

10.4 Broker responsibilities; executive brokers; part-time brokers.

(a) (1) A principal broker is generally responsible for all business conducted by the broker's firm and for all of the real estate activities of all of those licensed under or associated with the principal broker, unless the licensee conducted real estate business independently and without permission or authority from the principal broker. If the principal broker learns that a licensee is conducting business independently, that principal broker must comply with Commission Regulation 10.1(a). (Amended 1/1/2010)

(2) A principal broker may delegate supervisory responsibility to another broker by designating such broker as an "executive broker." The executive broker may sign offer and acceptance forms as supervising broker and can be responsible for instructing and supervising salespersons and/or brokers for whom the executive broker is responsible. The executive broker may also be delegated responsibility by the principal broker for administrative procedures required by the Commission, such as signing transfer applications. For each executive broker so designated, the principal broker must complete and file with the Commission an appropriate designation form signed by both the principal broker and the designated executive broker. The designation of an executive broker is effective when filed with the Commission.

(3) Designation of one or more executive brokers does not absolve the principal broker of general responsibility for the conduct of all real estate business conducted by the principal broker's firm, and the principal broker is specifically responsible for the activities of all executive brokers.

(b) Principal brokers and executive brokers have the duty and responsibility to instruct those brokers and salespersons licensed under them with regard to the fundamentals of real estate practice and the ethics of the profession, and to keep them informed and abreast of all changes and developments pertaining to the Arkansas Real Estate License Law and Commission regulations. They shall also exercise strict supervision of the real estate activities of all those licensed under them and for whom they have supervisory responsibility.

(c) Whether or not a principal broker or executive broker has discharged these responsibilities for those licensed under him/her will depend on various factors and circumstances, including, without limitation, the following:

- (1) Frequency and manner of contact and communication;
- (2) Type and frequency of educational and instructional activities;
- (3) Method and frequency of monitoring real estate activities.

(d) (1) The preparation of instruments in connection with a real estate rental or sale and the closing of a sale by a licensee must be performed by or under the specific supervision of the principal broker.

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(2) If the principal broker or designated executive broker or their assigned licensee, closes a transaction or selects a third party to close the transaction, it is the responsibility of the principal broker or designated executive broker to ensure that the real estate closing conducted on behalf of the principal broker's or designated executive broker's client(s) is conducted in accordance with the agreement of the buyer and seller. If the buyer and/or seller selects a third party to close the transaction the principal broker or designated executive broker, or their assigned licensee, must provide written closing instructions, on behalf of their client(s), to the third party closing the transaction, and review the client's closing statement, if reasonably available, to insure that the closing is conducted in accordance with the agreement of their client. It is strongly recommended that the principal broker, designated executive broker, or assigned licensee advise the client to contact the closing agent or title insurer about the availability of closing protection.

(e) No broker who is gainfully employed, or who is engaged in a non-real estate related field, may employ any licensee to work under the broker's license issued to such broker. A broker who is employed or who is engaged in any field other than real estate will be presumed to be gainfully employed or engaged in a non-real estate related field. This presumption may be overcome by proof that such employment or engagement is (1) in a real estate related field, and (2) conducted in the same office as the broker's real estate business.