has any ownership interest shall include in the advertisement that the Licensee is the owner of said property, and that the Licensee is a real estate Licensee. This subsection does not apply to signs.
    - 8.6.5.2 Any Licensee who advertises an offer to purchase real property shall include in the advertisement that the Licensee is a real estate Licensee.

- 8.6.5.3 Any Licensee who advertises any real property for sale, lease, exchange, or transfer that is listed with a Broker shall include in the advertisement the complete Brokerage Organization name that has been registered with the Commission, and Brokerage Organization phone number registered by the Broker with the Commission for that office location. ~~Effective six months after the effective date of this Regulation, the~~ The advertisement shall prominently display the Brokerage Organization name and phone number in greater size and visibility than the Licensee's name, ~~except that online advertisements shall comply with this subsection no later than 60 days after the effective date of this Regulation.~~ Nothing contained herein shall preclude the listing of additional licensee names or Team names or phone numbers. All such advertising shall also contain language or abbreviations that clearly identify each phone number listed; examples include, but are not limited to: "Office"; "Home"; "Res."; and "Cell".
- 8.6.5.4 ~~Effective six months after the effective date of this Regulation, team~~ Team advertising shall prominently display the name of the supervising broker's brokerage organization adjacent to the team name in greater size and visibility than the team name, ~~except that online team advertising shall comply with this subsection no later than 60 days after the effective date of this Regulation.~~
- 8.6.5.5 All advertisements for personal promotion of Licensees shall include the complete Brokerage Organization name that has been registered with the Commission, and office phone number registered by the Broker with the Commission for that office location.
- 8.6.5.6 In the case of Internet electronic advertising, the disclosures required in subsection 8.6.5.3 shall be included and may be made by link to a full disclosure. In addition, the disclosures shall include the city and state in which the Broker's main office is located and the Broker's jurisdiction of licensure.
- 8.6.5.7 A Licensee advertising for sale for an exempted party under 24 **Del.C.** §2901, where an unlicensed salesperson conducts on-site sales, shall disclose in any advertising that: "On-site unlicensed salespeople represent the seller only."
- 8.6.6 The publisher of advertising provided by a Licensee pursuant to agreement between the publisher and the licensee is not subject to discipline under these Rules.
- 8.7 Office Permits [24 **Del.C.** §2919]
- 8.7.1 For each office location, the Broker shall apply for an office permit. The application shall include a telephone number, and, as applicable, a fax number, e-mail address and web address.
- 8.7.2 At each office location, the Broker shall place, in a conspicuous location, a permanent sign indicating the name under which the office is registered with the Commission. Effective six (6) months after the effective date of this Regulation, the permanent sign at the office location shall prominently display the name of the supervising broker's brokerage organization. A team name may be included on the permanent sign, but the name of the brokerage must appear first on the sign and must be of greater size and visibility than the team name.
- 8.7.3 Prior to commencing business, an office located in a private home shall be approved by the Commission and have a separate entrance.
- 8.7.4 Licensees may interact by electronic means with other licensees or members of the public from places other than an approved office location.
- 8.7.5 Brokerage Organizations may share facilities approved by the Commission with other businesses, such as insurance, banking, Auctioneers or others that the Commission shall deem compatible.
- 8.8 Compensation and Inducements [24 **Del.C.** §2930]
- 8.8.1 Licensees cannot use commissions or income received from commissions as rebates or compensation paid to or given to non-licensed persons, partnerships or corporations as inducements to do or secure business, or as a finder's fee, unless those fees are paid pursuant to a written cooperation or affiliation agreement signed by all parties as permitted under 24 **Del.C.** Ch. 29 and these Rules and Regulations. A Broker may pay compensation to a retired or terminated Licensee which was earned while the Licensee had an active license. A Broker may pay compensation to the estate of a deceased Licensee which was earned while the Licensee had an active license.
- 8.8.2 This subsection does not prohibit a Licensee from giving a rebate or discount or any other thing of value directly to the purchaser or seller of real estate.
- 8.8.3 A Licensee has an affirmative obligation to make timely disclosure, in writing, to the Licensee's principal of any rebate or discount that may be made to the other party.
- 8.8.4 Licensees shall not accept compensation from more than one party to a transaction, even if permitted by law, without disclosure to all parties to the transaction.

- 8.8.5 When acting as agent, a Licensee shall not accept any commission, rebate, or profit on expenditures made for the Licensee's principal without the principal's knowledge and informed consent.
- 8.8.6 A Licensee may pay a referral fee to a person licensed as a real estate broker in another jurisdiction.
- 8.8.7 A licensed salesperson or broker from another jurisdiction may represent a client as a buyer or tenant in a transaction involving a Delaware property if the licensee affiliates with a Delaware Licensee, provided that the property is not predominantly 1-4 family residential, the licensee from another jurisdiction affiliates with a Delaware Licensee and agrees, in writing, as to the responsibilities of each broker and agrees, in writing, as to the terms of compensation, if any. The Delaware Licensee, and the Licensee's Broker, where the Licensee is a Salesperson or Associate Broker, shall be responsible for the out-of-state licensee's compliance with the Commission's Practice Act, 24 Del.C. Ch. 29, and rules and regulations.

**5 DE Reg. 1387 (01/01/02)**

**11 DE Reg. 87 (07/01/07)**

**15 DE Reg. 1185 (02/01/12)**

**18 DE Reg. 789 (04/01/15)**

**24 DE Reg. 493 (11/01/20)**

## **9.0 Exemption for Provider of Property Management Services [24 Del.C. §2901(e)(5); 24 Del.C. §2902(a)(18)]**

- 9.1 An individual performing property management services, in exchange for a fee, commission, compensation or other valuable consideration, shall be exempt from licensure only if the individual performs the following limited duties:
  - 9.1.1 Maintenance.
  - 9.1.2 Clerical or administrative support.
  - 9.1.3 Collects or accepts rents or security deposits which are made payable to the owner or real estate brokerage.
  - 9.1.4 Exhibits or shows residential rental units to prospective tenants, except that if the unit has been advertised to the public by a brokerage, only a brokerage employee or real estate licensee may show the unit.
  - 9.1.5 Furnishes published information.
  - 9.1.6 Supplies applications and leases.
  - 9.1.7 Receives applications and leases for submission to the owner or brokerage for approval.
- 9.2 To be exempt from the licensure requirement, as provided in subsection 9.1, the individual performing property management services may not perform the following activities:
  - 9.2.1 Negotiate or draft contracts or lease agreements.
  - 9.2.2 Vary or deviate from the rental price or other terms and conditions previously established by the owner or broker when supplying information concerning the rental of property to a prospective tenant.
  - 9.2.3 Approve applications or lease agreements, or settle or arrange the terms and conditions of a lease on behalf of the owner or broker.
  - 9.2.4 Offer inducements to prospective tenants unless they are previously advertised or prearranged with the owner or broker.
  - 9.2.5 Interpret or provide an opinion concerning the terms or conditions of a lease agreement.
  - 9.2.6 Indicate to the public that the individual is in a position of authority with the ultimate managerial responsibility for the rental property.

**24 DE Reg. 493 (11/01/20)**

## **10.0 Disclosure**

- 10.1 A Licensee who is the owner, the prospective purchaser, lessor or lessee or who has any personal interest in a transaction, shall disclose the Licensee's status as a Licensee to all persons with whom the Licensee is transacting such business, prior to the execution of any agreements and shall include on the agreement such status.
- 10.2 Any Licensee advertising real estate for sale stating in such advertisement, "If we cannot sell your home, we will buy your home", or words to that effect, shall disclose in the original listing agreement at the time the Licensee obtains the signature on the listing agreement, the price he will pay for the property if no sales agreement is executed during the term of the listing. Said Licensee shall have no more than sixty (60) days to purchase and settle for the subject property upon expiration of the original listing or any extension thereof.



- 10.3 A written confirmation of the agency relationship shall be included in the agreement for the real estate transaction regardless of whether the relationship is a statutory agency relationship or a common law agency relationship.
- 10.4 Consumer Information Statement ("CIS") [24 **Del.C.** §2938(b)]
- 10.4.1 The Commission shall approve a CIS which will be available on its website for use by Licensees. The Commission may also approve alternative CIS's, which also will be posted on its website. Any changes to a CIS shall be approved by a quorum of the Commission.
- 10.5 Common Law Agency Relationships [24 **Del.C.** §2932]
- 10.5.1 When acting as a common law agent, the disclosure as to whom the Licensee represents shall be made at the first substantive contact to each party to the negotiation or transaction. In all cases such disclosure shall be made prior to the presentation of an offer to purchase.
- 10.5.2 A written confirmation of disclosure in the agreement shall be worded as follows:
- 10.5.2.1 With respect to agent for seller: "This Broker, any cooperating Broker, and any Associate Broker or Salesperson working with either, are representing the seller's interest and have fiduciary responsibilities to the seller, but are obligated to treat all parties with honesty. The Broker, any cooperating Broker, and any Associate Broker or Salesperson working with either, without breaching the fiduciary responsibilities to the seller, may, among other services, provide a potential purchaser with information about the attributes of properties and available financing, show properties, and assist in preparing an offer to purchase. The Broker, any cooperating Broker, and any Associate Broker or Salesperson working with either, also have the duty to respond accurately and honestly to a potential purchaser's questions and disclose material facts about properties, submit promptly all offers to purchase and offer properties without unlawful discrimination."
- 10.5.2.2 With respect to agent for buyer: "This Broker, and any Associate Broker or Salesperson working for this Broker, is representing the buyer's interests and has fiduciary responsibilities to the buyer, but is obligated to treat all parties with honesty. The Broker, and any Associate Broker or Salesperson working for the Broker, without breaching the fiduciary responsibilities to the buyer, may, among other services, provide a seller with information about the transaction. The Broker, and any Associate Broker or Salesperson working for the Broker, also has the duty to respond accurately and honestly to a seller's questions and disclose material facts about the transaction, submit promptly all offers to purchase through proper procedures, and serve without unlawful discrimination."
- 10.5.2.3 In the case of a transaction involving a lease in excess of 120 days, substitute the term "lessor" for the term "seller", substitute the term "lessee" for the terms "buyer" and "purchaser", and substitute the term "lease" for "purchase" as they appear above.
- 10.6 If a property is the subject of an agreement of sale or lease but being left on the market for backup offers, or is the subject of an agreement of sale or lease which contains a right of first refusal clause, the existence of such agreement shall be disclosed in writing by the listing Broker to any individual who inquires about such property at the time such initial inquiry is made.
- 10.7 Seller's Disclosure of Real Property Condition Report ("Condition Report") [6 **Del.C.** Ch. 25]
- 10.7.1 Licensees shall obtain a Condition Report from the seller of residential property prior to accepting a written listing agreement and shall make the Condition Report available to any buyer. The Condition Report shall be completed by the seller on the form approved by the Commission. Licensees shall provide the seller's most recent Condition Report to a buyer before the buyer enters into an agreement of sale and make the Condition Report a part of any agreement of sale.
- 10.7.2 For any residential property that is being offered for sale and which has not yet been issued a certificate of occupancy, the Condition Report approved by the Commission for New Construction shall be used in place of the standard Condition Report. If a certificate of occupancy is received by a seller prior to entering into an agreement of sale, then the Licensee shall obtain the standard Condition Report from the seller and make it available to any prospective buyer.
- 10.7.3 Exempt Property Certification. A Condition Report shall not be required from a seller of residential property if the seller meets one of the exemptions contained in the Seller's Disclosure of Real Property Condition Report and Radon Disclosure Exempt Property Certification. Licensees shall obtain a certification in lieu of the Condition Report and Radon Disclosure prior to accepting a written listing agreement and shall make the certification readily available to any prospective buyer. Licensees shall provide the certification to a buyer before the buyer enters into an agreement of sale and make the certification a part of any agreement of sale.
- 10.8 Radon Disclosure [6 **Del.C.** §2572A]

- 10.8.1 Licensees shall obtain a Radon Disclosure from the seller of residential property prior to accepting a written listing agreement, unless the property qualifies for exemption as outlined in subsection 10.7.1.2, and shall make the Radon Disclosure readily available to any prospective buyer. Licensees shall provide the seller's most recent Radon Disclosure along with a copy of "Radon Rights, Risks and Remedy for the Home Buyer" to a buyer before the buyer enters into an agreement of sale and make the Radon Disclosure a part of any agreement of sale.

**15 DE Reg. 1185 (02/01/12)**

**24 DE Reg. 493 (11/01/20)**

#### **11.0 Open Houses [24 Del. C. §2901(a)]**

- 11.1 For any property listed with a Broker for sale, lease or exchange, only a Licensee shall be permitted to host or staff an open house or otherwise show a listed property. That Licensee may be assisted by non-licensed persons provided a Licensee is on site. This section shall not prohibit a seller from showing their own house.
- 11.2 For new construction, subdivision, or development listed with a Broker for sale, lease or exchange, a Licensee shall always be on site when the site is open to the general public, except where a builder or developer has hired a non-licensed person who is under the direct supervision of said builder or developer for the purpose of staffing said project.

**11 DE Reg. 87 (07/01/07)**

**15 DE Reg. 1185 (02/01/12)**

**24 DE Reg. 493 (11/01/20)**

#### **12.0 Renewal of Licenses [24 Del.C. §2910]**

- 12.1 All licenses shall be renewed biennially. Licenses shall expire on April 30 of each even numbered year. The failure of the Commission to give, or the failure of the Licensee to receive, notice of the expiration date of a license shall not prevent the license from becoming invalid after its expiration date.
- 12.2 As a condition of renewal, all Licensees shall be required to satisfy the continuing education requirements set forth in Section 14.0 and pay the renewal fee.
- 12.3 Effective the renewal period beginning May 1, 2022, a Licensee who fails to renew a license before the expiration date may renew on a late basis for a period not to exceed thirty days with submission of a late fee.
- 12.3.1 The thirty date late renewal period is not an extension of time to complete the continuing education required pursuant to Section 14.0.
- 12.3.2 A licensee shall satisfy the continuing education requirements, set forth in Section 14.0, within the two year renewal period, which ends on April 30 of even numbered years.
- 12.4 A Licensee shall not practice Real Estate Services after a license has expired.
- 12.5 License renewal shall be completed online at [www.dpr.delaware.gov](http://www.dpr.delaware.gov).

**15 DE Reg. 1185 (02/01/12)**

**16 DE Reg. 99 (07/01/12)**

**24 DE Reg. 493 (11/01/20)**

#### **13.0 Reinstatement of Licenses; application after revocation; inactive status [24 Del.C. §§2910, 2921]**

##### **13.1 Reinstatement**

- 13.1.1 Effective the renewal period beginning May 1, 2022, a license expired for more than thirty days but less than six months shall be reinstated if the licensee pays the required late fees and completes the seven modules of continuing education required by Section 14.0.
- 13.1.2 Effective the renewal period beginning May 1, 2022, a license expired for six months or more but less than two years shall be reinstated if the Licensee pays the required late fees, completes the Delaware pre-licensing law course and passes the state portion of the licensing examination.
- 13.1.3 Effective the renewal period beginning May 1, 2022, a license expired for two years or more shall be reinstated if the Licensee pays the required late fees, completes the seven modules of continuing education required by Section 14.0, and:
- 13.1.3.1 If the license has been expired for two years or more and the licensee has not been actively licensed and practicing in another state for at least one of the two years immediately prior to making application for reinstatement, the licensee shall also complete the applicable real estate course for Salespersons or Brokers and pass both the state and general portions of the examination.

13.1.3.2 If the license has been expired for two years or more and the licensee has been actively licensed and practicing in another state for at least one of the two years immediately prior to making application for reinstatement, the licensee shall only be required to pass the state portion of the examination.

13.2 A person whose license has been revoked, but not permanently revoked, shall not be considered for the issuance of a new license for a period of at least two (2) years from the date of the revocation of the license. Prior to making application, such person shall re-take and pass the applicable real estate course for Salespersons or Brokers and re-take and pass the Commission's applicable examination for Salespersons or Brokers. Nothing contained herein shall require the Commission to issue a new license upon completion of the above mentioned requirements, as the Commission retains the right to deny any such application. Where a person's license has been permanently revoked by the Commission, the person is not eligible for issuance of a new license at any time.

### 13.3 Inactive Status

13.3.1 Any Licensee, upon request, may be placed in an inactive status for an unlimited amount of time.

13.3.2 The Licensee may reactivate the license after meeting all of the following requirements:

13.3.2.1 Provide the Commission with notification that the Licensee intends to reactivate the license.

13.3.2.2 Satisfy all the continuing education requirements for each renewal period that the license was inactive.

13.3.2.3 Pay the biennial registration fees, for such time as the license has been inactive.

**15 DE Reg. 1185 (02/01/12)**

**20 DE Reg. 653 (02/01/17)**

**24 DE Reg. 493 (11/01/20)**

## 14.0 Continuing Education, New Licensee Education [24 Del.C. §2910(d)]

### 14.1 Continuing Education (CE) Requirements

14.1.1 Purpose. The CE requirement is intended to maintain Licensees' professional competence in the practice of real estate.

14.1.2 Licensees must complete 21 acceptable CE hours in the following 7 Modules during the previous licensure period in order to renew their licenses:

14.1.2.1 Three (3) hours in agency and fair housing (Module 1).

14.1.2.2 Three (3) hours in professional standards (Module 2).

14.1.2.3 Three (3) hours in real estate documents (Module 3).

14.1.2.4 Three (3) hours in office management (Module 4).

14.1.2.5 Three (3) hours in legislative issues (Module 5).

14.1.2.6 Three (3) hours in practices of real estate (Module 6).

14.1.2.7 Three (3) hours in elective courses (Module 7).

14.1.3 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 subsection does not apply to out-of-state courses.

### 14.2 Proration. CE hours shall be prorated in accordance with the following schedule:

14.2.1 No continuing education is required for fewer than six months of licensure, except that new licensees must meet the requirements set forth in subsection 14.13.

14.2.2 Six (6) hours of continuing education are required after at least six months but less than twelve months of licensure. The required six hours shall consist of two different modules, as set forth in subsection 14.1.2.

14.2.3 Twelve (12) hours of continuing education are required after at least twelve months but less than eighteen months of licensure. The required twelve hours shall consist of four different modules, as set forth in subsection 14.1.2.

14.2.4 Eighteen (18) hours of continuing education are required after at least eighteen months but less than twenty-four months of licensure. The required eighteen hours shall consist of six different modules, as set forth in subsection 14.1.2.

14.2.5 Twenty-one (21) hours of continuing education are required after twenty-four months of licensure, as set forth in subsection 14.1.2.

14.3 For persons who have successfully completed either the broker or salesperson pre-licensing course but who have not yet made application:

- 14.3.1 Twelve (12) hours of continuing education are required more than twelve months but less than eighteen months after course completion. The required twelve hours shall consist of four different modules, as set forth in Rule 14.1.2.
- 14.3.2 Twenty-one (21) hours of continuing education are required more than eighteen months but less than twenty-four months after course completion, in compliance with the requirements of subsection 14.1.2.
- 14.3.3 For more than twenty-four months after course completion, twenty-one (21) hours of CE are required for each biennial renewal period, in compliance with the requirements of subsection 14.1.2.
- 14.4 At the time of renewal, the Licensee shall attest to completion of the required CE. Attestation shall be completed electronically.
- 14.5 The Licensee's attestation as to completion of CE does not relieve the Broker of the Broker's duty to ensure that the Licensee has completed the required CE during the licensure renewal period. Each Broker shall maintain copies of CE certificates for the Broker's Salespersons and Associate Brokers for at least three years after the conclusion of each renewal period.
- 14.6 Audits
  - 14.6.1 Licensees selected for random audit are required to supplement the attestation with attendance verification as provided in subsection 14.6.5.
  - 14.6.2 Random audits shall be performed by the Commission to ensure compliance with the CE requirements.
  - 14.6.3 The Commission shall notify Licensees within sixty (60) days after May 31 of each biennial renewal period that they have been selected for audit.
  - 14.6.4 Licensees selected for random audit shall be required to submit verification within twenty (20) business days of receipt of notification of selection for audit. Audit notices sent to Salespeople and Associate Broker licensees shall also be sent to that licensee's current Broker, where applicable.
  - 14.6.5 Verification shall include the continuing education log, co-signed by the Licensee's broker, where applicable, and such information necessary for the Commission to assess whether the course meets the CE requirements in Section 14.0. While course brochures may be used to verify CE hours, they are not considered to be acceptable proof for use of verification of course attendance. Verification shall include the official certificate of completion, as provided by the course provider.
  - 14.6.6 The Commission shall review all documentation submitted by Licensees pursuant to the continuing education audit. If the Commission determines that the Licensee has met the continuing education requirements, the Licensee's license shall remain in effect. If the Commission determines that the Licensee has not met the continuing education requirements, the Licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. The hearing will be conducted to determine if there are any extenuating circumstances justifying noncompliance with the continuing education requirements. Unjustified noncompliance with the continuing education requirements set forth in these Rules and Regulations shall constitute a violation of 24 **Del.C.** §2912(a)(9).
  - 14.6.7 Sanctions for Unjustified Noncompliance. The minimum penalty for the first finding of unjustified noncompliance shall be a \$250.00 monetary penalty, and any of the additional penalties specified in 24 **Del.C.** §2914. The minimum penalty for the second finding of unjustified noncompliance shall be a \$1,000 monetary penalty, and any of the additional penalties specified in 24 **Del.C.** §2914.
  - 14.6.8 Licensees who renew their licenses under the late renewal provision shall be audited for CE completion. These Licensees shall submit documents that evidence satisfactory completion of their CE requirements for the prior licensure period.
- 14.7 All CE activities shall be pre-approved by the Commission, pursuant to the Commission's Real Estate Education Guidelines.
- 14.8 The Commission may waive or postpone all or part of the continuing education requirements of these Rules and Regulations if a Licensee submits a written request for a waiver and provides evidence to the satisfaction of the Commission of an illness, injury, financial hardship, family hardship, or other similar extenuating circumstance which precluded the Licensee's completion of the requirements. Application for waiver or postponement shall be made in writing to the Commission and shall be received by the Commission no later than 60 days prior to the biennial license renewal date.
- 14.9 The Commission shall appoint an Education Committee to assist in the Commission's educational objectives.
- 14.10 Members of the Real Estate Commission who attend at least eighty percent (80%) of Commission meetings during a biennial licensure period may receive one hour of CE for each Commission meeting attended and said hour may be applied to any CE required for licensure renewal.
- 14.11 Completion of broker's licensing course.
  - 14.11.1 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.

14.11.2 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.

#### 14.12 Advanced Courses

14.12.1 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 six (6) credit hours to satisfy Modules 6 and 7. The instructor shall be considered an approved instructor.

14.12.2 A Licensee may submit for review and approval a request for up to 3 continuing education credits for advanced courses, such as, but not limited to, college courses and certifications by the National Association of Realtors. Such credits may satisfy Modules 6 or 7.

14.12.3 After a minimum of 3 renewal cycles, a Licensee may submit for review and approval a request for up to 18 continuing education credits for advanced courses, such as, but not limited to, college courses and certifications by the National Association of Realtors. Such credits may satisfy any continuing education module, other than Module 5.

#### 14.13 New Licensees.

14.13.1 Effective the renewal period beginning May 1, 2022, in addition to meeting the continuing education requirements set forth in Section 14.0, all newly licensed individuals, other than individuals licensed by reciprocity, shall also complete the following twelve hours of continuing education, specifically for new licensees, no later than 90 days after the date of issuance of the individual's license:

14.13.1.1 Three (3) hours in professional standards for new licensees.

14.13.1.2 Three (3) hours in agreement of sale and buyer representation for new licensees.

14.13.1.3 Three (3) hours in real estate documents and seller representation for new licensees.

14.13.1.4 Three (3) hours in real estate professionalism for new licensees.

14.13.2 The twelve hours of required continuing education for new licensees shall be in addition to the continuing education required for licensure renewal and shall be included in the biennial continuing education audit referenced in subsection 14.6.

**15 DE Reg. 1185 (02/01/12)**

**16 DE Reg. 99 (07/01/12)**

**17 DE Reg. 242 (08/01/13)**

**17 DE Reg. 1194 (06/01/14)**

**18 DE Reg. 789 (04/01/15)**

**20 DE Reg. 653 (02/01/17)**

**24 DE Reg. 493 (11/01/20)**

### 15.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

15.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or the chairperson's designate of the report. If the Director of Professional Regulation receives the report, the Director shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

15.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give the individual in question the opportunity to enter the Voluntary Treatment Option.

15.3 In order for the individual to participate in the Voluntary Treatment Option, the individual shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate or designates.

15.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or the chairperson's designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated

professional enters into an agreement with the Director of Professional Regulation or the chairperson's designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

- 15.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or the chairperson's designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate.
- 15.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
  - 15.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
  - 15.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or the chairperson's designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or the chairperson's designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
  - 15.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
  - 15.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program or programs. In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
  - 15.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or the chairperson's designate or designates or to the Director of the Division of Professional Regulation or the chairperson's designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
  - 15.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
  - 15.6.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
  - 15.6.8 The participating Board's chairperson, the chairperson's designate or designates or the Director of the Division of Professional Regulation or the chairperson's designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
  - 15.6.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
  - 15.6.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

15.6.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have the chairperson's confidentiality protected if the matter is handled in a nondisciplinary matter.

15.6.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have the regulated professional's confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

**15 DE Reg. 1185 (02/01/12)**

**24 DE Reg. 493 (11/01/20)**

## **16.0 Crimes Substantially Related to the Practice of Real Estate Services [24 Del.C. §2906(c)]**

16.1 Conviction of any of the following crimes, or conviction of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of Real Estate Services in the State of Delaware without regard to the place of conviction:

- 16.1.1 Reckless endangering in the first degree. 11 **Del.C.** §604
- 16.1.2 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605
- 16.1.3 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606
- 16.1.4 Assault in the second degree. 11 **Del.C.** §612
- 16.1.5 Assault in the first degree. 11 **Del.C.** §613.
- 16.1.6 Murder by abuse or neglect in the second degree; class B felony. 11 **Del.C.** §633
- 16.1.7 Murder by abuse or neglect in the first degree; class A felony. 11 **Del.C.** §634
- 16.1.8 Murder in the second degree; class A felony. 11 **Del.C.** §635
- 16.1.9 Murder in the first degree; class A felony. 11 **Del.C.** §636
- 16.1.10 Unlawful sexual contact in the first degree; class D felony. 11 **Del.C.** §769
- 16.1.11 Rape in the fourth degree; class C felony. 11 **Del.C.** §770
- 16.1.12 Rape in the third degree; class B felony. 11 **Del.C.** §771
- 16.1.13 Rape in the second degree; class B felony. 11 **Del.C.** §772
- 16.1.14 Rape in the first degree; class A felony. 11 **Del.C.** §773
- 16.1.15 Continuous sexual abuse of a child; class B felony. 11 **Del.C.** §776
- 16.1.16 Dangerous crime against a child; class B felony. 11 **Del.C.** §777
- 16.1.17 Kidnapping in the first degree; class B felony. 11 **Del.C.** §783A
- 16.1.18 Arson in the second degree; class D felony. 11 **Del.C.** §802
- 16.1.19 Arson in the first degree; class C felony. 11 **Del.C.** §803
- 16.1.20 Burglary in the second degree; class D felony. 11 **Del.C.** §825
- 16.1.21 Burglary in the first degree; class C felony; class B felony. 11 **Del.C.** §826
- 16.1.22 Robbery in the first degree; class B. 11 **Del.C.** §832
- 16.1.23 Theft; class G felony; class F felony; class D felony; class B felony. 11 **Del.C.** §841
- 16.1.24 Theft of a motor vehicle; class G felony. 11 **Del.C.** §841A
- 16.1.25 Theft; Organized retail crime; class E felony. 11 **Del.C.** §841B
- 16.1.26 Possession or theft of a prescription form or a pad. 11 **Del.C.** §841C
- 16.1.27 Theft; lost or mislaid property; mistaken delivery. 11 **Del.C.** §842
- 16.1.28 Theft; false pretense. 11 **Del.C.** §843
- 16.1.29 Theft; false promise. 11 **Del.C.** §844
- 16.1.30 Theft of services. 11 **Del.C.** §845
- 16.1.31 Extortion; class E felony. 11 **Del.C.** §846
- 16.1.32 Misapplication of property; class G felony. 11 **Del.C.** §848
- 16.1.33 Receiving stolen property. 11 **Del.C.** §851
- 16.1.34 Theft of rented property; class G felony. 11 **Del.C.** §849
- 16.1.35 Identity theft; class E felony; class D felony. 11 **Del.C.** §854
- 16.1.36 Forgery; class F felony; class G felony. 11 **Del.C.** §861
- 16.1.37 Falsifying business records. 11 **Del.C.** §871
- 16.1.38 Tampering with public records in the first degree; class E felony. 11 **Del.C.** §876

- 16.1.39 Offering a false instrument for filing. 11 **Del.C.** §877
- 16.1.40 Issuing a false certificate; class G felony. 11 **Del.C.** §878
- 16.1.41 Defrauding secured creditors. 11 **Del.C.** §891
- 16.1.42 Fraud in insolvency. 11 **Del.C.** §892
- 16.1.43 Interference with levied-upon property. 11 **Del.C.** §893
- 16.1.44 Issuing a bad check; felony. 11 **Del.C.** §900
- 16.1.45 Unlawful use of payment card; felony. 11 **Del.C.** §903
- 16.1.46 Reencoder and scanning devices. 11 **Del.C.** §903A
- 16.1.47 Deceptive business practices. 11 **Del.C.** §906
- 16.1.48 Securing execution of documents by deception. 11 **Del.C.** §909
- 16.1.49 Debt adjusting. 11 **Del.C.** §910
- 16.1.50 Fraudulent conveyance of public lands; class G felony. 11 **Del.C.** §911
- 16.1.51 Fraudulent receipt of public lands; class G felony. 11 **Del.C.** §912
- 16.1.52 Insurance fraud; class G felony. 11 **Del.C.** §913
- 16.1.53 Home improvement fraud; class B felony; class D felony; class F felony; class G felony. 11 **Del.C.** §916
- 16.1.54 New home construction fraud; class B felony; class D felony; class G felony. 11 **Del.C.** §917
- 16.1.55 Dealing in children; class E felony. 11 **Del.C.** §1100A
- 16.1.56 Endangering the welfare of a child; class E or G felony. 11 **Del.C.** §1102
- 16.1.57 Sexual exploitation of a child; class B felony. 11 **Del.C.** §1108.
- 16.1.58 Unlawfully dealing in child pornography; class B felony. 11 **Del.C.** §1109
- 16.1.59 Possession of child pornography; class F felony. 11 **Del.C.** §B1111
- 16.1.60 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112
- 16.1.61 Sexual solicitation of a child; class C felony; class B felony. 11 **Del.C.** §1112A
- 16.1.62 Perjury in the second degree; class F felony. 11 **Del.C.** § 1222
- 16.1.63 Perjury in the first degree; class D felony. 11 **Del.C.** §1223
- 16.1.64 Making a false written statement. 11 **Del.C.** §1233
- 16.1.65 Hate crimes; class G felony, class F felony, class E felony, class D felony, class C felony, class B felony, class A felony. 11 **Del.C.** §1304
- 16.1.66 Stalking; felony. 11 **Del.C.** §1312
- 16.1.67 Violation of privacy; felony. 11 **Del.C.** §1335
- 16.1.68 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338
- 16.1.69 Carrying a concealed deadly weapon. 11 **Del.C.** §1442
- 16.1.70 Possessing a destructive weapon; class E felony. 11 **Del.C.** §1444
- 16.1.71 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445
- 16.1.72 Possession of a deadly weapon during commission of a felony; class B felony. 11 **Del.C.** §1447
- 16.1.73 Possession of a firearm during commission of a felony; class B felony. 11 **Del.C.** §1447A
- 16.1.74 Removing a firearm from the possession of a law enforcement officer; class C felony. 11 **Del.C.** §1458
- 16.1.75 Organized Crime and Racketeering, Class B Felony. 11 **Del.C.** §1504
- 16.1.76 Abuse of patient or resident in nursing home; class C felony; class G felony; class A felony. 16 **Del.C.** §1136(a)
- 16.1.77 Financial exploitation of residents or patients; felony. 16 **Del.C.** §1136(c)
- 16.1.78 Drug dealing or possession; class B felony. 16 **Del.C.** §4752
- 16.1.79 Drug dealing or possession; class C felony; class E felony. 16 **Del.C.** §4753
- 16.1.80 Drug dealing; class D felony. 16 **Del.C.** §4754
- 16.1.81 Drug possession; class G felony. 16 **Del.C.** §4756
- 16.1.82 Maintaining a drug property; class F felony. 16 **Del.C.** §4760
- 16.1.83 Any offense under the Uniform Controlled Substances Act, Title 16 of the Delaware Code, in violation of the aggravating factors in 16 **Del.C.** §4751A
- 16.1.84 Third or more conviction for driving a vehicle while under the influence or with a prohibited alcohol or drug content; felony. 21 **Del.C.** §4177(a); 21 **Del.C.** §4177(d)(3)-(7)
- 16.1.85 Attempt to evade or defeat tax. 30 **Del.C.** §571



- 16.1.86 Failure to collect or pay over tax. 30 **Del.C.** §572
- 16.1.87 Failure to file return, supply information or pay tax. 30 **Del.C.** §573
- 16.1.88 Fraud and false statements. 30 **Del.C.** §574
- 16.1.89 Violations of the Securities Act. 6 **Del.C.** Ch. 73
- 16.1.90 Financial exploitation of an adult who is impaired; felony. 31 **Del.C.** §3913
- 16.1.91 Prohibited trade practices against a person with a disability or elderly. 6 **Del.C.** §2581
- 16.1.92 Prohibition of intimidation [under the Fair Housing Act]; felony. 6 **Del.C.** §4619
- 16.1.93 Knowing or reckless abuse or exploitation of an adult who is impaired; class C felony; class D felony; class E felony; class G felony; class A felony. 31 **Del.C.** §3913
- 16.2 Crimes substantially related to the practice of Real Estate Services shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this section.

**4 DE Reg. 457 (09/01/00)**

**4 DE Reg. 846 (11/01/00)**

**5 DE Reg. 1070 (11/01/01)**

**5 DE Reg. 1387 (01/01/02)**

**8 DE Reg. 1283 (03/01/05)**

**11 DE Reg. 87 (07/01/07)**

**15 DE Reg. 1185 (02/01/12)**

**16 DE Reg. 99 (07/01/12)**

**17 DE Reg. 242 (08/01/13)**

**17 DE Reg. 1194 (06/01/14)**

**18 DE Reg. 789 (04/01/15)**

**20 DE Reg. 653 (02/01/17)**

**24 DE Reg. 493 (11/01/20)**

**25 DE Reg. 1151 (06/01/22) (Final)**