

Rules of Department of Economic Development

Division 250—Missouri Real Estate Commission Chapter 8—Business Conduct and Practice

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 250—Missouri Real Estate
Commission
Chapter 8—Business Conduct
and Practice**

4 CSR 250-8.010 Place of Business

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

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

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 14, 1984, effective June 11, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.020 Broker Supervision and Improper Use of License and Office

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

(1) Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under

339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership. A broker shall not be held responsible for inadequate supervision if—

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

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

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

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

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

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

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

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

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

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

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

(5) Individual brokers, designated brokers, and office managers/supervising brokers shall not be considered to be a dual agent or a transaction broker solely because such broker makes an appointment under section 339.820, RSMo. However, when such broker supervises the licensees for both sides of a transaction, that broker will be a dual agent or a transaction broker upon learning confi-

dential information about either party to a transaction or upon being consulted by any licensee involved in the transaction. Also, when the broker supervises the licensee representing or assisting one (1) side of the transaction and personally represents or assists the other side, that broker will be a dual agent or a transaction broker.

AUTHORITY: section 339.120, 339.710, 339.780 and 339.820, RSMo Supp. 1999. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed May 11, 1983, effective Aug. 11, 1983. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000.*

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

4 CSR 250-8.030 Branch Offices

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

(1) If a broker maintains a branch office(s), each shall be operated under the same name and license as the parent office and every such place of business shall comply with the provisions of 4 CSR 250-8.010.

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

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

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



AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 27, 1987. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.040 Sales Manager

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

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.050 Clerical Personnel

PURPOSE: This rule defines clerical personnel and their limitations.

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.060 Display of License

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

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.070 Advertising

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

(1) For the purpose of these rules, advertising shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one (1) or more licensees and the public; it shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, display or group ads in telephone directories and billboards.

(2) Disclosure.

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

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

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

(C) Nothing in this section shall be construed to eliminate the disclosure requirements found elsewhere in these rules, including those contained in 4 CSR 250-8.110.

(3) No real estate advertisement by a licensee shall show only a post office box number, telephone number or street address. Every advertisement of real estate by a licensee

shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party advertising is a real estate broker and not a private party.

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

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

(6) Guaranteed Sales.

(A) As used in this rule, the term guaranteed sales plan includes, but is not limited to: i) any plan in which a seller's real estate is guaranteed to be sold, or ii) any plan where a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

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

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

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

AUTHORITY: sections 339.100, RSMo 1994 and 339.120, Supp. 1999. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed May 11, 1983, effective Aug.*

II, 1983. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 29, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed June 16, 1989, effective Sept. 28, 1989. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Jan. 14, 2000, effective July 30, 2000.

*Original authority: 339.100, RSMo 1941, amended 1978, 1993; 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999.

4 CSR 250-8.080 Franchises; Trade Names; Insignia

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

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

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

AUTHORITY: section 339.120, RSMo Supp. 1997. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Aug. 1, 1997, effective March 30, 1998.*

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

4 CSR 250-8.090 Brokerage Service Agreements

PURPOSE: This rule requires that a listing agreement be in writing and that a copy of the agreement be delivered to the owner before a broker may advertise or place a sign on the property. The agreement must contain all terms, conditions, a definite expiration date and signatures of all parties. All information contained on the agreement shall be carefully investigated for accuracy by the listing agent. In a cooperative listing, the selling broker shall be presumed to be a subagent of the listing broker.

(1) A licensee shall not advertise or place a sign upon any property offering it for sale or lease to prospective customers unless the broker holds a currently effective written listing agreement or other written authorization signed by all owners.

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

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

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

1. The price;
2. The commission to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. A statement which permits or prohibits the designated broker from offering subagency;
7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

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

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

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

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

12. The type of listing;

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

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

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

(C) Any change to the listing agreement or other written agreement for brokerage services must contain the initials of all parties.

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

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

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

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

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

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



1. A description of the type of property sought by the buyer or tenant;

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

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

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

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

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

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

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

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

12. The type of agreement; and

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

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

(C) Any change to the agreement or other written authorization must contain the initials of all parties.

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

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

ussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

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

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

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

1. The price;

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

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

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

7. The type of agreement;

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

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

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

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

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

(C) Any change to the agreement must contain the initials of all parties.

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

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an

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

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

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

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

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

1. A description of the type of property sought by the buyer or tenant;

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

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

6. The signatures of the buyers or tenants and the broker or affiliated licensee as authorized by the broker;

7. The type of agreement;

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

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

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

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

(C) Any change to the agreement must contain the initials of all parties.

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

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

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

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

(A) A definite beginning date;

(B) An expiration date;

(C) The signatures of all owners or landlords and the broker or licensee as authorized by the broker;

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

(E) Permission to enter and show the property;

(F) The commission or fee to be paid (including any and all bonuses);

(G) All other terms and conditions prescribed by the owners or landlords;

(H) Any change to the written authorization must contain the initials of all parties; and

(I) A statement which confirms that the owner or landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the other written authorization, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

AUTHORITY: section 339.120, 339.730, 339.740, 339.750, 339.755, 339.780 and 339.820, RSMo Supp. 1999. Original rule*

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

4 CSR 250-8.095 Brokerage Relationship Disclosure

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

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

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

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

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

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

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

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

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

6. If the landlord's agent is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), make the disclosure described herein on behalf of the landlord's agent;

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

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

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

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

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

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

6. If the landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

(C) Dual Agent.

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

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

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

(D) Transaction Broker Assisting Seller/Landlord.

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

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

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

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

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

6. If the landlord's transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo,

make the disclosure described herein on behalf of the landlord's transaction broker;

(E) Transaction Broker Assisting Buyer/Tenant.

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

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

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

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

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

6. If the landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

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

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

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

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

AUTHORITY: sections 339.120, 339.720, and 339.770, RSMo Supp. 1999. Original rule filed Oct. 26, 1987, effective July 1, 1988. Amended: Filed Sept. 1, 1989, effective Dec. 28, 1989. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Rescinded and readopted: Filed Dec. 1, 1997, effective Sept. 1, 1998. Rescinded and readopted: Filed Jan. 14, 2000, effective July 30, 2000.*

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

4 CSR 250-8.096 Brokerage Relationship Confirmation

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

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

(A) Written confirmation must—

1. Identify the licensee's brokerage relationship;

2. Identify the source or sources of compensation;

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

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

5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to 4 CSR 250-8.200-4 CSR 250-8.210, the landlord shall not be required to sign the written confirmation; and

6. Be signed and dated by the disclosing licensee on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200-4 CSR 250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)–(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

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

AUTHORITY: sections 339.120, 339.720 and 339.780, RSMo Supp. 1999. Original rule filed Jan. 14, 2000, effective July 30, 2000.*

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

4 CSR 250-8.097 Broker Disclosure Form

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

(1) At the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the licensee shall provide that person with a written copy of the current Broker Disclosure Form prescribed by the Missouri Real Estate Commission. In any event, a licensee shall provide the party that has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the Broker Disclosure Form upon obtaining any personal or financial information or before the signing of a brokerage service agreement, whichever occurs first. If a landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)–(e), provide a tenant with a written copy of the current Broker Disclosure

Form prescribed by the commission on behalf of the landlord's agent or transaction broker.

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

AUTHORITY: sections 339.120 and 339.770, RSMo Supp. 1999. Original rule filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000.*

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

4 CSR 250-8.100 Offers

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

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

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

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended:*

Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Oct. 26, 1987, effective July 1, 1988. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.

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

4 CSR 250-8.110 Licensee's Interest in Transactions; Relationship with Parties

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

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

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

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

(4) Directed or Controlled Business.

(A) Definitions.

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



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

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

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

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

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

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

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

DISCLOSURE OF REFERRAL OF BUSINESS

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

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

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

This form has been fully explained to me.

(Date)

(Signature of Person Whose Business is Being Referred)

The form may be modified to describe more accurately the nature of the service, the referring entity and the entity receiving the referral, provided that its content and meaning are not changed in substance.

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

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

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

AUTHORITY: section 339.120, RSMo Supp. 1997.* Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 12, 1982, effective June 11, 1982. Amended: Filed Aug. 12, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 5, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed Sept. 18, 1990, effective June 10, 1991. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998.

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

4 CSR 250-8.120 Deposits to Escrow or Trust Account

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

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

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

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

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

(5) In addition to the notification required by section 339.105.2, RSMo, each broker shall consent upon the request of the commission or its agent to the examination and audit of the broker's escrow or trust account by the

commission or its agent. As part of the consent, each broker, upon opening any additional account(s), shall execute a form entitled Consent to Examine and Audit Escrow or Trust Account.

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

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 12, 1982, effective June 11, 1982. Amended: Filed March 14, 1984, effective June 11, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.130 Earnest and Escrow Money; Disputes

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

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

(2) In the event a dispute arises concerning the return or forfeiture of any monies or other valuables held by a broker in escrow, the broker shall continue to retain the money or valuables in escrow until a written release is obtained from all parties consenting to its dis-

position or until a civil action is filed to determine its disposition at which time payment may be made into the court. However, in the absence of a pending civil action or written release and upon passage of sixty (60) days from the date of the dispute, a broker may disburse escrow monies or valuables to either party to the transaction based upon a good faith decision by the broker that the opposite party has failed to perform as agreed, but this disbursement shall only be made after the broker has given fifteen (15) days' written notice by certified mail to all parties concerned at their last known address setting forth the broker's proposed action. The commission will not take disciplinary action against a broker who in good faith disburses escrow monies or other valuables pursuant to this rule; however, nothing in this rule relieves a broker of any civil action which the damaged party may file in a court of law nor does this rule require a broker to remove money or other valuables from the broker's escrow account when disposition is disputed by the parties.

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed Sept. 7, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Dec. 15, 1986, effective March 26, 1987. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.140 Standard Forms

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

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

terms necessary to close the transaction the broker has procured.

(2) A real estate broker shall not make a separate charge for completing any standardized forms and shall not prepare those forms for persons in transactions in which s/he is not acting as a broker, unless the broker is one of the parties to the contract or instrument or owns or is employed by an escrow company or closing firm which is handling the closing.

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.150 Closings and Closing Statements

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

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

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



cy and to deliver the closing statements to the buyer and the seller or cause them to be delivered. The detailed closing statement shall contain all material financial aspects of the transaction, including the true sale price, the earnest money received, any mortgages or deeds of trust of record, all monies received by the broker, closing agent or company in the transaction, the amount, and payee(s) of all disbursements made by the broker, closing agency or company and the signatures of the buyer and seller.

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

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

AUTHORITY: section 339.120, RSMo Supp. 1997. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 14, 1984, effective June 11, 1984. Amended: Filed Oct. 2, 1985, effective Dec. 26, 1985. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998.

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

4 CSR 250-8.155 Closing a Real Estate Firm

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

(1) Voluntary Closing.

(A) Unless specifically approved otherwise by the commission, a real estate brokerage firm shall be closed in the following manner. The individual broker or the designated broker shall—

1. Notify the commission in writing upon closing of the firm. The following information must be submitted on a form provided by the commission:

A. The date of the firm's closing;

B. The location where the records and files will be stored for a minimum of three (3) years;

C. The name, address and phone number of the custodian who will be storing the records and files; and

D. A list of all pending transactions, stating the names, addresses and telephone numbers of all buyers, sellers or property owners;

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

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

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

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

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

7. Sign the closing form stating that all of the previously mentioned terms have been met.

(2) Revocation/Suspension.

(A) Sole-Proprietorship/Individual Broker. Upon the revocation or suspension of a broker's license, the broker shall—

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

2. Notify the commission of the location where records and files will be stored, as well as the name, address and phone number of the custodian who will be storing the records and files. In case of revocation, storage for all records and files is to be arranged for a minimum of three (3) years. In case of suspension, storage is to be arranged for the duration of the suspension;

3. Notify, if the license of the broker has been suspended, all licensees associated with

the firm and return all licenses held by the broker to the commission;

4. Notify all current listing, buyer or tenant agreement, and management contract clients in writing advising of the date the firm will close or suspend activity, and that they may enter into a new listing, buyer or tenant agreement or management agreement with the firm of their choice;

5. Remove all advertising signs from all properties except the firm's office which were listed with or managed by the firm;

6. Cancel or suspend all advertising and telephone listing advertisements. In case of suspension, post a notice on the outside of the office in a prominent location clearly visible to the public which cites all applicable violations. In case of revocation, the licensee shall remove all office signs visible to the public;

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

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

9. Accept no compensation related to the real estate transactions during the suspension except compensation for acts which were performed during the period in which the broker was properly licensed;

10. Notify, in writing, all listing and management clients as well as parties and co-brokers to existing contracts, advising of the date of suspension. All listing and management clients must be advised that they may enter into a new listing or management agreement with the firm of their choice;

11. Answer no telephones in a suspended broker's office in any manner to imply that the broker is a currently active real estate firm;

12. Return all property belonging to others which is held by the broker;

13. Comply with all of the terms of (2)(A)1.-12. on or before the effective date of revocation or suspension; and

14. Provide the commission with an affidavit stating that all of the previously mentioned terms have been met.

(B) Corporation, Association or Partnership. Upon the revocation or suspension of a broker's license issued to a corporation, asso-

ciation or partnership, the designated broker shall—

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

2. Notify the commission of the location where the broker's records and files will be stored, as well as the name, address and phone number of the custodian who will be storing the records and files. In case of revocation, storage for all records and files must be arranged for a minimum of three (3) years. In the case of suspension, storage for all records and files is to be arranged for the duration of the suspension;

3. Return, if both the license of the designated broker and the firm have been suspended, all licenses to the commission;

4. Notify all listing and management clients in writing advising of the effective date of the suspension or revocation, and that they may enter into a new listing or management agreement with the firm of their choice;

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

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

7. Compensate only for acts which were performed during the period in which the partnership, corporation or association was properly licensed;

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

9. Comply with all of the terms of paragraphs (2)(B)1.-8. on or before the effective date of revocation or suspension; and

10. Provide the commission with an affidavit stating that all of the previously mentioned terms have been met.

(3) Closing as a Result of Death or Disability. Upon the death or disability of a broker in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following procedures shall apply:

(A) Sole-Proprietorship/Individual Broker.

1. All licensees associated with the broker must cease all brokerage activity until their licenses have been transferred to another broker.

2. The administrator or executor of the broker's estate or the legal representative of the broker may conclude pending business, according to the provisions of section 339.040.8, RSMo.

3. The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in section (1) for voluntary closing;

(B) Corporation, Partnership or Association. Upon the death or incapacity of one (1) or more of the licensed broker-officers, broker-partners or broker-associates of a real estate corporation, partnership or association in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following procedures shall apply:

1. The administrator or executor of the broker's estate or the legal representative of the broker may conclude pending business, according to the provisions of section 339.040.8, RSMo;

2. The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in section (1) for voluntary closing;

3. The commission must be notified immediately of any change in the designated broker; and

4. If a new designated broker is named, the new broker must submit an affidavit to the commission attesting that all steps under the voluntary closing procedure are completed within thirty (30) days after the date of the prior broker's death or disability; and

(C) In all previously mentioned cases, the administrator or executor of the estate or the legal representative of the broker shall arrange to retain the business records of the broker for a period of at least three (3) years, in compliance with 4 CSR 250-8.160.

AUTHORITY: section 339.120, RSMo 2000. Original rule filed June 16, 1989, effective Sept. 28, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed June 28, 2002, effective Dec. 30, 2002.*

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

4 CSR 250-8.160 Retention of Records

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

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

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

AUTHORITY: sections 339.120 and 339.770, RSMo Supp. 1999. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000, effective July 30, 2000.*

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

4 CSR 250-8.170 General

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

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed June 16, 1989, effective Sept. 28, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*



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

4 CSR 250-8.200 Management Agreement Required

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

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

(2) A licensee who is managing the leasing or rental of real estate shall not act as an agent in the sale or exchange of that real estate unless the licensee complies with the requirements of 4 CSR 250-8.090.

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed June 14, 1988, effective Feb. 19, 1989. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994.*

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

4 CSR 250-8.210 Management Agreements

PURPOSE: This rule requires specific terms in management agreements in order to alleviate confusion between the public and licensees. This confusion has been demonstrated by complaints received by the commission and audits on property management accounts performed by the commission. The licensee is required to provide a copy of the agreement to the property owner.

(1) Every written property management agreement or other written authorization between a broker and the owners of the real estate shall—

(A) Identify the property to be managed;

(B) State the amount of fee or commission to be paid and when the fee or commission will be paid;

(C) Specify whether security deposits and prepaid rents will be held by the broker or the owner;

(D) Contain the beginning date of the agreement;

(E) Provide the terms and conditions for termination of the property management agreement by the broker or the owner of the property;

(F) Include the licensee's duties and responsibilities;

(G) Contain a statement which permits or prohibits the designated broker from offering subagency (not applicable for transaction broker agreements);

(H) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

(I) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

(J) Include specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to tenant's agents and/or transaction brokers;

(K) Contain a statement which confirms that the landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the brokerage relationship agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first; and

(L) Contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker.

(2) The licensee shall give to the owner or the owner's authorized agent a legible copy of every written property management agreement or other written authorization at the time the signature of the owner is obtained; and the licensee's broker shall retain a copy.

AUTHORITY: section 339.120, 339.720, 339.780 and 339.820, RSMo Supp. 1999. Original rule filed June 14, 1988, effective Feb. 19, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Jan. 14, 2000, effective July 30, 2000.*

*Original authority: 339.120, RSMo 1941, amended 1963, 1967, 1981, 1988, 1993, 1995, 1999; 339.720, RSMo 1996, amended 1998, 1999; 339.780, RSMo 1996,

amended 1998, 1999; and 339.820, RSMo 1996, amended 1998, 1999.

4 CSR 250-8.220 Escrow or Trust Account and a Separate Property Management Escrow Account Required

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

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

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

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

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

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

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

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

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

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

AUTHORITY: section 339.120, RSMo 2000. Original rule filed June 14, 1988, effective Feb. 19, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed June 28, 2002, effective Dec. 30, 2002.*

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

4 CSR 250-8.230 Security Deposits: Disputes

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

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

AUTHORITY: section 339.120, RSMo Supp. 1993. Original rule filed June 14, 1988, effective Feb. 19, 1989.*