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Proposed Rulemaking

Title

Promulgated by:
Department of Labor and Licensing
Arkansas Real Estate Commission

Title 17. Professions, Occupations, and Businesses

Chapter XXXIX. Arkansas Real Estate Commission, Department of Labor and Licensing

Subchapter A. Generally

Part 220. Arkansas Real Estate Commission Rules

Subpart 1. Commission Meetings — Appearances — Subpoenas

17 CAR § 220-101. Meetings of the commission.

(a)(1) Regular meetings of the Arkansas Real Estate Commission shall generally be held on the Monday immediately preceding the second Tuesday of each month and will continue in session until its business is completed insofar as is possible.

(2) Provided, however, that any regular meeting of the commission may be set forward, postponed, canceled, or adjourned to another day.

(b) Special meetings of the commission may be called at any time by a majority of the commission.

17 CAR § 220-102. Place of regular meetings.

All regular meetings of the Arkansas Real Estate Commission shall be held in the commission's offices unless otherwise specified.

17 CAR § 220-103. Appearance before the commission.

(a) Any person desiring to appear before the Arkansas Real Estate Commission at any of its regular meetings to take up any business within the jurisdiction of the commission shall, at least fifteen (15) days prior to such meeting, file with the Executive Director of the Arkansas Real Estate Commission a written request therefore, in which the nature and purpose of the appearance shall be clearly and concisely stated with sufficient details to fully apprise the commission of the basis and extent of such business.

(b) Provided, however, that a person may not appear before the commission in connection with any matter pending before the commission for administrative adjudication except upon notice and opportunity for all parties to participate.

17 CAR § 220-104. Director to prepare agenda.

The Executive Director of the Arkansas Real Estate Commission shall arrange the order of business of all meetings of the Arkansas Real Estate Commission and shall, at least ten (10) days prior thereto, notify all persons who are to appear before any such meeting the place and approximate time he or she is to appear before the commission.

~~**17 CAR § 220-105. Director to fix salaries.**~~

~~The Executive Director of the Arkansas Real Estate Commission shall fix the salaries of all employees of the Arkansas Real Estate Commission within budgetary limitations.~~

17 CAR § 220-~~106~~105. Subpoenas.

(a)(1) Requests for subpoenas shall be in writing.

(2) The person requesting the subpoena has the burden of obtaining and serving the subpoena.

(b) Service of subpoenas issued by the Arkansas Real Estate Commission shall be as provided by Rule 45(c) of the Arkansas Rules of Civil Procedure as that rule now exists or as it may be amended from time to time.

(c) The fees and mileage of officers serving subpoenas and of witnesses subpoenaed shall be as provided by Rule 45(d) of the Arkansas Rules of Civil Procedure.

Subpart 2. Director Duties, Authority, and Responsibility

17 CAR § 220-201. Generally.

(a) The Executive Director of the Arkansas Real Estate Commission is the chief executive and administrative officer of the Arkansas Real Estate Commission, and, as such, is authorized to do all things necessary and convenient to carry into effect the Real Estate License Law, Arkansas Code § 17-42-101 et seq., and Arkansas Time-Share Act, Arkansas Code § 18-14-101 et seq., and the rules promulgated thereunder, subject to the general supervision of the commission.

(b) All duties, authority, and powers given to the commission by law, except rule making and adjudicative powers, are hereby delegated to the executive director, or the executive director's designee, who shall utilize and perform such duties, powers, and authority under the general supervision of the commission.

Subpart 3. Fees — Bad Checks — Refunds

17 CAR § 220-301. Fees.

(a) The following fees are established at the amounts indicated:

(1) Application fee, fifty dollars ($50.00);

(2) Original real estate broker license fee, seventy dollars ($70.00);

(3) Original property management broker license fee, seventy dollars ($70.00);

(~~3~~4) Annual renewal real estate broker license fee, eighty dollars ($80.00);

(5) Annual renewal property management broker license fee, eighty dollars ($80.00);

(~~4~~6) Original real estate salesperson license fee, fifty dollars ($50.00);

(7) Original property management associate license fee, fifty dollars ($50.00);

(~~5~~8) Annual renewal real estate salesperson license fee, sixty dollars ($60.00);

(9) Annual renewal property management associate license fee, sixty dollars ($60.00);

(~~6~~10) Real estate ~~B~~broker expired license fee, one hundred ten dollars ($110);

(11) Property management broker expired license fee, one hundred ten dollars ($110);

(~~7~~12) Real Estate ~~S~~salesperson expired license fee, eighty dollars ($80.00);

(13) Property management associate expired license fee, eighty dollars ($80.00);

(~~8~~14) License reissuance fee, thirty dollars ($30.00);

(~~9~~15) Initial duplicate license fee, thirty dollars ($30.00);

(~~10~~16) Annual renewal duplicate license fee, thirty dollars ($30.00);

(~~11~~17) Transfer fee, thirty dollars ($30.00);

(~~12~~18) Appeal filing fee, one hundred dollars ($100);

(~~13~~19) Recovery fund fee, twenty-five dollars ($25.00); and

(~~14~~20) Examination fee shall be the actual cost charged by the testing service and shall be paid directly to the testing service.

(b) The following fees for real estate and property management education are established at the amounts indicated:

(1) Original main school license fee, five hundred dollars ($500);

(2) Annual renewal main school license fee, four hundred dollars ($400);

(3) Original branch school license fee, three hundred dollars ($300);

(4) Annual renewal branch school license fee, two hundred dollars ($200);

(5) Original association license fee, two hundred dollars ($200);

(6) Annual association license renewal fee, one hundred dollars ($100);

(7) Principal instructor license application fee, two hundred fifty dollars ($250);

(8) Annual renewal fee for principal instructor, one hundred fifty dollars ($150);

(9) Associate instructor license application fee, two hundred dollars ($200);

(10) Annual renewal fee for associate instructor, one hundred dollars ($100);

(11) License amendment fee, one hundred dollars ($100);

(12) License reissuance fee, fifty dollars ($50.00);

(13) Course approval fee, one hundred dollars ($100);

(14) Annual renewal for course approval fee, fifty dollars ($50.00);

(15) Late renewal fee for license or course approval, two hundred fifty dollars ($250); and

(16) Appeal filing fee, one hundred dollars ($100).

17 CAR § 220-302. Dishonored checks.

(a) Any applicant or licensee who shall submit in payment of any fee a check or bank draft that is not honored by the bank shall not be eligible to receive a license from the Arkansas Real Estate Commission until such time as such check or bank draft is paid.

(b)(1) The commission shall:

(A) Charge a fee not to exceed twenty-five dollars ($25.00) for a dishonored check or bank draft; and

(B) Also require such check or bank draft to be made good immediately by the maker.

(2) If such person shall be a real estate salesperson, associate broker, ~~or~~ executive broker, property management broker, or property management associate and shall fail to make such check or bank draft good, the commission may require payment of such funds from the principal real estate broker or property management broker with whom such person is licensed.

17 CAR § 220-303. Overpayment of fees.

In the event that an applicant or licensee shall submit to the Arkansas Real Estate Commission any funds that are in excess of the funds required by the commission pursuant to this part or state law, the commission shall refund such overpayment according to the following schedule:

(1) If the overpayment is at least one cent ($0.01), and not more than ten dollars ($10.00), no refund shall be made; and

(2) If the overpayment shall exceed ten dollars ($10.00), the commission shall first deduct ten dollars ($10.00) for processing the refund check, and shall refund the remainder of the overpayment.

17 CAR § 220-304. Waiver of application fees.

The Arkansas Real Estate Commission shall waive the initial application fees for an applicant who:

(1) Is receiving assistance through the:

(A) Arkansas Medicaid Program;

(B) Supplemental Nutrition Assistance Program;

(C) Special Supplemental Nutrition Program for Women, Infants, and Children;

(D) Temporary Assistance for Needy Families Program; or

(E) Lifeline Assistance Program;

(2) Was approved for unemployment within the last twelve (12) months; or

(3) Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

Subpart 4. Application and Examination — Education and Experience Requirements

17 CAR § 220-401. Applications — Education — Experience.

(a) Applicants for original licensure as a real estate broker, property management broker, ~~or~~ real estate salesperson, or property management associate must:

(1) Apply on forms provided by the Arkansas Real Estate Commission;

(2) Pay the application fee established by this part; and

(3) Meet the following requirements.

(b) Real estate ~~B~~broker applicants and property management broker applicants must provide proof of the following:

(1) Attainment of the age of majority, which proof may consist of:

(A) A birth certificate or copy thereof;

(B) A driver's license; or

(C) Another document or proof of age that is satisfactory to the commission;

(2)(A)**Real estate broker applicants.** Successful completion within thirty-six (36) months immediately preceding the date of the application of a course or courses of instruction in real estate by actual classroom attendance or completion of approved distance education of which at least forty-five (45) hours are in a course developed by the commission, for a total of not less than sixty (60) classroom hours.

(B) Proof of completion of such education requirement shall consist of:

(i) The original certificate or certificates, or certified copies thereof, from the school or organization; or

(ii) Other documentation satisfactory to the commission;

(3) **Property management broker applicants.**

(A)(i) Successful completion within thirty-six (36) months immediately preceding the date of application of sixty (60) hours in a property management pre-license course approved by the commission.

(ii) Pre-license course shall include property management principles and practices including, without limitation:

(a) Thirty (30) hours consisting of the following topics:

(1) Landlord-tenant law;

(2) Federal and state fair housing laws;

(3) The Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq;

(4) State licensing law and rules;

(5) Trust accounts;

(6) Accounting procedures and recordkeeping;

(7) Contract law; and

(8) Agency and disclosure; and

(b) Thirty (30) hours of commission property management supervision best practices.

(B) Must successfully demonstrate one or more of the following to the commission:

(i) Two (2) years of experience as a licensed property management associate;

(ii) Two (2) years of managing not less than seven (7) residential or commercial units; or

(iii) A total of two years of a combination of subsections (i) and (ii).

(C) Proof of completion of such education requirement shall consist of:

(i)The original certificate or certificates, or certified copies thereof, from the school or organization; or

(ii) Other documentation satisfactory to the commission.

(~~3~~4)(A)(i) Service by the applicant of an active bona fide apprenticeship by holding a valid real estate salesperson's license or property management associate license issued by the commission, or by holding a valid real estate salesperson's license, ~~or~~ real estate broker's license, property management broker's license, or property management associate license issued by the appropriate licensing agency of another state, for a period of not less than twenty-four (24) months within the previous forty-eight-month period immediately preceding the date of application, which proof may consist of the official license records of the commission or certified copies of licensure records of the appropriate licensing agency of another state, plus such other documentation as the commission deems satisfactory to demonstrate that the applicant has gained experience in the real estate business or property management equal to that which would be gained by a person engaged in the real estate or property management business on a full-time basis during a minimum two-year period of time.

(ii) Listings, sales, property management, or other licensed activities may be considered by the commission in determining whether the applicant meets this qualification.

(iii) Consideration shall be given to the real estate broker or property management broker applicant's local real estate market and/or specialized area of real estate or property management practice.

(iv) Any person whose application for real estate broker or property management broker license is denied by the Executive Director of the Arkansas Real Estate Commission may appeal such denial to the commission provided the request is in writing and received in the office of the commission not later than sixty (60) days following the date of denial by the executive director.

(B)(i) However, pursuant to Arkansas Code § 17-42-303(b)(2), the commission may waive such experience requirement for a real estate broker or property management broker applicant who has:

(a) Held an active real estate broker's license or property management broker's license for a period of not less than eighteen (18) months; or

(b) Experience acceptable to the commission in a field considered real estate or property management related for a period of not less than twenty-four (24) months within the previous forty-eight-month period immediately preceding the date of application.

(ii) Each request for such waiver shall:

(a) Be in writing; and

(b) Include such proof as necessary to establish the applicant's eligibility for the waiver.

(iii) Such proof may consist of:

(a) The official license records of the commission;

(b) Certified copies of license records of the appropriate licensing agency of another state; or

(c) Such other documentation as the commission deems satisfactory;

(45) The applicant's affidavit that he or she has no record of unprofessional conduct; and

(56) Any other information or documents related to:

(A) Professional licenses held by the applicant;

(B) Formal disciplinary actions by regulatory agencies; or

(C) Pending lawsuits filed or judgments entered against the applicant for:

(i) Fraud;

(ii) Deceit;

(iii) Dishonesty;

(iv) Misrepresentation; or

(v) Conversion of property including money belonging to another.

(c) Real estate ~~S~~salesperson applicants and property management associate applicants must provide proof of the following:

(1) Attainment of the age of majority, which proof may consist of:

(A) A birth certificate or copy thereof;

(B) A driver's license; or

(C) Another document or proof of age that is satisfactory to the commission;

(2) **Real estate salesperson applicant.** Successful completion of a course or courses of instruction in real estate by actual classroom attendance or completion of approved distance education courses of not less than sixty (60) classroom hours, of which at least thirty (30) hours must be in the basic principles of real estate, which proof shall consist of:

(A) The original certificate or certificates, or certified copies thereof, from the school or other organization; or

(B) Other documentation satisfactory to the commission;

(3) **Property management associate applicants.** Successful completion of a thirty (30) hour course to include property management principles and practice, including without limitation:

(A) Landlord-tenant law;

(B) Federal and state fair housing law;

(C) The Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.;

(D) State licensing law and rules;

(E) Trust accounts;

(F) Accounting procedures and recordkeeping;

(G) Contract law; and

(H) Agency and disclosure.

(34) The applicant's affidavit that he or she has no record of unprofessional conduct; and

(45) Any other information or documents related to:

(A) Professional licenses held by the applicant;

(B) Formal disciplinary actions by regulatory agencies; or

(C) Pending lawsuits filed or judgments entered against the applicant for:

(i) Fraud;

(ii) Deceit;

(iii) Dishonesty;

(iv) Misrepresentation; or

(v) Conversion of property including money belonging to another.

(d)(1) The commission may require each original applicant for a real estate salesperson, ~~or~~ real estate broker, property management broker, or property management associate license, including nonresident applicants applying pursuant to Arkansas Code § 17-42-305, using forms furnished by and pursuant to instructions provided by the commission, to apply for a state and federal criminal background check to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation pursuant to Arkansas Code § 17-42-315.

(2) "Criminal background check" means a state and nationwide criminal records check conducted by the Division of Arkansas State Police and the Federal Bureau of Investigation, including the taking of fingerprints.

(3)(A) Each such applicant shall submit, prior to or with the application for real estate examination, the form furnished by the commission authorizing the release of the applicant's criminal background check report to the commission and shall pay any applicable fees associated with the state and federal criminal background checks, pursuant to written instructions provided by the commission.

(B) The release form shall authorize the Identification Bureau of the Division of Arkansas State Police to forward all criminal history information obtained concerning the applicant in regard to any offense referred to in Arkansas Code § 17-42-315 to the commission.

(4) The criminal background check shall be completed within six (6) months ~~immediately preceding~~following the date the application for real estate or property management license examination is received in the commission's office, and if not, the application shall be returned to the applicant.

(5) Upon request and proof of identification satisfactory to the commission, the commission:

(A) May make the report of any criminal information available to the applicant who is the subject of the report; and

(B) Shall provide the applicant a reasonable time to challenge the accuracy or completeness of the information therein through the Identification Bureau of the Division of Arkansas State Police, pursuant to Arkansas Code § 12-12-211 and 12 CAR § 5-107(f).

(6)(A) Should an applicant challenge his or her conviction report, he or she shall notify the commission in writing.

(B) After receipt of such notice, the commission shall not determine whether an applicant is qualified for the license applied for until the applicant has had reasonable opportunity to challenge said conviction report and shall not process the application until the challenge of said report is resolved by the Identification Bureau of the Division of Arkansas State Police and/or the Arkansas Crime Information Center.

(C) The applicant shall notify the Identification Bureau of the Division of Arkansas State Police to forward to the commission changes in the applicant's report as a result of any such challenge.

(7) Except as provided in Arkansas Code § 17-42-315(g), no person shall receive or hold a license issued by the commission if the person has been convicted by any court in the State of Arkansas or of any similar offense by a court in another state

or of any similar offense by a federal court of an offense identified in Arkansas Code § 17-42-315(f).

(8) After a hearing the commission may waive a conviction identified in subdivision (d)(7) of this section, upon application of the applicant, pursuant to the provisions of Arkansas Code § 17-42-315(g).

(e)(1) Real estate or property management ~~B~~broker applicants who have previously held an Arkansas real estate or property management license shall not be required to:

(A) ~~Complete~~ Repeat any prelicense education previously completed by the broker applicant; or

(B) Demonstrate fulfillment of the requirements of subdivision (b)(3)(A) of this section.

(2) Real estate or property management ~~B~~broker applicants who have previously held an Arkansas real estate or property management license shall be required to:

(A) Pay the application fee established by this part;

(B) Comply with the requirements of subsection (d) of this section;

(C) Provide an affidavit that he or she has no record of unprofessional conduct and is not holding a suspended or probationary professional license in any state; and

(D) Provide any other information or documents related to:

(i) Professional licenses held by the applicant;

(ii) Formal disciplinary actions by regulatory agencies; or

(iii) Pending lawsuits filed or judgments entered against the applicant for:

(a) Fraud;

(b) Deceit;

(c) Dishonesty;

(d) Misrepresentation; or

(e) Conversion of property including money belonging to another.

(3) The executive director may waive the requirement to complete the real estate or property management broker licensure exam and may consider the following when granting a waiver under this subsection:

(A) The length of time an Arkansas real estate or property management broker license was held; and

(B) The length of time since the applicant held an Arkansas real estate or property management broker license.

(4) Real estate Ssalesperson or property management associate applicants who have previously held an Arkansas real estate salesperson or property management associate license shall not be required to ~~complete~~ repeat any prelicense education.

(5) Real estate Ssalesperson or property management associate applicants who have previously held an Arkansas real estate license shall be required to:

(A) Pay the application fee established by this part;

(B) Comply with the requirements of subsection (d) of this section;

(C) Provide an affidavit that he or she has no record of unprofessional conduct and is not holding a suspended or probationary professional license in any state; and

(D) Provide any other information or documents related to:

(i) Professional licenses held by the applicant;

(ii) Formal disciplinary actions by regulatory agencies; or

(iii) Pending lawsuits filed or judgments entered against the applicant for:

(a) Fraud;

(b) Deceit;

(c) Dishonesty;

(d) Misrepresentation; or

(e) Conversion of property including money belonging to another.

(6) The executive director may waive the requirement to complete all or part of the real estate salesperson or property management associate licensure exam and

may consider the following when granting a waiver under this subsection:

(A) The length of time an Arkansas real estate salesperson or property management associate license was held; and

(B) The length of time since the applicant held an Arkansas real estate salesperson or property management associate license.

(7) Real estate ~~B~~broker, property management broker, property management associate and real estate salesperson applicants who have previously held an Arkansas real estate or property management license and have been exempted from the exam pursuant to the above must submit proof of satisfactorily completing nine (9) classroom hours or equivalent continuing education units of approved continuing education for each year during which his or her license was expired, not to exceed thirty (30) classroom hours.

(8) Except as provided in this subsection, real estate broker, property management broker, property management associate and real estate salesperson applicants who have previously held an Arkansas real estate or property management license must comply with all other requirements of this section.

(f) All classroom hours required by subsections (b) and (c) of this section shall be conducted by:

(1) An accredited postsecondary school wherever situated;

(2) A school or organization licensed by the commission; or

(3) A school or organization approved by a real estate licensing jurisdiction deemed equivalent by the commission.

(g) The course or courses of instruction requirements of this section may be satisfied by successful completion of such distance education courses as the commission may by rule-making require, giving due consideration to the number of hours necessary to provide instruction in basic competencies required for a real estate salesperson's, property management associate's, real estate broker's or a property management broker's license.

(h) ~~Both broker and salesperson~~All applicants shall also answer all questions and provide all information requested on the examination application, and shall provide such other information or documentation as the commission may require.

(i)(1) Applicants that have provided all requirements of this section may sit for the real estate or property management examination, provided that a state and federal criminal background check, as required by Arkansas Code § 17-42-315, has been sent to the Identification Bureau of the Division of Arkansas State Police for a state and federal criminal background check.

(2) However, no license shall be issued upon successful completion of the examination, until receipt and approval by the commission of the state and federal criminal background check.

(j)(1) All applications expire one (1) year after the date of the application or upon successful completion of the examination, whichever first occurs.

(2) Provided, however, that the application of an applicant who takes and passes either part of the examination within one (1) year from the date of his or her application shall not expire until the six (6) months allowed for retaking the failed portion pursuant to 17 CAR § 220-402(d) has expired.

(k) Application fees are nonrefundable.

17 CAR § 220-402. Examinations — Passing scores — Reexamination.

(a)(1) Applicants for original licensure as a real estate broker, property management broker, property management associate or real estate salesperson must pass a written examination to demonstrate competency to act as a real estate or property management licensee in such a way as to safeguard the interests of the public.

(2) The real estate salesperson examination shall consist of a general part and an Arkansas law part.

(3) The real estate broker, property management broker, and property management associate examination shall consist of a single examination.

(b)(1) For real estate salesperson ~~broker~~ applicants, a minimum score of seventy (70) on the general part and seventy ~~five~~ (~~75~~70) on the Arkansas law part are required.

(2) A person who is licensed as a real estate salesperson ~~broker~~ may not apply and may not take the examination.

(3) A person who has passed the Arkansas real estate or property management ~~broker's~~ examination but who is not licensed as a ~~broker~~ real estate salesperson may apply.

(4) However, in addition to meeting other requirements, such a person must furnish an affidavit stating the reason for applying.

(5) Such a person may take the examination only with written permission from the Executive Director of the Arkansas Real Estate Commission or the executive director's designee.

(c)(1) For real estate ~~salesperson~~ broker applicants, property management broker applicants, and property management associate applicants, a minimum score of seventy (70) on the ~~general part and seventy (70) on the Arkansas law part are~~ examination is required.

(2) A person who is licensed as a real estate ~~salesperson~~broker, property management associate, property management broker or as a real estate broker may not apply and may not take the examination.

(3) A person who has passed the Arkansas real estate ~~salesperson's~~broker, property management broker, or property management associate examination but who is not licensed ~~as a real estate salesperson~~that particular designation may apply for the license which corresponds to the examination they passed.

(4) However, in addition to meeting other requirements, such a person must furnish an affidavit stating the reason for applying.

(5) Such a person may take the examination only with written permission from the executive director or the executive director's designee.

(d)(1) An applicant who takes the real estate salesperson examination in Arkansas and passes either the Arkansas law part or the general part, but fails the other, need

not again take the part passed if within six (6) months of such initial examination the applicant retakes and passes the part failed.

(2) Otherwise, the applicant must retake the entire real estate salesperson examination and must also make a new application if more than one (1) year has elapsed since the date of the original application.

(e)(1) A~~n~~ real estate salesperson applicant who meets all three (3) of the following requirements will be required to take only the Arkansas law part of the examination:

(A) Has passed a uniform, general, or multistate part of an examination for a real estate license in another state in which the examination is determined by the Arkansas Real Estate Commission to meet generally acceptable standards of real estate testing;

(B) The other state requires a minimum passing grade no lower than that required for the general part of the Arkansas real estate salesperson examination; and

(C) The applicant at the time of taking the Arkansas real estate salesperson examination is licensed in the other state.

(2) If a~~n~~ real estate salesperson applicant meets the first two (2) requirements above, but not the third, the applicant will be required to take only the Arkansas law part of the examination provided that the applicant passed the uniform, general, or multistate part of the examination in the other state within six (6) months prior to the month in which the applicant takes and passes the Arkansas law part.

(3) An applicant seeking licensure under this subsection must furnish such documentation of entitlement thereto as the commission may require.

17 CAR § 220-403. Examinations — Application procedure — Time requirements.

(a)(1) The Arkansas Real Estate Commission shall announce from time to time the dates and locations of examinations.

(2) All applications should be received in the commission office at least ten (10) days before the examination for which the applicant desires to sit.

(3) However, regardless of the date on which the application is received by the commission, it shall be processed as expeditiously as possible under the circumstances.

(4) Once the application is processed, the commission will ~~send to the applicant a Certificate of Examination Eligibility~~issue an authorization to test via the examination provider.

~~(5) The certificate will include instructions for making examination reservations and will be required for admission at the test center.~~

(b)(1) An examination fee, which shall equal the actual cost of the examination as established by the testing service engaged by the commission, will be collected at the test center.

(2) The examination fee shall be made payable to the testing service unless the applicant is otherwise notified by the commission.

(3) The examination fee shall be charged each time an applicant applies to take an examination and is nonrefundable.

(c)(1) An applicant shall receive notice upon passing the examination.

(2) Each successful real estate broker, property management broker, property management associate, and real estate salesperson applicant shall pay to the commission, within ninety (90) days from the date of the successful completion of the examination, the appropriate license fee and recovery fund fee.

(3) However, the payment of the recovery fund fee shall be waived for any successful applicant who has previously paid such fee.

(4) If a successful applicant shall fail to pay the prescribed fee or fees within ninety (90) days following the date of the examination, the examination results shall be null and void, and the applicant shall be required to make new application and retake the examination as an original applicant.

(5) If the federal criminal background check has not been received by the commission within ninety (90) days of the date of the examination, the date may be extended by the commission until receipt of the federal criminal background check.

17 CAR § 220-404. Automatic licensure for uniformed service members, veterans, and their spouses.

(a) As used in this section:

(1) "Automatic licensure" means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under this part or by the rules of the occupational licensing entity; and

(2) "Uniformed service veteran" means a former member of the uniformed services of the United States discharged under circumstances other than dishonorable.

(b) The Arkansas Real Estate Commission shall grant automatic licensure for a real estate broker, property management broker, property management associate, or real estate salesperson to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the United States and is:

(1) A uniformed service member stationed in the State of Arkansas;

(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(3) The spouse of a:

(A) Person under subdivision (b)(1) or (b)(2) of this section;

(B) Uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

(C) Uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

(c) The commission shall grant such automatic licensure upon receipt of all the below:

(1) Payment of the initial licensure fee;

(2) Evidence that the individual holds a license with a similar scope of practice in another state; and

(3) Evidence that the applicant is a qualified applicant under subsection (b) of this section.

17 CAR § 220-405. Prelicensure criminal background check and waiver request.

(a)(1) Pursuant to Acts 2019, No. 990, an individual may petition for a prelicensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

(2) The individual must obtain the prelicensure criminal background check petition form from the Arkansas Real Estate Commission.

(3) The commission will respond with a decision in writing to a completed petition within thirty (30) days of receipt.

(4) The commission's response will state the reason or reasons for the decision.

(5) All decisions of the commission in response to the petition will be determined by the information provided by the individual.

(6) Any decision made by the commission in response to a prelicensure criminal background check petition is not subject to appeal.

(7) The commission will retain a copy of the petition and response and it will be reviewed during the formal application process.

(b)(1) If an individual has been convicted of an offense listed in Arkansas Code § 17-3-102(a) or (e), the commission may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by an:

(A) Affected applicant for a license; or

(B) Individual holding a license subject to revocation.

(2) The commission may grant a waiver upon consideration of the following, without limitation:

(A) The age at which the offense was committed;

(B) The circumstances surrounding the offense;

(C) The length of time since the offense was committed;

(D) Subsequent work history since the offense was committed;

(E) Employment references since the offense was committed;

(F) Character references since the offense was committed; and

(G) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(c) A request for a waiver, if made by an applicant for original licensure as a real estate broker, ~~or~~ real estate salesperson, property management broker, or property management associate, must:

(1) Be in writing; and

(2) Accompany the completed application and fees.

(d) The commission will:

(1) Respond with a decision in writing; and

(2) State the reasons for the decision.

(e) An appeal of a determination under this section will be subject to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

17 CAR § 220-406. Work permits accepted.

The Arkansas Real Estate Commission shall grant a license to an applicant who fulfills the Arkansas requirements for licensure and is a person who holds a federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a "work permit".

Subpart 5. Nonresident Licensure

17 CAR § 220-501. Application.

Upon receipt of an application for nonresident licensure under Acts 1993, No. 690, § 11(a)(1)(B) (Arkansas Code § 17-42-305(a)(1)(B)), the Executive Director of the Arkansas Real Estate Commission shall determine whether the applicant's resident jurisdiction offers Arkansas licensees opportunities for licensure substantially comparable to those offered to that jurisdiction's licensees by Arkansas.

17 CAR § 220-502. List of approved jurisdictions.

(a) The Executive Director of the Arkansas Real Estate Commission may maintain and publish from time to time a list of jurisdictions that have been previously determined to offer Arkansas licensees opportunities for licensure substantially comparable to those offered to that jurisdiction's licensees by Arkansas.

(b) If an applicant's jurisdiction is not on the list the executive director may, upon request, investigate and determine whether it should be.

17 CAR § 220-503. Written agreements with other jurisdictions.

The Executive Director of the Arkansas Real Estate Commission is authorized to enter into written agreements with licensing authorities of other jurisdictions to ensure opportunities for nonresident licensure in those jurisdictions for Arkansas licensees.

Subpart 6. Renewal — Inactive Status — Expired Licenses

17 CAR § 220-601. Renewal applications.

(a) Notwithstanding provisions of subsection (d) of this section, unless renewed as active or inactive, every real estate broker, property management broker, property management associate, or real estate salesperson license shall expire on December 31 of each calendar year.

(b)(1) Notice to renew licenses will be sent by mail or electronically about July 15 of each year to the firm at which the licensee is licensed or such other address as the Arkansas Real Estate Commission has on file for the licensee.

(2) Renewal applications accompanied by the required fee must be filed with the commission no later than September 30.

(3) In order to be considered filed with the commission by the deadline, the renewal applications must:

(A) Bear a United States Postal Service postmark of September 30; or

(B) Be received in the commission’s office on or before September 30.

(4) If September 30 falls on a Saturday, Sunday, or legal holiday, the commission shall accept as meeting the filing deadline those renewal applications that bear a United States Postal Service postmark of the first business day thereafter, and those applications received in the commission office on the first day the office is open to the public following such Saturday, Sunday, or legal holiday.

(5) A renewal application filed after the deadline shall be treated as an application to renew an expired license.

(c)(1) To hold an active license, a real estate broker, property management broker, property management associate, or real estate salesperson shall complete annually seven (7) classroom hours of continuing education approved by the commission or equivalent continuing education units or equivalent distance education of approved continuing education.

(2) One (1) classroom hour, which shall satisfy only one (1) of the seven (7) classroom hours, must focus on how real estate professionals can limit risk to preserve personal safety for agents and consumers.

(d) The expiration date of a license for a deployed uniformed service member or spouse will be extended for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

17 CAR § 220-602. Inactive status renewal.

(a) Any licensee who does not wish to engage in the real estate or property management business at the time of renewal may apply to renew as inactive.

(b) Any person who holds a license on inactive status shall notify the Arkansas Real Estate Commission in writing within seven (7) days of any change of name or address.

(c) During inactive status, a licensee shall not practice as a real estate broker, property management broker, property management associate or real estate salesperson in this state without first activating the license.

(d)(1) An inactive license may be activated upon submitting proof of satisfactorily completing seven (7) classroom hours or equivalent continuing education units or equivalent distance education of approved continuing education for each year renewed

as inactive, not to exceed thirty (30) classroom hours, and such other information as the commission may require, including payment of the required fee.

(2) One (1) classroom hour, which shall satisfy only one (1) of the total classroom hours required for activation, must focus on how real estate professionals can limit risk to preserve personal safety for agents and consumers.

(3) Completion of the continuing education requirement will only satisfy the requirement for the license year in which activated and not for the following year.

(e) All continuing education hours required to activate a license must have been completed in the year in which the license is activated or the preceding calendar year.

(f)(1) The commission may provide continuing education for licensees under the following circumstances:

(A) If the Executive Director of the Arkansas Real Estate Commission determines that courses are not readily available by classroom delivery for a specific topic that has been identified by the commission as acceptable for continuing education; or

(B) If the executive director determines that continuing education courses are not readily available by classroom delivery to licensees in a specific geographic area of Arkansas.

(2)(A) When providing continuing education pursuant to this section, the commission is authorized to incur and pay the reasonable and necessary expenses in connection therewith and to make reasonable charges for materials provided by the commission and for services performed in connection with providing the materials.

(B) The continuing education courses offered by the commission shall be open to all licensees unless the content is deemed broker specific, in which case the courses will be open to all brokers.

17 CAR § 220-603. Expired licenses.

(a) If an application for the renewal of a license, either active or inactive, and/or the required renewal fee is not received prior to the renewal deadline, such license is deemed to have expired at the end of the renewal period.

(b) A person whose license has expired shall not practice as a real estate broker, property management broker, property management associate, or real estate salesperson in this state.

(c)(1) Upon reapplication within one (1) year of the last calendar year in which the license was renewed, payment of the required fees, and submission of such additional information as the Arkansas Real Estate Commission may require, the license may be reinstated and placed on either active or inactive status for the current license year.

(2) However, no license will be issued as active until proof of satisfactory completion of the continuing education requirement as required by 17 CAR § 220-602 is submitted.

(d) Upon successful reapplication, the prior year identified as expired will be considered as if inactive for purposes of continuing education requirements.

(e) A former licensee who fails to apply for renewal of an expired license within the prescribed time period shall be regarded as an original applicant.

(f) For purposes of providing notice to and communication with any licensee who permits or has permitted his or her license to expire and who is the subject of a pending complaint, investigation, or hearing pursuant to Arkansas Code § 17-42-312, said licensee shall, during any such pending complaint, investigation, or hearing, notify the commission in writing within seven (7) days of any change of name or address.

Subpart 7. Firm Name — Offices — Signs — Transfers — Change of Address

17 CAR § 220-701. Firm name approval.

(a) The Arkansas Real Estate Commission shall issue no principal property management broker 's or real estate principal broker's license where the proposed name of the firm is confusingly similar to the name of another firm, is misleading, or would in any way be confusing to the public.

(b) It shall be the duty of the principal property management broker or real estate principal broker to inquire of the commission concerning the acceptability of the proposed firm name.

17 CAR § 220-702. Temporary license.

(a) No person shall act as a licensee in Arkansas until such person has received from the Arkansas Real Estate Commission a current valid license and pocket card stating the name of the firm with which the licensee is affiliated.

(b) However, a temporary interim license may be issued pending issuance of the permanent license and pocket card, which temporary interim license shall be valid for a period of not more than thirty (30) days.

17 CAR § 220-703. Place of business — Sign.

(a)(1) A real estate principal broker shall maintain a place of business and shall display at such place of business a permanently attached sign bearing the name under which the principal broker conducts his or her business and the words "real estate", "realty", "REALTOR®", "REALTIST", or other words approved by the Arkansas Real Estate Commission that clearly indicate to the public the principal broker is engaged in the real estate business.

(2) Photographs of the sign and of the front or other part of the building where the sign is displayed shall be furnished to the commission.

(3) A principal broker must display his or her broker's license and the licenses of any executive broker, associate broker, property management associate or real estate salesperson at the place of business.

(b)(1) A principal property management broker shall maintain a place of business and shall display at such place of business a permanently attached sign bearing the name under which the principal property management broker conducts his or her business and the words "property management", "rentals", "leasing", or other words approved by the commission that clearly indicate to the public the principal property management broker is engaged in the property management business.

(2) Photographs of the sign and of the front or other part of the building where the sign is displayed shall be furnished to the commission.

(3) A principal property management broker must display his or her broker's license and the licenses of any property management broker or property management associates at the place of business.

(~~b~~c) The commission shall accept no sign as meeting this requirement until and unless such sign is permanently attached and clearly visible to the public and displayed in such a manner as to clearly indicate to the public that the principal broker is engaged in the real estate or property management business.

(~~c~~d) If a real estate principal broker or principal property management broker shall establish an office within an office building, ~~the principal~~said broker shall furnish a photograph of the office building directory showing the real estate or property management firm's name, and also a photograph of the firm's office entrance bearing the name of the firm, unless either is nonexistent, in which case the other shall be furnished.

(d)(1) If a real estate principal broker or principal property management broker shall move or change any sign of which a photograph has been filed with the commission, ~~the principal broker~~said broker shall:

(A) Notify the commission office immediately in writing of the new location or change; and

(B) Furnish a photograph of the new sign.

(2) If the real estate principal broker's or principal property management broker's business location shall also change, the broker shall comply with Acts 1993, No. 690, § 15 (Arkansas Code §§ 17-42-309 and 17-42-310), and applicable rules.

(e) The real estate principal broker or principal property management broker shall furnish both the street address or physical location and the mailing address for the business.

17 CAR § 220-704. Branch office.

(a)(1) All branch offices shall have and display a real estate or property management sign and a duplicate real estate principal broker's license if a real estate

firm or a principal property management broker's license if a property management firm.

(2) ~~Principal brokers~~ Brokers who wish to open a branch office shall furnish to the Arkansas Real Estate Commission a photograph of the branch office sign as previously approved by the commission bearing the name of the company.

(3) If licensees are to be licensed at that branch office, an executive broker shall be designated by the real estate principal broker or principal property management broker, to be in charge of the branch office.

(4) Such executive broker shall be responsible for any licensee licensed with such branch office pursuant to a written designation of responsibility filed by the real estate principal broker or principal property management broker with the commission on a form provided by the commission consistent with 17 CAR § 220-1003(a)(1), and shall not be gainfully employed or engaged in any non-real estate or non-property management related field pursuant to 17 CAR § 220-1003(e).

(b) If such branch office maintains its own trust account or separate escrow agent, the real estate principal broker or principal property management broker shall be responsible and accountable for any and all trust funds received by the branch office and any and all deposits to or disbursements from the trust account.

(c)(1) A real estate principal broker or principal property management broker of a licensee that is licensed at the ~~principal~~ said broker's place of business or any branch office thereof may authorize that licensee to be issued a duplicate license at the ~~principal~~ said broker's place of business or at any branch office where the principal broker holds a duplicate license.

(2) Provided, however, a duplicate license shall not be issued at a branch office unless an executive broker has been designated to be in charge of the branch office.

17 CAR § 220-705. Termination or transfer.

(a)(1) Within seven (7) days after the employment or association of a licensee with a real estate principal broker or principal property management broker ends, such

principal broker shall notify the Arkansas Real Estate Commission of such termination and return to the commission the license and pocket card of the terminated licensee.

(2) Such notification shall automatically inactivate the license.

(3) Immediately upon termination, the terminated licensee shall deliver to the real estate principal broker or principal property management broker his or her pocket card.

(b)(1) The license of a licensee terminated under subsection (a) of this section may be transferred to another firm, after the license and pocket card have been returned to the commission, by the licensee's filing with the commission a transfer application signed by the new real estate principal broker or principal property management broker.

(2) Such transfer application must be accompanied by a:

(A) Statement that the licensee is not taking any:

(i) Listings;

(ii) Management contracts;

(iii) Appraisals;

(iv) Lease agreements;

(v) Copies of any such documents; or

(vi) Any other pertinent information belonging to the former principal broker or firm; and

(B) Transfer fee.

(3) At the time the transfer application and the accompanying items are filed, a temporary interim license may be issued.

(c)(1) If an actively licensed broker, property management associate or real estate salesperson does not wish to continue to engage in the real estate or property management business, such ~~broker or salesperson~~licensee shall return any license and pocket card in his or her possession to his or her principal broker who shall then return these items to the commission for inactive status.

(2) A broker who closes his or her firm shall:

(A) Remove all signs reflecting the company name; and

(B) Return all licenses and pocket cards issued to the principal broker to the commission office for inactive status.

(3) If a real estate or property management firm shall close its office, any ~~real estate sales~~person licensed with such principal broker shall be entitled to transfer to a new principal broker upon compliance with the appropriate provisions of the Real Estate License Law, Arkansas Code § 17-42-101 et seq., and this part.

(d) If the principal broker is deceased, unavailable, or for any reason unwilling or unable to act, then the licensee has the responsibility to notify the commission in writing of the termination or transfer and of returning the pocket card and license.

(e)(1) A principal broker of a real estate or property management firm or designated executive broker of a branch office, who has no ownership interest in the firm, who is terminated by the firm's owner or designee, shall notify the commission in writing immediately upon termination.

(2) The written notification must include a statement that:

(A) The principal broker or branch office designated executive broker has been terminated by the owner of the firm or designee; and

(B) The terminated principal broker or executive broker is relinquishing his or her responsibilities as principal broker or branch office designated broker effective the termination date.

(3) The respective broker license and pocket card must be returned with the written notification.

(4)(A) If the real estate or property management firm or branch office is not closing, and another principal broker or branch office designated broker is not immediately available to assume responsibilities of the real estate or property management firm or branch office, the owner of the real estate firm may request in writing that the commission permit the real estate firm to continue operating pursuant to 17 CAR § 220-707.

(B) If the owner of the real estate or property management firm closes the firm and ceases to do business and maintain an office, the principal broker shall:

(i) Notify the commission in writing of said closing;

(ii) Return all licenses and pocket cards to the commission; and

(iii) Comply with 17 CAR § 220-1006(c).

(5) A principal broker or branch office designated executive broker who has been terminated by the real estate or property management firm owner or designee of a real estate or property management firm that is not closing, and who does not notify the commission in writing, relinquish responsibilities as principal broker, or designated branch office executive broker, and return his or her broker license and pocket card to the commission, shall be presumed to be in violation of Arkansas Code § 17-42-311 and subject to appropriate sanctions.

17 CAR § 220-706. Change of address — Lost license or pocket card.

(a)(1) Upon any change of name, address, or place of business, or upon the loss or misplacement of a license or pocket card, the licensee shall promptly notify the Arkansas Real Estate Commission of such change or loss on a form prescribed by the commission.

(2) Upon receipt of such notice and other information as may be necessary to issue a new license, the commission shall issue a new license for the unexpired period of the license upon the payment of the license reissuance fee.

(b) All licensees, both active and inactive, shall at all times keep the commission informed in writing of their:

(1) Personal residence address;

(2) Physical business address; and

(3) Mailing address.

17 CAR § 220-707. Death of principal broker — Closing of business.

(a) Upon the death, resignation, termination, or incapacity of a principal broker or the closing of a real estate or property management firm, the Arkansas Real Estate Commission may in its discretion, based upon the merits and circumstances of each case, permit the real estate or property management firm to continue operating for a

period of time under the direction of a person approved by the commission and subject to time limitations and other conditions imposed by the commission.

(b) Unless otherwise determined by the Executive Director of the Arkansas Real Estate Commission, the time of such approval is to be effective at the time of death, resignation, termination, or incapacity of the principal broker.

Subpart 8. Agency Disclosure

17 CAR § 220-801. Seller or lessor agents.

(a)(1)(A) In any real estate transaction in which a licensee is acting solely as agent for a seller or lessor, the licensee shall disclose to a potential buyer or lessee, or to the buyer's or lessee's licensed agent, the licensee's agency relationship with the seller or lessor.

(B) Such disclosure shall be made in a timely manner under the particular circumstances so as to avoid, to the extent possible, eliciting or receiving from the prospective buyer or lessee information that would reasonably be expected to remain confidential and not disclosed to the seller or lessor, such as, for example, information concerning the real estate needs or motivations, negotiating strategies or tactics, or the financial situation of the potential buyer or lessee.

(2) When the disclosure is made to the licensed agent of the buyer or lessee, it is that licensee's duty to convey the disclosure to the buyer or lessee in a timely manner.

(b)(1) In all cases, disclosure shall be in writing, but may initially be made orally and reduced to writing at a convenient time subject to the requirements of subsection (c) of this section.

(2) Evidence of the disclosure shall be maintained by the licensee.

(c) In all cases, however, such disclosure must be made before the buyer or lessee signs any document related to the transaction, such as an offer or lease or rental agreement.

17 CAR § 220-802. Buyer or lessee agents.

(a)(1)(A) In any real estate transaction in which a licensee is acting solely as agent for a buyer or lessee the licensee shall disclose to a potential seller or lessor, or to the seller's or lessor's licensed agent, the licensee's agency relationship with the buyer or lessee.

(B) Such disclosure shall be made at the first contact with the:

(i) Seller;

(ii) Lessor; or

(iii) Agent of the seller or lessor.

(2) When the disclosure is made to the licensed agent of the seller or lessor, it is that licensee's duty to convey the disclosure to the seller or lessor in a timely manner.

(b)(1) In all cases, disclosure shall be in writing, but may initially be made orally and reduced to writing at a convenient time subject to the requirements of subsection (c) of this section.

(2) Evidence of the disclosure shall be maintained by the licensee.

(c) In all cases, however, such disclosure must be made before the seller or lessor signs any document related to the transaction, such as an offer or lease or rental agreement.

17 CAR § 220-803. Dual agency.

(a) A licensee who represents both the seller and buyer in a real estate sale transaction, or both the lessor and tenant in a real estate lease or rental transaction, shall make disclosure in the time and manner required by 17 CAR §§ 220-801 and 220-802, and all parties to the transaction must have given their written consent to such dual representation prior to or at the time of execution of the:

(1) Agency contract;

(2) Listing contract;

(3) Property management contract;

(4) Lease;

(5) Rental agreement;

(6) Offer and acceptance contract; or

(7) Other real estate contract.

(b) Notwithstanding subsection (a) of this section, a licensee shall not accept a commission, rebate, profit, payment, compensation, or other valuable consideration in connection with a real estate transaction or real estate activity from any person or entity except the licensed principal broker under whom the licensee is licensed.

(c) Multiple clients who are represented by the licensee and have consented to dual agency may contractually waive the primary duty of absolute fidelity when the disclosure of confidential information may materially compromise the negotiating position of the client, unless said disclosure is required by law or authorized in writing by the client.

17 CAR § 220-804. Failure to disclose agency relationship.

A licensee who fails to disclose the licensee's agency relationship in the time and manner required by this part shall be subject to sanctions under Acts 1993, No. 690, § 17 (Arkansas Code § 17-42-312).

17 CAR § 220-805. Fidelity and honest dealing.

(a)(1) Except as provided in 17 CAR §220-803(c), ~~In~~ in accepting employment as an agent, a licensee pledges to protect and promote the interests of the client or clients.

(2) This obligation of absolute fidelity, as may be limited by 17 CAR §220-803(c), to the interest of the client or clients is primary, but does not relieve a licensee from the equally binding obligation of dealing honestly with all parties to the transaction.

(b) A licensee shall not offer or advertise property without authority, and in any offering or advertisement, the price quoted must not be other than that agreed upon with the owners as the offering price.

(c) When acting as agent in the sale or management of property, a licensee shall not accept any commission, rebate, profit, payment, compensation, or other valuable

consideration from any source in connection with the property without full written disclosure to the party represented by the licensee.

(d) A licensee shall not accept compensation from more than one (1) party without full written disclosure to all parties to the transaction.

Subpart 9. Complaints — Investigations — Hearings

17 CAR § 220-901. Complaints.

Complaints against licensees or persons allegedly engaged in unlicensed real estate or property management activity must be:

(1) In writing;

(2) Signed by the complainant under oath;

(3) Dated; and

(4) Filed with the director.

17 CAR § 220-902. Answers.

(a)(1) If the Executive Director of the Arkansas Real Estate Commission determines that a complaint establishes a prima facie case of a violation of the Real Estate License Law, Arkansas Code § 17-42-101 et seq., or this part, the executive director shall send a copy of such complaint to the licensee or person allegedly engaged in unlicensed real estate activity complained against along with instructions concerning the filing of an answer.

(2) The executive director may also send a copy of the complaint to the principal broker of the licensee complained against.

(b)(1) Within twenty (20) days after service of the complaint on the licensee or person allegedly engaged in unlicensed real estate or property management activity, such licensee or person allegedly engaged in unlicensed real estate or property management activity shall file a written answer with the executive director.

(2) The answer shall be:

(A) Dated; and

(B) Signed by the licensee or person allegedly engaged in unlicensed real estate or property management activity under oath.

(3) The time for answering may be extended at the discretion of the executive director or the executive director's designee.

17 CAR § 220-903. Investigation.

(a) The Executive Director of the Arkansas Real Estate Commission may conduct such investigation as is deemed warranted either before or after the answer is received and in conducting such investigation may:

(1) Take statements from any person thought to have any knowledge of the facts or allegations pertaining to the complaint; and

(2) Obtain and review any documents that may relate to the complaint.

(b) The executive director may utilize the subpoena powers of the Arkansas Real Estate Commission in connection with the investigation.

17 CAR § 220-904. Disposition of complaints — Appeals from dismissal.

(a)(1) A complaint that, together with the answer, if any, and the results of any investigation conducted by the Executive Director of the Arkansas Real Estate Commission, establishes a prima facie violation of the Real Estate License Law, Arkansas Code § 17-42-101 et seq., or this part shall be presented to and reasonably disposed of by the Arkansas Real Estate Commission.

(2) Likewise, any investigation initiated and conducted by the executive director without a formal complaint that results in a determination by the executive director that there exists a prima facie violation of the Real Estate License Law or this part shall also be presented to and reasonably disposed of by the commission.

(b)(1) Any person whose complaint is dismissed by the executive director without a hearing may appeal such dismissal to the commission in the following manner:

(A) The request for appeal must be in writing and received in the offices of the commission not later than sixty (60) days following the date of dismissal by the executive director;

(B) The request for appeal must be accompanied by the appeal filing fee; and

(C)(i) The commission staff shall determine the cost of preparing the record for the commission's review, which cost shall be paid by the appellant within thirty (30) days after notification of the amount.

(ii) Otherwise, the appeal will be dismissed.

(2)(A) Upon submission of the appeal, the commission shall review the written record and either uphold or overrule the executive director's decision.

(B) The parties may submit written arguments but no new evidence.

(C) Any newly discovered evidence must first be presented to the executive director.

(D) If the decision is overruled, the commission may either order a hearing or request further investigation or documentation of the complaint.

(E) If the commission review results in a hearing being ordered on the complaint, both the filing fee and the cost of preparing the record shall be refunded to the appellant.

(3) Provided, however, that a person may not appear before the commission in connection with any matter pending before the commission for administrative adjudication except upon notice and opportunity for all parties to participate.

17 CAR § 220-905. Hearings.

(a)(1) Hearings shall be scheduled for a day certain by the Executive Director of the Arkansas Real Estate Commission, who shall, at least thirty (30) days prior to such hearing date, send notice to all persons entitled to notice thereof of:

(A) The place and approximate time of said hearing;

(B) A statement of the allegations and charges forming the basis for the hearing; and

(C) The provisions of the law or rules thought to be involved therein.

(2) The Arkansas Real Estate Commission shall serve notice of said hearing by mailing same addressed to the licensee or person allegedly engaged in unlicensed real

estate activity at his or her address last known to the commission or may, in its discretion, serve the licensee or person allegedly engaged in unlicensed real estate activity by personal delivery of said notice.

(b) Prior to the hearing, the respondent licensee or person allegedly engaged in unlicensed real estate or property management activity involved in the hearing may, by written petition, signed and dated, invoke the aid of the commission in the procurement of any witness or document the licensee or person allegedly engaged in unlicensed real estate or property management activity may desire to be present at such hearing, provided, however, that such petition must be filed with the executive director at least ten (10) days prior to the hearing date.

(c)(1) All motions concerning or related to the hearing must be in writing and filed at the commission's office no later than ten (10) days before the scheduled hearing date, along with a certificate of the person filing the motion that copies of the motion have been served on the:

(A) Attorneys of the other parties who are represented by attorneys; or

(B) Parties themselves if they are not represented by attorneys.

(2) Motions for continuance shall be decided by the executive director.

(3) All other motions shall be decided by the commission or by the hearing officer by delegation of such responsibility by the commission.

(4) Upon delegation and authorization from the commission, the hearing officer may also conduct prehearing conferences.

17 CAR § 220-906. Hearing procedure.

(a) At the hearing, the commissioners shall hear and decide the ultimate issues of both fact and law.

(b)(1) The Arkansas Real Estate Commission's hearing officer shall preside over the hearing and regulate procedural aspects of the hearing, including ruling on admissibility of evidence and objections.

(2) The hearing officer shall advise the commission on questions of law.

(c)(1) All persons appearing before the commission and giving testimony shall first be placed under oath.

(2) All testimony given shall be recorded and shall be a part of the record in the case.

(d) At any hearing, the respondent licensee, or person allegedly engaged in unlicensed real estate or property management activity, and the complainant may be present in the hearing room during the entire hearing, and the respondent licensee, or person allegedly engaged in unlicensed real estate activity, shall have the right to cross-examine any witness and to examine any document or evidence submitted.

(e)(1) The hearing shall begin with presentation of the case against the respondent licensee or person allegedly engaged in unlicensed real estate or property management activity.

(2)(A) Such presentation is ordinarily conducted by the commission's staff counsel.

(B) However, upon request, and at the discretion of the commission, counsel for the complainant or respondent may be permitted to participate.

(3) At the conclusion of such presentation, the respondent licensee, or person allegedly engaged in unlicensed real estate or property management activity, may present evidence in defense of the charges, following which rebuttal testimony and evidence may be offered.

(4) Closing arguments may be called for or dispensed with at the discretion of the commission.

(f)(1) The commission may receive into evidence such affidavits, depositions, certified copies of documents, photocopies of official records, and other exhibits as it deems appropriate, whether or not such documents are admissible under formal rules of evidence, together with such other evidence as may be admissible by law.

(2) The commission shall give to such evidence such weight as the commission shall determine appropriate under the circumstances.

(g) After presentation of all evidence the commission shall deliberate on the issues and either announce its decision or take the matter under advisement for later decision.

(h) Upon reaching a decision, the commission shall enter its findings of fact and conclusions of law, and an appropriate order shall be prepared and served on the parties.

(i) Once the decision is made, any motion for reconsideration must be filed within fifteen (15) days from the date the decision is first announced, whether orally or in writing, but the filing and pendency of such motion will not delay the appeal time deadlines of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

17 CAR § 220-907. Service.

Service of any notice, order, or other document or instrument upon any person shall be complete upon mailing to such person, postage prepaid, in a sealed envelope via the United States Postal Service.

17 CAR § 220-908. Attorneys.

An attorney who has entered an appearance in any cause before the Arkansas Real Estate Commission shall not withdraw except by leave of the commission after notice served upon the attorney's client, counsel for the other parties, and counsel for the commission staff.

17 CAR § 220-909. Alternate disciplinary procedures.

(a)(1) The Executive Director of the Arkansas Real Estate Commission may issue a citation imposing a penalty of one hundred dollars ($100) to a licensee who fails to complete:

(A) Annual continuing education requirements by December 31, including the requirement to submit proof of satisfactory completion thereof to the Arkansas Real Estate Commission; or

(B) The post-license education requirement, including submittal of proof of satisfactory completion thereof to the commission within the time frame required.

(2) It is the licensee's responsibility to establish his or her successful completion of an educational requirement through courses acceptable to the commission.

(b) The executive director may issue a citation imposing a penalty of two hundred fifty dollars ($250) each to:

(1) A licensee who performs activities requiring an active real estate or property management license while his or her license is expired; and

(2) The supervising broker or brokers of a licensee who performs activities requiring an active real estate license while his or her license is expired.

(c) Licensees issued a citation may contest the citation under Arkansas Code § 17-42-312(d).

Subpart 10. Broker Responsibilities — Ethical Requirements — Trust Funds and Accounts — Listing and Offer and Acceptance Agreements — Criminal Convictions

17 CAR § 220-1001. Dealing independently of principal broker.

(a) If a principal broker or executive broker learns a real estate salesperson, property management associate, associate broker, or executive broker licensed under such principal broker or executive broker has, without permission of the principal broker or executive broker, engaged in real estate or property management activities independently or through some other broker, it is the duty of the principal broker or executive broker to immediately notify the Arkansas Real Estate Commission in writing and forward such licensee's license to the commission.

(b) Any property management associate, real estate salesperson, associate broker, or executive broker who engages in real estate or property management activities independently or through some other broker without permission from the principal broker or executive broker shall be presumed to be in violation of Arkansas Code § 17-42-311 and subject to appropriate sanctions.

17 CAR § 220-1002. Expiration date for agency agreements or contracts.

(a) A licensee shall put a specific determinable duration or a specific expiration date on all written agency agreements or contracts or any extensions thereof.

(b) For example, listing and buyer representation agreements or contracts.

17 CAR § 220-1003. Broker responsibilities — Executive brokers — Part-time brokers.

(a)(1)(A) A principal broker is generally responsible for all business conducted by the broker's firm and for all of the real estate or property management activities of all of those licensed under or associated with the principal broker, unless the licensee conducted real estate or property management business independently and without permission or authority from the principal broker.

(B) If the principal broker learns that a licensee is conducting business independently, that principal broker must comply with 17 CAR § 220-1001(a).

(2)(A) A principal broker may delegate supervisory responsibility to another broker by designating such broker as an executive broker.

(B) The executive broker may sign offer and acceptance forms as supervising broker and can be responsible for instructing and supervising real estate salespersons, property management associates and/or brokers for whom the executive broker is responsible.

(C) The executive broker may also be delegated responsibility by the principal broker for administrative procedures required by the Arkansas Real Estate Commission, such as signing transfer applications.

(D) 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.

(E) The designation of an executive broker is effective when filed with the commission.

(3) Designation of one (1) or more executive brokers does not absolve the principal broker of general responsibility for the conduct of all real estate or property

management business conducted by the principal broker's firm, and the principal broker is specifically responsible for the activities of all executive brokers.

(b)(1) Principal brokers and executive brokers have the duty and responsibility to:

(A) Instruct those brokers, property management associates and real estate salespersons licensed under them with regard to the fundamentals of real estate or property management practice and the ethics of the profession; and

(B) Keep them informed and abreast of all changes and developments pertaining to the Real Estate License Law, Arkansas Code § 17-42-101 et seq., and this part.

(2) They shall also exercise strict supervision of the real estate or property management activities of all those licensed under them and for whom they have supervisory responsibility.

(c)(1) A real estate principal broker may employ and supervise a property management broker or property management associate.

(2) A principal property management broker shall not employ or supervise a real estate broker or real estate salesperson.

(~~c~~d) Whether or not a principal broker or executive broker has discharged these responsibilities for those licensed under him or 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; and

(3) Method and frequency of monitoring real estate or property management activities.

(~~d~~e)(1) The preparation of instruments in connection with a real estate or property management 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.

(2)(A) If the principal broker, 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 or clients is conducted in accordance with the agreement of the buyer and seller.

(B) If the buyer and/or seller selects a third party to close the transaction, the principal broker, designated executive broker, or their assigned licensee must:

(i) Provide written closing instructions on behalf of their client or clients to the third party closing the transaction; and

(ii) Review the client's closing statement, if reasonably available, to ensure that the closing is conducted in accordance with the agreement of their client.

(C) 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.

(ef)(1) No broker who is gainfully employed, or who is engaged in a non-real estate or non-property management related field, may employ any licensee to work under the broker's license issued to such broker.

(2) A broker who is employed or who is engaged in any field other than real estate or property management will be presumed to be gainfully employed or engaged in a non-real estate or non-property management related field.

(3) This presumption may be overcome by proof that such employment or engagement is:

(A) In a real estate or property management related field; and

(B) Conducted in the same office as the broker's real estate or property management business.

17 CAR § 220-1004. Advertising.

(a) A licensee may not advertise any property, including the licensee's own property, for sale or rent, or display a real estate or property management sign without including in that advertisement or sign the name of the firm with whom that licensee is licensed.

(b) A principal broker and any persons licensed with said principal broker shall not advertise or otherwise conduct real estate or property management brokerage business

under any name other than the name in which the principal broker's license has been issued.

(c) In public advertising a principal broker shall be especially careful to present a true picture and should not permit licensees to use individual names or telephone numbers unless the licensee's connection with the broker is obvious in the advertisement.

17 CAR § 220-1005. Knowledge of property.

A licensee shall exert reasonable efforts to ascertain those facts that are material to the value or desirability of every property for which the licensee accepts the agency, so that in offering the property the licensee will be informed about its condition and thus able to avoid intentional or negligent misrepresentation to the public concerning such property.

17 CAR § 220-1006. Handling of funds — Maintenance of records.

(a)(1) A licensee shall immediately deliver to the principal broker any money or other consideration received in connection with a real estate or property management transaction that belongs to others, such as escrow or trust funds, clients' moneys, earnest moneys, rents, advance fees, deposits, etc.

(2)(A) A broker shall:

(i) Deposit all advance fees in the broker's trust account; and

(ii) Disburse such funds only in accordance with the terms of a written agreement signed by the owner of the funds.

(B) If such written agreement is not received within a reasonable time after payment of the advance fee, the fee shall be refunded to the owner.

(3) "Advance fee" means any fee charged for services to be paid in advance of the rendering of such services, including without limitation any fee charged for listing, advertising, or offering for sale or lease any real property.

(b)(1)(A) Each principal broker shall maintain complete records of all real estate or property management business handled by that firm.

(B) Separate files for each real estate or property management transaction conducted by the firm shall be maintained and shall contain signed copies of any of the following documents that were prepared in connection with the transaction:

(i) Listing contract;

(ii) Agency contract;

(iii) Offers;

(iv) Offer and acceptance contracts; and

(v) Closing statements, along with any additional documents as may be necessary to make a complete record of each transaction.

(2)(A) Each principal broker shall maintain complete records pertaining to property managed for others.

(B) Such records shall include all contracts, financial transactions, receipts, statements, repair estimates, and other documents relating to management of the property.

(3)(A) All records required by this section shall be:

(i) Maintained by the principal broker for three (3) years or such time as may be required by law, whichever is greater; and

(ii) Open to inspection by and made available to the investigative staff of the Arkansas Real Estate Commission at the firm's office or other location designated by the commission.

(B) All records required by this section may be maintained in an electronic form provided that a copy of the records can be produced as required by this part.

(c)(1) When a real estate or property management firm ceases to do business and to maintain an office, the last principal broker remaining with the firm shall be responsible for all records of the firm, including the firm's real estate or property management trust account and transaction records, and at the time the real estate or property management firm's office is closed, the principal broker shall immediately notify the commission of the address and phone number of the place where those records are being maintained.

(2) If for any reason that broker delivers custody or responsibility for those records to another person or firm, he or she shall immediately notify the commission of such transfer and furnish the name, address, and phone number of such person or firm.

17 CAR § 220-1007. Trust funds — Trust accounts.

(a)(1) "Trust funds" means and includes money or other things of value not belonging to the principal broker but that are received by the principal broker or any of the principal broker's licensees in connection with a real estate or property management transaction or real estate or property management activity, including without limitation, clients' moneys, earnest moneys, rents, advance fees, deposits, etc.

(2) For purposes of the Real Estate License Law, Arkansas Code § 17-42-101 et seq., and this part, any funds deposited in a broker's trust account are presumed to be trust funds.

(b) Except as provided in subsection (d) of this section, a principal broker shall not commingle trust funds with personal funds or other nontrust funds and shall not deposit or maintain trust funds in a personal account or any kind of business account except a specifically designated trust account.

(c)(1) A principal broker who receives trust funds shall either:

(A) Maintain a separate trust account; or

(B) Have an escrow agent for all such trust funds.

(2) The principal broker of the firm shall be solely responsible and accountable for all trust funds received by the firm and all deposits to or disbursements from the trust account.

(3) The principal broker shall also be responsible and accountable for any funds delivered to an escrow agent selected by the principal broker but shall not be responsible for funds delivered to an escrow agent selected by the parties.

(4) Except as authorized by subsection (i) of this section and 17 CAR § 220-1202, the trust account shall be non-interest-bearing.

(5) The name on the account shall include either "trust" or "escrow" and must be located in an institution insured by either the Federal Deposit Insurance Corporation or some other insuring agency of the federal government.

(d) A principal broker may maintain the broker's own funds in a designated trust account only when they are clearly identified as the broker's deposit and only for the following purposes:

(1) If the bank in which the account is maintained designates a specific minimum balance that must be maintained in order to keep the account open, the broker may maintain that amount in the account designated as the broker's funds; and

(2) If the bank in which the account is maintained requires a service charge to be paid for the account, the broker may maintain a reasonable amount to cover that service charge in the account in the broker's name, provided, however, that such amount shall not exceed the total of six (6) months service charges.

(e)(1) With regard to each separate trust account, the principal broker shall submit to the Arkansas Real Estate Commission in writing the following:

(A) Name and number of the account;

(B) Name and address of the bank; and

(C) Date the account was opened.

(2) The principal broker shall keep the commission informed at all times of the foregoing details of each separate trust account.

(f) In addition to the requirements of subsection (e) of this section, the principal broker shall submit the same information in writing immediately upon any of the following events or occurrences:

(1) Commission approval of real estate or property management firm name;

(2) Change of real estate firm name;

(3) Designation of new principal broker; or

(4) The account is changed in any respect or closed.

(g)(1)(A) No later than three (3) days following the execution of a real estate or property management contract by both seller and buyer or owner or lessee, all trust funds delivered to the principal broker, shall be either:

(i) Deposited in the trust account;

(ii) Delivered to an escrow agent; or

(iii) Deposited pursuant to a written agreement by the seller and buyer or owner and lessee.

(B) All other funds delivered to the broker pending performance of any act shall be, no later than three (3) days, either:

(i) Deposited in the trust account;

(ii) Delivered to an escrow agent; or

(iii) Deposited pursuant to a written agreement by the seller and buyer or owner and lessee.

(C) Should the third day be a Saturday, Sunday, or legal holiday, then the third day is extended to the next day that is not a:

(i) Saturday;

(ii) Sunday; or

(iii) Legal holiday.

(D) The broker shall:

(i) Maintain an accounting of all funds delivered to the broker; and

(ii) Keep a signed receipt for any funds the broker delivers to an escrow agent.

(E) The broker remains responsible for the funds if the broker selected the escrow agent, but not if the parties selected the escrow agent.

(F) A broker shall at all times keep detailed records of all funds coming into the broker's possession and all disbursements made by the broker.

(2)(A) All trust account bank statements shall be reconciled in writing at least monthly and balanced to the total amount of trust funds deposited in the account that have not been disbursed.

(B) Copies of such reconciliations shall be kept by the broker for at least three (3) years or for such time as may be required by law, whichever is greater.

(3) All trust fund records, including bank reconciliations, shall be open to inspection by and made available to the investigative staff of the commission at the firm's office or other location designated by the commission.

(h)(1)(A) All security deposits made under a rental or lease agreement shall be deposited in the principal broker's trust account, including those deposits made on property owned by any licensee licensed under the principal broker unless the licensee who owns the property has a written agreement with the tenant providing that the licensee may keep the security deposit in the licensee's separate account.

(B) A copy of any such agreement shall be furnished to the principal broker by the licensee.

(2) Provided, however, that a principal broker shall not be responsible for the failure of those licensed under such principal broker to comply with subdivision (h)(1) of this section as long as the principal broker is in compliance with 17 CAR § 220-1003.

(i) Nothing in this section shall be deemed to prohibit a broker from maintaining certain funds or deposits in particular transactions in an interest-bearing account when required to do so by law or valid rule of any governmental agency, nor shall it prohibit a broker from maintaining an interest-bearing account while participating in the Interest on Real Estate Brokers' Trust Account program authorized by Acts 1993, No. 690, § 24 (Arkansas Code § 17-42-601 et seq.), and 17 CAR §§ 220-1201 and 220-1202.

17 CAR § 220-1008. Disbursement of trust funds.

(a) A principal broker shall not disburse trust funds from the broker's designated trust account contrary to the terms of a contract for the sale or rental of real estate, or other contract pursuant to which the funds were received, and a principal broker shall not fail to disburse trust funds according to the terms of such contract.

(b) Except as otherwise authorized by 17 CAR § 220-1007(d), the balance of a principal broker's trust account shall at all times equal the total of the trust funds received for which the broker is accountable.

(c) A principal broker who disburses trust funds from a designated trust account under the following circumstances shall be deemed by the Arkansas Real Estate

Commission to have fulfilled properly the broker's duty to account for and remit money that the broker is required to maintain and deposit in a designated trust account:

(1) Upon the rejection of an offer to buy, sell, rent, lease, exchange, or option real estate;

(2) Upon the withdrawal of an offer not yet accepted to buy, sell, rent, lease, exchange, or option real estate;

(3) At the closing of the transaction;

(4) Upon securing a written agreement that is signed by all parties having an interest in the trust funds and is separate from the contract that directs the broker to hold the funds;

(5) Upon the filing of an interpleader action in a court of competent jurisdiction;

(6) Upon the order of a court of competent jurisdiction; or

(7) Upon a reasonable interpretation of the contract that directed the broker to deposit the funds.

(d) When a broker makes a disbursement to which all parties to the contract have not expressly agreed in writing, the broker must immediately notify all parties in writing of the disbursement.

17 CAR § 220-1009. Agreements to be written.

(a)(1) Except as provided in subsection (b) of this section, a licensee, for the protection of the public and of all parties with whom the licensee deals, shall see that the exact agreement of the parties regarding real estate or property management is in writing.

(2) A licensee shall also see that clients and other parties to the transaction with whom the licensee deals receive copies of such agreements signed by all parties.

(3) Examples include exclusive agency agreements or contracts, real estate contracts, closing statements, lease agreements, management agreements, financial obligations and commitments, etc.

(4) It is strongly recommended that a licensee obtain written acknowledgment from the buyer and or seller that the buyer and or seller have received said signed copies. The same shall hold true for property owners and or licensees in a property management transaction.

(b) It is strongly recommended that nonexclusive agency agreements or contracts be in writing.

(c)(1) In compliance with the Supreme Court decision in the case of Pope County Bar Association, Inc. vs. Suggs, 624 S.W. 2d 828 (1981), real estate or property management forms used by licensees in the regular course of business shall be approved by a licensed Arkansas attorney prior to use.

(2) The licensee shall be responsible for providing evidence of such approval by a licensed Arkansas attorney upon request of the Arkansas Real Estate Commission.

17 CAR § 220-1010. Self-dealing.

(a) Licensees shall not buy, sell, rent, or lease property for themselves or for a corporation, partnership, or association in which they have an interest without first making full disclosure to the buyer or seller, as the case may be, of the exact facts that they are licensed as a real estate broker, property management broker, property management associate, or real estate salesperson and are buying, renting, or leasing the property for their own account or have an interest in the property that they are selling, renting, or leasing.

(b) All such disclosures must be made in writing before the sales, rental, or lease contract is entered into.

17 CAR § 220-1011. Offers and acceptances.

(a) All offers received on a specific property shall promptly be presented to the seller by the listing firm or other licensee designated by an authorized representative of the listing firm.

(b)(1) Every offer received must be signed by the licensee who receives it and by that licensee's supervising broker.

(2) Every acceptance must be signed by the listing licensee and that licensee's supervising broker.

(3)(A) It is desirable for the supervising brokers of the selling licensee and listing licensee to review and sign each real estate contract before it is submitted to the seller, although that is not always possible.

(B) However, such supervising brokers shall review and sign the real estate contract as soon as possible after it is received and, in all cases, prior to closing.

17 CAR § 220-1012. Listing agreements — Signs.

(a)(1) If a firm holds an exclusive listing contract on a parcel of property, the selling licensee shall not contact the seller about showing the property or negotiating the sale without prior permission from the listing firm or other licensee designated by an authorized representative of the listing firm.

(2) Any offers received by the selling licensee shall be presented to the firm holding the exclusive listing contract not later than the close of the next business day after receipt of the offer.

(3) Likewise, all earnest moneys and deposits shall be forwarded to the listing firm for deposit in the listing firm's trust account.

(4) The listing firm or other licensee designated by an authorized representative of the listing firm shall then present the offer to the seller.

(5) The selling licensee may accompany the listing licensee with the latter's permission but shall not contact the seller without prior permission from an authorized representative of the listing firm.

(b)(1) A licensee shall not knowingly enter into an agency agreement or contract when there is reason to believe that there is an existing exclusive agency agreement or contract in force without first communicating with the other principal broker who holds such agreement or contract to confirm its existence.

(2) If there is an existing exclusive agency agreement or contract in force, the licensee shall not enter into another agency agreement or contract without first

notifying the client in writing to consult with an attorney regarding the risk of being liable for two (2) separate commissions.

(3) For example, exclusive listing and exclusive buyer representation agreements or contracts, and property management agreements.

(c) Signs offering or advertising a property may be on the property only during the existence of a listing agreement unless otherwise authorized by the owner.

17 CAR § 220-1013. Reporting violations.

It is the duty of each licensee to report in writing to the Arkansas Real Estate Commission any information coming to the licensee's knowledge that is or may be a violation of:

(1) The Real Estate License Law, Arkansas Code § 17-42-101 et seq.; or

(2) ~~This part~~Any violation of the Arkansas Real Estate Commission regulations.

17 CAR § 220-1014. Broker's price opinion.

(a)(1) "Broker's price opinion" means an estimate prepared by a real estate licensee that details the probable selling price of real estate and provides a varying level of detail about the real estate's condition, market, and neighborhood, and information about sales of comparable real estate.

(2) A "market analysis" is similar to a broker price opinion but is usually limited to comparison to other real property currently or recently in the market place, whereas the preparer of a broker price opinion may utilize another basis for the report.

(3) In the preparation or issuance of a broker price opinion or market analysis, usage of the terms "market value", "appraised value", or "appraisal" shall be presumed to be in violation of Arkansas Code § 17-42-110(d) and subject to appropriate sanctions.

(4) It is highly recommended that a licensee avoid other general references to "value" of the property when preparing or issuing a broker price opinion or market analysis.

(5) A report in which a broker price opinion is prepared or issued by a real estate licensee must include within the body of the written report, or in a separate cover letter, the following:

(A) A brief description of the subject property;

(B) The basis used to determine the broker's price opinion to include any applicable market data and, with regard to commercial properties, the computation of capitalization, including the capitalization rate;

(C)(i) Any assumptions or limiting conditions used to determine the broker price opinion.

(ii) For example, repairs, items to be removed from property, zoning change, new or different access other than what is currently available, special financing, hazardous waste, nuisance removal, etc.;

(D) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker price opinion, including without limitation the possibility of a licensee representing the seller or lessor or the buyer or lessee;

(E) The names and signatures of the licensee who prepared or issued the broker price opinion and of the principal broker or designated executive broker with whom the licensee is associated;

(F) The name of the real estate firm with whom the licensee who prepared or issued the broker price opinion is licensed;

(G) The date of issuance of the broker price opinion; and

(H) In at least fourteen-point bold type, the following disclaimer:

"**Notwithstanding any preprinted language to the contrary, this opinion is not an appraisal of the market value of the property. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained. Pursuant to Arkansas Code § 17-42-110(d), a broker price opinion or market analysis issued by a real estate licensee shall**

not contain the terms "market value", "appraised value", or "appraisal".

Any reference in the report to a specific marketing time period is for illustrative purposes only and does not obligate the licensee or broker to sell the property within the stated timeframe or act as a representation or guarantee that the property will be sold within such timeframe.

Unless otherwise indicated, the broker price opinion assumes without investigation a fee simple title ownership interest without any reservation of minerals, subsurface rights, or otherwise.

This broker price opinion report is to be used solely for purposes allowed by state and federal law. If the report is to be used for any purpose not specifically allowed by state and federal law, legal counsel should be consulted."

(b) A licensee shall furnish to the principal broker or designated executive broker with whom the licensee is associated, copies of all broker price opinion reports, including the cover letter described above, which shall be maintained on file in accordance with the recordkeeping requirements of this part.

(c)(1) A licensee may produce or transmit a written broker price opinion electronically to any person entitled to receive it.

(2) A broker price opinion that is submitted electronically is subject to any rules relating to recordkeeping as adopted pursuant to this part, including inclusion of the cover letter required in subdivision (a)(5) of this section.

(d)(1) A principal broker or designated executive broker is responsible for the preparation and issuance of a broker price opinion by any licensee who is associated

with the broker unless the broker price opinion was prepared or issued independently and without permission or authority from the broker.

(2) If the principal broker or designated executive broker learns that a licensee has prepared or issued a broker price opinion independently, that broker must comply with 17 CAR § 220-1001(a) by immediately notifying the Arkansas Real Estate Commission in writing and forwarding such licensee's license to the commission.

17 CAR § 220-1015. Criminal convictions and disciplinary actions.

(a)(1) A licensee who is convicted of or pleads guilty or nolo contendere to any crime other than a traffic violation shall make written report thereof to the Arkansas Real Estate Commission within thirty (30) days after the conviction or plea.

(2) The report shall include:

(A) The date of the offense and of the conviction or plea;

(B) The name and address of the court;

(C) The specific crime for which convicted or to which the plea is entered;

(D) The fine, penalty, and/or other sanctions imposed; and

(E) Copies of the charging document and judgment of conviction or other disposition, including probation or suspension of sentence.

(3) The report shall also include the licensee's explanation of the circumstances that led to the charge and conviction or plea, along with any other information that the licensee wishes to submit.

(b)(1) A licensee who after the initiation of an investigation, hearing, or other administrative action surrenders or who has a professional, vocational, or occupational license, permit, certification, or registration denied, revoked, suspended, or canceled or who is subjected to any sanctions, including probation, involving such license, permit, certification, or registration or who is the subject of sanctions for practicing a profession without a license shall make written report thereof to the commission within thirty (30) days after such action.

(2) The report shall include:

(A) The date of the action;

(B) The name and address of the regulatory agency that has taken the action; and

(C) Copies of documents pertaining thereto.

(3) The report shall also include the licensee's explanation of the circumstances that led to the action, along with any additional information the licensee wishes to submit.

(c)(1) An applicant for a real estate or property management license who has been convicted of or pleaded guilty or nolo contendere to any crime other than a traffic violation or who after the initiation of an investigation, hearing, or other administrative action has surrendered or has had a professional, vocational, or occupational license, permit, certification, or registration denied, revoked, suspended, or canceled or who has been subjected to any sanctions, including probation, involving such a license, permit, certification, or registration shall furnish the written report referred to in subsection (a) and/or subsection (b) of this section to the commission at the time the application is submitted if such action has already occurred.

(2) Otherwise, such report shall be made immediately after the action occurs.

17 CAR § 220-1016. Property management definitions.

(a) As used in this part:

(1) "Audit trail" means a documented history of a financial transaction by which the transaction can be traced to its source;

(2) "Occupant" means a person who rents a property on a nightly basis;

(3) "Property manager" means a licensed property management broker, real estate principal broker or designated executive broker who performs property management activities pursuant to Arkansas Code § 17-42-103(10); ~~and~~

(4) "Tenant" means a person who rents a property on other than a nightly basis.

(b) This subpart does not apply to any residential property management program operated or regulated by a federal or state act or agency that includes specific

recordkeeping requirements that the Arkansas Real Estate Commission determines are substantially equivalent to or greater than that required by this subpart.

17 CAR § 220-1017. Property management agreement.

(a)(1) A real estate principal broker, property management broker or designated executive broker must not engage in the management of residential rental real estate without a written, current property management agreement between the owner and the property manager.

(2) A property management agreement must include the following:

(A) Name, address, and other contact information for property owner;

(B) The address or legal description of the property to be managed;

(C) The duties and responsibilities of the property manager and owner;

(D) The authority and power given by the owner to the property manager;

(E) The management fees, application fees, screening fees, rebates, discounts, overrides, and any other form of compensation to be received by the property manager for management of rental real estate, including when such compensation is earned and when it will be paid;

(F) A description of the monthly statements of accounting the property manager will provide to the owner;

(G) The duration of the agreement, rollover provisions, renewal clauses, or automatic extensions, if any;

(H) The method by which the property management agreement can be terminated and any other terms and conditions of the agreement;

(I) Signatures of the property manager or executive broker and property owner; and

(J) The date of the agreement.

(b) The property manager must promptly deliver a legible copy of the fully executed property management agreement, and any addenda or amendments, to the owner.

17 CAR § 220-1018. Tenant agreement.

(a) A property manager shall not lease property he or she manages without a written agreement with the tenant.

(b) Each lease or rental agreement for residential real estate managed by the property manager must contain the following:

(1) The name and business address of the property manager and his or her firm;

(2) The name, address, and other contact information of the tenant;

(3) The mailing address or unit number of property being rented or leased;

(4) Payment conditions and amounts pertinent to the rental or lease, and the rental or lease term;

(5) The amount of and the reason for all funds paid by the tenant to the property manager at the outset of the agreement, including funds for rent, security deposits, and any other fees;

(6) The location where or entity by whom security deposits will be held;

(7) Method by which tenant will be notified in the event of termination of property manager's property management agreement to include handling of tenant's security deposit; and

(8) Signatures of the current property manager or current executive broker and tenant.

(c) A tenant's refusal to sign the lease agreement shall not constitute noncompliance by the property manager with the terms stated herein.

(d) A property manager may not expend any tenant security deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreement.

17 CAR § 220-1019. Property management accounting and recordkeeping.

(a)(1) A property manager must retain records of all deposits in a manner in which they are traceable to the owners' and tenants' ledgers.

(2) A property manager must retain records identifying the amount of and purpose of each disbursement entered into the owners' and tenants' ledgers.

(b) The property manager shall disclose to the owner, in writing, the property manager's use of any employees or a business in which the property manager or any persons licensed under him or her has a pecuniary interest to provide billable services to the owner's property.

17 CAR § 220-1020. Property management owner ledgers.

(a) A property manager must prepare and maintain at least one (1) separate owner's ledger for each property management agreement, for all moneys received and disbursed.

(b)(1) If a property is utilized for nightly rentals, a separate ledger account must be maintained for that property.

(2) Each occupant of the property must be identified, including the dates of occupancy and amounts paid.

(c) If a property manager has access to a separate banking or escrow account owned or controlled by the property owner pursuant to a property management agreement, the property manager may maintain either a record of receipts and disbursements or a check register in lieu of an owner's ledger.

(d) All owner ledgers must contain the property manager's name, identification of property being managed, and the following information for each deposit of funds:

(1) The amount of funds received;

(2) The purpose of the funds and identity of the person who tendered the funds;

(3) The check number, cash receipt number, or a unique series of letters and/or numbers that establish an audit trail to the receipt of funds;

(4) The date the funds were deposited; and

(5) The balance of each recorded entry.

(e) For each disbursement of funds, all owner ledgers must contain the following information:

(1) The date the funds were disbursed;

(2) The amount of funds disbursed;

(3) The check number or bank-generated electronic tracking number;

(4) The payee of the disbursement;

(5) The purpose of the disbursement; and

(6) The balance after each recorded entry.

(f)(1) If more than one (1) property is managed for a property owner, each entry for deposit or disbursement must identify the applicable property rather than just the owner.

(2) If a property management agreement with an owner allows the property manager to use funds collected for one (1) property to apply to expenses of another property owned by the same owner, an overall compilation/accounting shall be prepared for the owner.

(g)(1) At a minimum, once each month, a report showing all receipts and disbursements for the account of the owner must be provided to the owner.

(2) A copy or electronic version of each such report must be available through the property manager's records system.

17 CAR § 220-1021. Property management tenant ledgers.

(a) A property manager must prepare and maintain at least one (1) tenant's ledger for each unit from whom the property manager has received any funds under a property management agreement, whether or not the tenant has executed a written rental or lease agreement at the time of payment of funds to the property manager.

(b) All tenant ledgers must contain the tenant's name and the legal description or physical address of the property sufficient to distinguish that property from other rental units, or a unique series of letters or numbers that establishes an audit trail.

(c) For each deposit of funds, all tenant ledgers must contain the following information:

(1) The amount of funds received;

(2) The purpose of the funds and identity of the person who tendered the funds;

(3) The check number, cash receipt number, or a unique series of letters or numbers that establishes an audit trail to the receipt of funds;

(4) The date the funds were received; and

(5) The balance after each recorded entry.

(d) For each disbursement of funds, all tenant ledgers must contain the following information:

(1) The date the funds were disbursed;

(2) The amount of funds disbursed;

(3) The check number or bank-generated electronic tracking number;

(4) The payee of the disbursement;

(5) The purpose of the disbursement; and

(6) The balance after each recorded entry.

(e) In lieu of an individual tenant ledger, a property manager may prepare and maintain a separate record of the receipt of funds from prospective tenants who do not become tenants after such payment.

17 CAR § 220-1022. Property management cash receipts.

(a) If a property manager chooses to accept cash, he or she or his or her designee must prepare a legible written receipt for any cash funds received under a property management agreement or from a prospective tenant.

(b) A copy of the receipt must be maintained in the property manager's records.

(c) Cash receipts must be consecutively prenumbered, be printed in at least duplicate form, and must contain the:

(1) Date of receipt of cash funds;

(2) Amount of the funds;

(3) Reason for payment or collection of the funds received;

(4) Identity of the property for which the cash funds were received;

(5) Tenant’s name;

(6) Payer of the funds if different than the tenant;

(7) Payee of the funds; and

(8) Name and signature of the individual who actually received the cash and prepared the receipt.

17 CAR § 220-1023. Waiver of certain requirements for principal brokers.

(a) Upon written request from a real estate principal broker or principal property management broker operating under the exemption contained in Arkansas Code § 17-42-104(a)(11), the Executive Director of the Arkansas Real Estate Commission may waive certain requirements for principal brokers set forth in Chapter 42 of Title 17 of the Arkansas Code and this part related to the following:

(1) Firm name approvals;

(2) Place of business and signage;

(3) Branch offices;

(4) Handling of funds and maintenance of records; and

(5) Trust funds, trust accounts, and disbursement of trust funds.

(b)(1) The principal broker's request should clearly state their justification for requesting the waiver and include a written explanation of the business processes of the Arkansas-licensed residential construction company employing the principal broker pursuant to Arkansas Code § 17-42-104(a)(11)(A)(iv) as those business processes relate to the waiver being requested.

(2) The Arkansas Real Estate Commission may request additional documentation or information from a principal broker requesting a waiver under this section.

(c)(1) The executive director will determine, based upon the information provided, which requirements will be waived by the commission and will communicate the same in writing to the principal broker within thirty (30) days of receipt.

(2) The executive director may authorize issuance of a temporary interim license to a principal broker at the time the waiver request and accompanying items are submitted to the commission.

(d)(1) A principal broker whose request for a waiver under this section is denied, in whole or in part, may request the commission's review of the executive director's determination, provided that any such request for reconsideration is made in writing and received by the commission within thirty (30) days of receipt of the executive director's written notice of determination.

(2) The determination made by the commission in response to a request for review under this part is not subject to appeal.

(e) A waiver provided under this section shall not relieve the principal broker of:

(1) The requirement to make open to inspection by the commission all records as required under this part; or

(2) The obligation to fulfill all other requirements under the Real Estate License Law, Arkansas Code § 17-42-101 et seq., and this part.

17 CAR §220-1024. Property management broker.

(a) A property management broker shall have one of the following designations listed on the property management broker license:

(1) Principal property management broker;

(2) Designated executive property management broker;

(3) Executive property management broker; or

(4) Associate property management broker.

(b) A property management broker may not participate in or accept anything of value for a real estate listing, negotiation, or sale of real estate that is not owned by the property management broker or property management associate, including without limitation real estate owned by a property management broker or property management associate.

Subpart 11. Continuing Education

17 CAR § 220-1101. Requests for waiver or extension — Exemptions for uniformed service members and their spouses.

(a)(1) Notwithstanding the provisions of subsection (b) of this section, each request for a waiver of the continuing education requirement under Arkansas Code § 17-42-307(c) or extension of time to complete the post-license education requirement shall be:

(A) In writing; and

(B) Supported by clear and convincing evidence.

(2) The Arkansas Real Estate Commission shall:

(A) Acknowledge each such request; and

(B) Announce its decision in writing.

(3) If the waiver or extension is granted, the commission may impose such terms and conditions as it deems appropriate.

(b) A full exemption from continuing education or post-license requirements will be allowed for a deployed uniformed service member or spouse until one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

17 CAR § 220-1102. Continuing education topics.

(a)(1) Annually, the Arkansas Real Estate Commission shall identify subject matter topics that will be acceptable for continuing education courses for the upcoming license year.

(2) For the annual continuing education requirement the commission may:

(A) Identify a specific topic of not more than three (3) classroom hours to be included in the annual continuing education requirement; or

(B) Develop and require a specific curriculum for continuing education courses for licensed brokers or their designees for the annual continuing education.

(b)(1) The commission may provide continuing education for licensees under the following circumstances:

(A) If the executive director of the commission, in consultation with the commissioners, determines that courses are not readily available by classroom delivery

for a specific topic that has been identified by the commission as acceptable for continuing education; or

(B) If the executive director, in consultation with the commissioners, determines that continuing education courses are not readily available by classroom delivery to licensees in a specific geographic area of Arkansas.

(2) When providing continuing education pursuant to this section, the commission is authorized to:

(A) Incur and pay the reasonable and necessary expenses in connection therewith; and

(B) Make reasonable charges for materials provided by the commission and for services performed in connection with providing the materials.

(3) The continuing education courses offered by the commission shall be open to all licensees unless the content is deemed ~~broker~~ license specific, in which case the courses will be open to all ~~brokers~~ licensees.

~~(b)(1) The commission may provide continuing education for licensees under the following circumstances:~~

~~(A) If the Executive Director of the Arkansas Real Estate Commission, in consultation with the commissioners, determines that courses are not readily available by classroom delivery for a specific topic that has been identified by the commission as acceptable for continuing education; or~~

~~(B) If the executive director, in consultation with the commissioners, determines that continuing education courses are not readily available by classroom delivery to licensees in a specific geographic area of Arkansas.~~

~~(2) When providing continuing education pursuant to this section, the commission is authorized to:~~

~~(A) Incur and pay the reasonable and necessary expenses in connection therewith; and~~

~~(B) Make reasonable charges for materials provided by the commission and for services performed in connection with providing the materials.~~

~~(3) The continuing education courses offered by the commission shall be open to all licensees unless the content is deemed broker specific, in which case the courses will be open to all brokers.~~

17 CAR § 220-1103. Approved courses and instructors.

Only those courses and instructors that are approved by the Arkansas Real Estate Commission or that are exempted from such approval by Arkansas Code § 17-42-503 shall be accepted by the commission for continuing education credit.

17 CAR § 220-1104. No duplication of prelicensing and continuing education credit.

No educational courses or hours submitted as credit toward the prelicensing education requirement shall be used as credit for the continuing education requirements, and no educational courses or hours submitted for credit toward the continuing education requirements shall be used or counted to satisfy the prelicensure educational requirements.

17 CAR § 220-1105. Post-license education requirements.

(a) Each property management associate, property management broker, real estate salesperson and real estate broker will complete a post-license education course as provided herein.

(b) Real estate ~~S~~salespersons and property management associates shall complete an eighteen-classroom-hour real estate salesperson course.

(c) Real estate ~~B~~brokers and property management brokers shall complete the thirty-classroom-hour broker course developed by the Arkansas Real Estate Commission.

(d)(1) All post-license education courses shall be conducted by either:

(A) The commission;

(B) A school or organization licensed by the commission; or

(C) Postsecondary school accredited by a nationally recognized accrediting agency approved by the United States Department of Education wherever situated.

(2) All post-license education hours may be offered by classroom instruction or approved distance education.

(e) The commission will establish the course content for the post-license education courses for new property management associates, property management brokers, real estate salespersons and real estate brokers.

(f)(1) The property management associate, property management broker, real estate broker or real estate salesperson shall deliver to the commission the original certificate of completion of the post-license education course, or a copy thereof, from an approved provider, or other documentation satisfactory to the commission.

(2) Said documentation must be received by the commission no later than the end of the month six (6) months following the date of the property management associate's, property management broker's, real estate broker's or real estate salesperson's initial license.

(3) If documentation of an individual's post-license education is not received by the commission within said time period, the license will be placed on inactive status until the broker or real estate salesperson files satisfactory documentation of his or her completion of said post-license education course.

(g)(1) A broker who is initially licensed in that capacity cannot become an executive broker or principal broker until such broker has completed and filed satisfactory documentation of his or her completion of the post-license broker education course.

(2) However, the commission may temporarily waive this requirement for a real estate broker who has submitted proof of enrollment in an upcoming course acceptable to the commission.

17 CAR §220-1106. Continuing education requirements.

(a)(1) A property management broker or property management associate shall complete annually:

(A) Not less than six (6) nor more than seven (7) classroom hours of continuing education required by the Arkansas Real Estate Commission, with at least one (1) classroom hour focusing on safety;

(B) The distance education equivalent of subsection (a)(1)(A) of this section required by the commission; or

(C) A course that the commission has determined to demonstrate mastery of an acceptable property management subject.

(2) A licensee who satisfies subsection (a)(1) of this section completes the continuing education requirements for the licensing year.

(3) If a licensee files for renewal of a license but fails to provide proof of continuing education, the licensee's license is inactive until proof is provided to the commission.

(b) The executive director of the commission may waive all or part of the continuing education requirements on the basis of health-related concerns or restrictions of the licensee or in recognition of the licensee's achievements related to the real estate or property management industry or legislative service.

~~(c)A real estate salesperson, associate broker, or property management associate licensee may submit a written application to the commission for exemption from the continuing education requirements with satisfactory proof that, in the calendar year preceding the renewal or reactivation of the license the licensee:~~

~~(1) Is seventy-two (72) years of age or older;~~

~~(2) Has held an active Arkansas license for a consecutive twenty-five (25) years or more;~~

~~(3) Has had no disciplinary action taken against him or her by the commission during the five (5) years immediately preceding the renewal or reactivation period of his or her license; and~~

~~(4) Has had no delinquent continuing education requirements during the five (5) years immediately preceding the renewal or reactivation period of his or her license.~~

~~(d) A principal broker or executive broker may submit a written application to the commission for exemption from the continuing education requirements with satisfactory~~

~~proof that, in the calendar year preceding the renewal or reactivation of the license the licensee:~~

~~(1) Is seventy-two (72) years of age or older;~~

~~(2) Has held an active Arkansas license for a consecutive twenty-five (25) years or more;~~

~~(3) Has had no disciplinary action taken against him or her or any licensee under his or her supervision by the commission during the five (5) years immediately preceding the renewal or reactivation period of his or her license; and~~

~~(4) Has had no delinquent continuing education requirements during the five (5) years immediately preceding the renewal or reactivation period of his or her license or by any licensee under his or her supervision.~~

Subpart 12. Interest on Trust Accounts

17 CAR § 220-1201. Interest on Real Estate Brokers' Trust Account Program.

The Interest on Real Estate Brokers' Trust Account Program authorized by Acts 1993, No. 690, § 24 (Arkansas Code § 17-42-601 et seq.), is hereby established, and Arkansas Real Estate Foundation, Inc., is designated as the recipient of funds generated by such program.

17 CAR § 220-1202. Certain interest-bearing trust accounts approved.

Notwithstanding any other Arkansas Real Estate Commission rules to the contrary, a principal broker is authorized to maintain interest-bearing trust accounts when required to do so by law or valid rule of any governmental agency, or while participating in the Interest on Real Estate Brokers' Trust Account Program.

Subpart 13. Time-share

17 CAR § 220-1301. Registration — Renewal — Fees.

(a) Each application for registration of a time-share plan or of an agent thereof shall be made on a form furnished by the Arkansas Real Estate Commission and shall be accompanied by the appropriate filing fee and evidence that a bond in the amount shown below has been placed with a surety company, corporate bond acceptable to the commission, or a cash bond with the commission.

(b)(1) Each registration shall be renewed annually and shall be filed no later than June 1, beginning with the upcoming renewal period beginning July 1.

(2) Such renewal shall be made on a form prescribed by the commission and accompanied by the appropriate fee.

(c) The following fees are established at the amounts indicated:

(1) Time-share plan registration fee, seven hundred fifty dollars ($750);

(2) Time-share plan annual renewal fee, three hundred fifty dollars ($350);

(3) Abbreviated registration application fee, five hundred dollars ($500);

(4) Abbreviated registration renewal and recertification fee, three hundred dollars ($300);

(5) Acquisition agent registration and renewal fee, one hundred fifty dollars ($150);

(6) Principal broker registration and renewal fee, seventy-five dollars ($75.00);

(7) Managing agent registration and renewal fee, seventy-five dollars ($75.00);

(8) Exchange agent registration and renewal fee, seventy-five dollars ($75.00);

(9) Material change fee, one hundred fifty dollars ($150); and

(10) Time-share interest transfer service provider registration and renewal fee, one hundred fifty dollars ($150).

(d) The following bond amounts are established at the amounts indicated:

(1) Developer's consolidated bond, fifty thousand dollars ($50,000);

(2) Acquisition agent bond, ten thousand dollars ($10,000);

(3) Principal broker bond, ten thousand dollars ($10,000);

(4) Managing agent bond, ten thousand dollars ($10,000); and

(5) Time-share interest transfer service provider bond, twenty-five thousand dollars ($25,000).

17 CAR § 220-1302. Agents — Amendment of registration.

(a)(1) Each developer shall file with the Arkansas Real Estate Commission the name, street address, mailing address, and telephone number of each:

(A) Acquisition agent;

(B) Managing agent;

(C) Sales agent;

(D) Exchange agent; and

(E) Responsible managing employee for each of said agents associated with each time-share plan.

(2) Should any of the information contained in this list change, then the developer shall notify the commission of such change within two (2) weeks of such change.

(b)(1) A developer shall amend or supplement its registration to report any material change in the information required by Arkansas Code § 18-14-204.

(2) Such amendment or supplementation shall be made within forty-five (45) days of the occurrence of the material change.

(3) "Material change" means any change that:

(A) Alters the meaning or effect of an instrument or information; or

(B) Affects the rights or liabilities of any time-share owner or any potential time-share purchaser.

17 CAR § 220-1303. Fictitious name.

(a) Each developer, acquisition agent, managing agent, sales agent, and exchange agent shall register with the Arkansas Real Estate Commission each fictitious name, if any, under which that person conducts business.

(b) No person shall conduct business that is regulated by the provisions of the Arkansas Time-Share Act, Arkansas Code § 18-14-101 et seq., under any names other than those registered with the commission.

17 CAR § 220-1304. Purchase contract — Cancellation notice — Form, time, procedure.

(a)(1) A purchaser may cancel any contract for the purchase of a time-share interest from a developer within five (5) days after execution of the contract.

(2) The purchaser's right to cancel a contract for purchase shall not be waived.

(b)(1) The public offering statement shall be written in clear, plain, and concise language.

(2) There shall be attached to the front of the public offering statement a notice in duplicate containing the following language in at least ten-point boldface type:

> **"IMPORTANT NOTICE**
> **I UNDERSTAND THAT IF I SIGN A CONTRACT FOR THE PURCHASE OF A TIME-SHARE INTEREST I HAVE THE RIGHT TO CANCEL THE CONTRACT WITHIN FIVE (5) DAYS AFTER SIGNING THE CONTRACT. I UNDERSTAND THAT CANCELLATION IS WITHOUT PENALTY AND ALL PAYMENTS MADE BY ME BEFORE CANCELLATION SHOULD BE REFUNDED WITHIN THIRTY (30) DAYS OF RECEIPT OF THE NOTICE OF CANCELLATION. IF THE FIFTH DAY AFTER THE SIGNING OF THIS CONTRACT IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY MY RIGHT TO CANCEL IS EXTENDED TO THE NEXT DAY WHICH IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.**

I REALIZE THAT TO CANCEL THIS CONTRACT I MUST MAIL OR DELIVER A WRITTEN NOTICE OF CANCELLATION TO (NAME OF DEVELOPER) AT (DEVELOPER'S ADDRESS).

I UNDERSTAND THAT THE ARKANSAS REAL ESTATE COMMISSION NEITHER RECOMMENDS NOR APPROVES THIS OR ANY OTHER TIMESHARE PLAN.
I HEREBY ACKNOWLEDGE RECEIPT OF THE ATTACHED PUBLIC OFFERING STATEMENT.

(Purchaser's Signature)
DATE:_____
"

(3) The original executed notice shall be retained by the developer, and the duplicate copy shall be given to the purchaser.

(4) This notice shall contain no other printing or writing thereon.

(c) There shall be included in each contract for the purchase of a time-share interest immediately above the signature line a notice containing the following language in print size larger than the other provisions of the contract, excluding descriptive headings and titles, but no less than ten-point boldface type:

"**NOTICE TO PURCHASER**
YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT WITHIN FIVE (5) DAYS AFTER YOU SIGN THE CONTRACT. FOR FURTHER INFORMATION, SEE "IMPORTANT NOTICE" ATTACHED TO THE PUBLIC OFFERING STATEMENT."

(d)(1) Should the fifth day after the execution of the contract for purchase of a time-share interest be a Saturday, Sunday, or legal holiday, then the five-day cancellation period shall not expire until the end of the next day that is not a:

(A) Saturday;

(B) Sunday; or

(C)(i) Legal holiday.

(ii) "Legal holiday" means any day designated as a holiday by the President or the United States Congress or designated by the laws of this state.

(2) Notice of cancellation shall be properly addressed with sufficient postage prepaid to ensure delivery, and notice shall be deemed given when postmarked by the United States Postal Service.

17 CAR § 220-1305. Record maintenance.

Each developer shall ensure that any records required to be maintained pursuant to the Arkansas Time-Share Act, Arkansas Code § 18-14-101 et seq., or rules promulgated thereunder shall be maintained and made available to the Arkansas Real Estate Commission upon request.

17 CAR § 220-1306. Records — Developer and agent — Type, time.

(a)(1) Each developer shall maintain complete records of each sale of any time-share interests in the time-share plan.

(2) The records shall be maintained for three (3) years and shall contain complete and detailed records of:

(A) All escrow accounts required by statute or otherwise maintained;

(B) Complete records of each sale of any time-share interests, including:

(i) Copies of sales contracts;

(ii) Closing statements;

(iii) Credit disclosure information; and

(iv) Executed copies of "Important Notice"; and

(C) Any other information necessary to make a complete record of each transaction effected by the developer.

(3) These records shall be open to inspection by the Arkansas Real Estate Commission.

(b)(1) Each principal broker functioning pursuant to the Real Estate License Law, Arkansas Code § 17-42-101 et seq., shall maintain complete records of each transaction conducted by his or her firm.

(2) Each firm shall maintain signed copies of:

(A) All offers;

(B) All signed copies of all closing statements;

(C) All detailed records of all escrow accounts required by statute or otherwise maintained; and

(D) Any additional documents as may be necessary to make a complete record of each transaction effected by such firm.

(3) All such records shall be maintained for three (3) years and shall be open to inspection by the commission.

(c)(1) Each acquisition agent shall maintain complete records of all:

(A) Advertising and/or promotional materials used;

(B) Names and addresses of all persons who receive prizes, other than the names and addresses of persons who received the prize most frequently awarded;

(C) The retail value of all prizes awarded; and

(D) A statement of the odds of winning each prize.

(2) These records shall be maintained for three (3) years following the expiration date of the contest or gift offer and shall be open to inspection by the commission.

(d)(1) Each managing agent shall maintain complete records of all time-share plans managed by his or her firm.

(2) Each firm shall maintain complete and detailed records of all maintenance fees collected and the disbursement of these fees for repair and maintenance of the accommodations.

(3) These records shall include copies of all:

(A) Contracts;

(B) Agreements;

(C) Receipts and invoices; and

(D) Any additional documents as may be necessary to make a complete record of all financial transactions with regard to the management of each accommodation.

(4) Each firm shall also maintain complete records of any rental program operated for the benefit of owners of time-share interests.

(5) These records shall be maintained for three (3) years and shall be open to inspection by the commission.

17 CAR § 220-1307. Advertising materials.

Advertising materials used in this state shall be maintained for three (3) years by the developer or agent using the materials.

17 CAR § 220-1308. Financial statements.

(a) Financial statements are required to be submitted to the Arkansas Real Estate Commission under Arkansas Code § 18-14-204(a).

(b) The statements shall be:

(1) In accordance with generally accepted accounting principles; and

(2) Issued by a certified public accountant who shall perform an independent review or audit in accordance with the applicable standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants.

17 CAR § 220-1309. Reasonable time defined.

"Reasonable time" as used in Arkansas Code § 18-14-409(a) shall be presumed to be thirty (30) days.

17 CAR § 220-1310. Limitations.

Should the parties agree to reduce the period of limitation as stated in Arkansas Code § 18-14-403, such agreement to reduce shall be:

(1) A separate and distinct paragraph of the contract; and

(2) Initialed by the parties as though the paragraph were an alteration of the original agreement.

17 CAR § 220-1311. Reservation — Deposit refundable.

Upon receipt of a deposit and acceptance of a reservation pursuant to Arkansas Code § 18-14-202(a), the developer shall notify the purchaser in writing that the:

(1) Deposit is refundable at any time at the purchaser's option; and

(2) Acceptance of the deposit does not create a binding obligation.

17 CAR § 220-1312. General rules apply.

17 CAR §§ 220-101 – 220-1408 shall regulate the practice and procedure for the Arkansas Real Estate Commission for enforcement of the Arkansas Time-Share Act, Arkansas Code § 18-14-101 et seq., and are hereby adopted and incorporated by reference as though included herein word for word, provided that, for purposes of the Arkansas Time-Share Act, reference to the Real Estate License Law, Arkansas Code § 17-42-101 et seq., or this part, and/or reference to licensees, shall be deemed to include the Arkansas Time-Share Act and time-share rules, and reference to licensees shall be deemed to include registrants under the Arkansas Time-Share Act.

Subpart 14. Real Estate Auction Definitions and Requirements

17 CAR § 220-1401. Definitions.

As used in this subpart:

(1) "Absentee bid" means a procedure that allows a bidder to participate in the bidding without being physically present;

(2)(A) "Absolute auction" means an auction where the real estate is sold to the highest qualified bidder with no minimum bid or limiting conditions.

(B) The seller may not bid personally or through an agent, unless the seller is:

(i) A party to the dissolution of any:

(a) Marriage;

(b) Limited liability company;

(c) Partnership; or

(d) Corporation; and

(ii) Bidding as an individual apart from the selling entity.

(C) Also known as an auction without reserve;

(3) "Auction" means a method of selling real estate in a public forum through open and competitive bidding;

(4) "Auction agreement" means the same as a written listing agreement or written agency agreement for the purposes of this subpart;

(5)(A) "Auction with reserve" means an auction of real estate in which the seller or his or her agent reserves the right to:

(i) Establish a disclosed or undisclosed minimum bid;

(ii) Accept or reject any and all bids; and

(iii) Withdraw the real estate at any time prior to announcement of the completion of the sale by the auctioneer.

(B) Also known as reserve auction or as an auction subject to confirmation;

(6) "Auctioneer" means any individual who holds an active Arkansas real estate license pursuant to Real Estate License Law, Arkansas Code § 17-42-101 et seq., and an active Arkansas auctioneer license pursuant to Auctioneer's Licensing Act, Arkansas Code § 17-17-101 et seq., who offers, attempts, or agrees to auction real estate or participate in a real estate auction;

(7) "Bid" means a prospective buyer's indication of offer of a price the prospective buyer is willing to pay to purchase real estate at auction;

(8) "Buyer's premium" means an advertised percentage of the high bid or flat fee added to the high bid to determine the total contract price to be paid by the buyer;

(9)(A) "Internet auction" means an auction in which a prospective buyer bids using electronic media.

(B) The term also includes an auction in which the auctioneer conducts the auction using electronic media;

(10) "Rafter bid" or "puffing of a bid" means a fictitious bid used to increase the final sales price;

(11) "Reserve" means the minimum price that a seller is willing to accept for a property to be sold at auction; and

(12) "Shill" means a person who falsely pretends to have no association with the auctioneer or seller and gives the impression of being an enthusiastic bidder by puffing of a bid.

17 CAR § 220-1402. Nature of auction and written auction agreement.

(a)(1) Auction shall be with reserve, unless the real estate is offered without reserve using explicit terms such as "absolute" or "without reserve".

(2) In an auction "with reserve", the auctioneer may withdraw the real estate at any time until he or she announces completion of the auction.

(3) In an "absolute" auction or auction "without reserve", after the auctioneer calls for bids on real estate, that real estate cannot be withdrawn unless no bid is made within a reasonable time.

(b)(1) The auctioneer shall have a written auction agreement with the owner stating the parties' agreement regarding the terms and conditions of the auction, including whether:

(A) The auction will be an absolute auction or auction with reserve and the terms of reserve or conditions on the sale;

(B) A buyer's premium will be charged to the buyer and who will receive the buyer's premium collected; and

(C) The auctioneer or others on the auctioneer's behalf may bid on or purchase the subject real estate at the auction.

(2) The auction agreement shall include the:

(A) Address of the property;

(B) Compensation to be received by the auctioneer; and

(C) Signatures of all parties.

(3) At the time of securing the auction agreement, the auctioneer who obtains it shall give the person or persons signing the agreement a true copy of the agreement.

(4) In those cases where the auction is an absolute auction or auction without reserve, the auction agreement, or an addendum thereto, must include the following statement in fourteen-point bold-faced type:

> "**SELLER ACKNOWLEDGES AND AGREES THAT THE PROPERTY OF SELLER (OR PORTION THEREOF IF CONSPICUOUSLY NOTED ON THIS AGREEMENT BETWEEN AUCTIONEER AND SELLER) IS TO BE SOLD AND CONVEYED TO THE HIGHEST BIDDER AT THE AUCTION SALE REGARDLESS OF PRICE AND WITHOUT SELLER HAVING ANY AUTHORITY OR LEGAL RIGHT TO REFUSE TO CONVEY THE PROPERTY (OR PORTION THEREOF) TO SUCH HIGH BIDDER. SELLER IS STRONGLY ADVISED TO VISIT WITH AN ARKANSAS LICENSED ATTORNEY WITH REGARD TO THE DIFFERENCE IN AN AUCTION WITHOUT RESERVE (SUCH AS THAT INTENDED BY AND TO OCCUR PURSUANT TO THIS AGREEMENT) AND AN AUCTION WITH RESERVE. SELLER IS ALSO STRONGLY ENCOURAGED TO VISIT WITH ANY LIENHOLDER OR SELLER PURSUANT TO ANY INSTALLMENT LAND SALE (OR SIMILAR) CONTRACT WITH REGARD TO THE NATURE OF THIS AUCTION AGREEMENT.**"

(c) A bidder may retract a bid prior to the auctioneer's announcement of completion of the auction, but a bidder's retraction does not revive any previous bid.

(d) Each sale at auction is complete and considered legally binding upon the person making the final winning bid at the moment the auctioneer announces the completion of the sale by the fall of the hammer or in any other customary manner.

17 CAR § 220-1403. Auctioneer/seller bidding or purchasing auctioned real estate.

(a) **Auctioneer bidding.**

(1) The auctioneer shall not bid or otherwise purchase the real estate being auctioned, or permit others to do so on his or her behalf, unless he or she has disclosed that he or she may bid or may purchase the real estate as provided herein.

(2) In a reserve auction, the auctioneer may bid on behalf of the seller after giving notice pursuant to subsection (c) of this section.

(b) **Seller bidding.**

(1) In an absolute auction, the auctioneer shall not knowingly permit the seller or others on the seller's behalf to bid on the seller's real estate being auctioned, unless the seller is:

(A) A party to the dissolution of any:

(i) Marriage;

(ii) Limited liability company;

(iii) Partnership; or

(iv) Corporation; and

(B) Bidding as an individual apart from the selling entity and disclosure as required herein has been made to those in attendance at the auction.

(2) In a reserve auction, the auctioneer shall not knowingly permit the seller or others on the seller's behalf to bid on the seller's real estate being auctioned unless the auctioneer has disclosed that the seller or others on the seller's behalf may bid on the real estate being auctioned as provided herein.

(c) **Notices.** Immediately prior to opening the bidding on the subject real estate, the auctioneer shall announce to all of those in attendance at the auction, the terms

and conditions of the auction, and announce if the seller and/or auctioneer, or others on their behalf, may bid on or purchase the real estate being auctioned.

17 CAR § 220-1404. Auction advertisements.

An auctioneer who advertises real estate shall comply with the following requirements:

(1) Auction advertisements that include real estate must disclose the name of the real estate firm and auctioneer licensed with that firm who will be conducting the auction;

(2) Advertising real estate for sale at which some parcels will be auctioned with reserve and some parcels will be auctioned without reserve shall clearly and conspicuously indicate this fact to the public; and

(3)(A) An auctioneer shall disclose the existence of any buyer's premium to be charged to a buyer at an auction sale.

(B) Such disclosure shall be made in all published advertising and disclosed prior to the start of an auction.

17 CAR § 220-1405. Internet auction sale procedure and absentee bids.

(a) In an internet auction sale or in an auction that allows for absentee bids, the auctioneer must validate a buyer's capability to participate in the sale by obtaining the buyer's:

(1) Name;

(2) Address;

(3) Email address;

(4) Phone number; and

(5) Ability to legally enter into a contract.

(b) In addition, the auctioneer shall obtain an agreement to the terms of the auction procedure from any buyer wishing to participate in the sale.

17 CAR § 220-1406. Auctioneer to maintain records.

(a)(1) The principal broker of the real estate firm with which the auctioneer is licensed must maintain for a period of three (3) years copies of all agreements, listing contracts, handbills, advertisements, and other pertinent records, including signed closing statements and any auction recordings, whether audio, video, or audiovisual, if the auction was recorded.

(2) The records are subject to review by the Arkansas Real Estate Commission.

(b)(1) For all auctions that an auctioneer advertises as absolute, a copy of the closing statement signed by the seller and buyer for the real property that was the subject of the absolute auction must be maintained by the principal broker for a period of three (3) years.

(2) In the event deed does not transfer for real estate advertised for inclusion in an absolute auction, the transaction file must include a detailed explanation as to why the property was not sold.

17 CAR § 220-1407. Certain acts prohibited.

Prohibited acts include the following:

(1) Knowingly receiving or using a rafter bid, puffing of a bid, or any type of bid rigging such as utilizing the services of a shill;

(2) Knowingly permitting an unlicensed individual to participate in a real estate auction;

(3) Knowingly and intentionally misleading the seller, buyer, or bidders in the advertising, conduct, and closing of an auction;

(4) A continued and flagrant course of misrepresentation or making false promises, either by the auctioneer, an employee of the auctioneer, or by someone acting on behalf of and with the auctioneer's consent;

(5) Failure to properly make any disclosures or to provide documents or information required by this subpart;

(6) Establishing a pattern of practice of advertising auctions that include real estate as "absolute" when the auctioneer knew or should have known that a minimum bid or limiting conditions existed for the properties to be sold;

(7) Establishing a pattern of practice of advertising auctions that include real estate as "absolute" then subsequently cancelling the auctions or converting the auctions to an auction with reserve-type auction; and

(8) Any other conduct, whether of the same or a different character from that specified in this section, whereby the real estate licensee falsely bids or knowingly receives false bids on the property to be sold only for the purpose of raising the price for the seller or auctioneer.

17 CAR § 220-1408. Unlicensed real estate activity.

Any unlicensed person who participates in a real estate auction, or who makes or offers to make a rafter bid, or who engages in or offers to engage in puffing of a bid, or who acts or offers to act as a shill is prima facie evidence that the person is performing activities listed in Arkansas Code § 17-42-103(9) and is thereby engaged in unlicensed real estate activity and as such is subject to the civil penalties set out in Arkansas Code § 17-42-109.

Subpart 15. Real Estate Education

17 CAR § 220-1501. Instructor applications — Education — Experience.

(a) Applicants for original licensure as a principal or associate instructor must:

(1) Apply on forms provided by the Arkansas Real Estate Commission;

(2) Pay the application fee established by this part; and

(3) Meet the following requirements.

(b) Real estate ~~B~~broker prelicense and real estate broker post-license instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of the following courses of instruction in real estate, which proof shall consist of the original certificate or certificates or certified copies thereof, from the school or other organization or other documentation satisfactory to the commission:

(A) Not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses;

(B) Not less than sixty (60) classroom hours in broker prelicense education to include not less than forty-five (45) hours of broker prelicense education developed by the commission, completed by actual classroom attendance or approved distance education; and

(C) Not less than eighteen (18) classroom hours in real estate salesperson post-license education and thirty (30) hours in broker post-license education developed by the commission, completed by actual classroom attendance or approved distance education;

(3) Have in real estate five (5) years of work experience within the immediately preceding six (6) years; and

(4) Hold and maintain a current active Arkansas real estate broker license.

(c) Real estate ~~S~~salesperson prelicense instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of a course or courses of instruction consisting of not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses, which proof shall consist of the original certificate or certificates or certified copies thereof, from the school or other organization or other documentation satisfactory to the commission;

(3) Have in real estate five (5) years of work experience within the immediately preceding six (6) years; and

(4) Hold and maintain a current active Arkansas real estate broker license.

(d) Real estate ~~S~~salesperson post-license instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of the following courses of instruction in real estate, which proof shall consist of the original certificate or certificates or certified copies thereof, from the school or other organization or other documentation satisfactory to the commission:

(A) Not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses; and

(B) Not less than eighteen (18) classroom hours in real estate salesperson post-license education developed by the commission, completed by actual classroom attendance or approved distance education;

(3) Have in real estate five (5) years of work experience within the immediately preceding six (6) years; and

(4) Hold and maintain a current active Arkansas real estate broker license.

(e) Real estate ~~C~~continuing education instructor applicants must provide proof of the following:

(1) Completion of not less than a high school diploma or GED;

(2) Successful completion of a course or courses of instruction consisting of not less than thirty (30) classroom hours in the basic principles of real estate completed by actual classroom attendance or completion of approved distance education courses, which proof shall consist of the original certificate or certificates or certified copies thereof, from the school or other organization or other documentation satisfactory to the commission;

(3) Have in real estate five (5) years of work experience within the immediately preceding six (6) years; and

(4) Hold and maintain a current active Arkansas real estate broker license.

(f) Real estate or property management guest speakers must:

(1) Have in the subject matter being presented five (5) years of work experience within the immediately preceding six (6) years;

(2) Register with the commission on forms prescribed by the commission; and

(3) Refrain from engaging in product and/or service promotion during class time.

(g)(1) A person may not practice as a property management education provider unless:

(A) The commission approves that provider as a subject matter expert in the property management field; or

(B) The person holds a property management broker license issued by the commission for a minimum of two (2) consecutive calendar years preceding the date of the instructor application.

(2) Any instructor offering property management instruction must hold an instructor license issued by the commission and be designated as a property management education provider.

(3) Any property management education provider who holds a property management broker license must successfully complete a property management pre-license and post-license course approved by the commission.

(~~g~~h) All instructors shall demonstrate in a manner satisfactory to the commission a thorough, accurate, and current knowledge of the subject matter being taught.

(hi) The commission may require instructor and administrator attendance at an annual educator retreat workshop and other semiannual instructor training workshops.

17 CAR § 220-1502. School applications — Association applications.

(a) Applications for a main school, branch school, or association license must be submitted on forms provided by the Arkansas Real Estate Commission and accompanied by the application fee established by this part and shall meet the following requirements.

(b) Main and branch school license applications must include:

(1) Name and location of the school;

(2) Current roster of licensed instructors and registered guest speakers;

(3) An identified principal instructor;

(4) A signed statement that the school or association is in compliance with all local, state, and federal zoning ordinances and all accessibility requirements established by the Americans with Disabilities Act; and

(5) Copies of school policies to be filed with the commission regarding course attendance, make-up work, and refunds.

(c) Association license applications must include:

(1) Name and location of the association;

(2) An identified administrator; and

(3) Copies of association policies to be filed with the commission regarding course attendance, make-up work, and refunds.

17 CAR § 220-1503. Course approval requirements.

(a) Applications for real estate or property management education course approvals must be submitted on forms provided by the Arkansas Real Estate Commission and accompanied by the application fee established by this part and shall meet the following requirements.

(b) Real estate ~~S~~salesperson pre-license courses:

(1) Must include not less than thirty (30) classroom hours in the basic principles of real estate; ~~and~~

(2) May be offered by classroom instruction or approved distance education~~.~~; and

(3) May not be used to satisfy the pre-license course credit for a property management license.

(c) Real estate ~~B~~broker pre-license courses:

(1) Must adhere to the commission's approved real estate broker pre-license education content outline, learning objectives, and measurement tools;

(2) May not be marketed as examination preparation or "exam prep" courses; ~~and~~

(3) May be offered by classroom instruction or approved distance education~~.~~; and

(4) Shall not be used to satisfy the pre-license course credit for a property management broker license.

(d) Property management associate pre-license courses:

(1) Shall not exceed more than thirty (30) hours as provided in 17 CAR 220-401(c)(3);

(2) Shall not be used to satisfy the pre-license course credit for a real estate license; and

(3) May not be marketed as examination preparation or "exam prep" courses.

(e) Property management broker pre-license courses:

(1) Shall not exceed more than sixty (60) hours as provided in 17 CAR 220-401(b)(3);

(2) Shall not be used to satisfy the pre-license course credit for a real estate license; and

93) May not be marketed as examination preparation or "exam prep" courses.

(~~d~~f) Real estate ~~S~~salesperson and real estate broker post-license courses:

(1) Must adhere to the commission's approved real estate salesperson and broker post-license education content outlines, learning objectives, and measurement tools; ~~and~~

(2) May be offered by classroom instruction or approved distance education~~.~~; and

(3) Shall not be used to satisfy the post-license course credit for a property management license.

(e~~g~~) Real estate ~~C~~continuing education courses:

(1) Must be based upon subject matter topics identified by the commission, as established by Arkansas Code § 17-42-502;

(2) Must include a course outline and learning objectives; ~~and~~

(3) May be offered by classroom instruction or approved distance education~~.~~; and

(4) May not be used to satisfy the requirements for property management continuing education.

(h) Property management continuing education courses:

(1) Must be based upon subject matter topics identified by the commission, as established by Arkansas Code §17-42-502;

(2) Must include a course outline and learning objectives;

(3) May be offered by classroom instruction or approved distance education; and

(4) May be offered to real estate licensees for elective continuing education credit.

17 CAR § 220-1504. Renewals.

(a)(1) The renewal period for school, association, and instructor licenses will be May 1 to April 30.

(2) Renewal applications accompanied by the required fee must be filed with the Arkansas Real Estate Commission no later than March 31.

(3) In order to be considered filed with the commission by the deadline, the renewal applications and accompanying fees must be submitted in completion and must:

(A) Bear a United States Postal Service postmark of March 31; or

(B) Be received in the commission's office on or before March 31.

(4) If March 31 falls on a Saturday, Sunday, or legal holiday, the commission shall accept as meeting the filing deadline those renewal applications that bear a United States Postal Service postmark of the first business day thereafter, and those applications received in the commission office on the first day the office is open to the public following such Saturday, Sunday, or legal holiday.

(b) A renewal application filed after the March 31 renewal deadline shall be treated as a late renewal application.

(c) A license renewal not received by April 30 will be considered an original application for licensure upon submittal to the commission.

(d)(1) The renewal period for real estate and property management education courses will be twelve (12) months from the date of initial course approval.

(2) Where no substantive changes have been made to course content, course renewal applications accompanied by the required fee must be filed with the commission no later than thirty (30) days prior to the approval's expiration date.

(3) Where substantive changes have been made to course content, course renewal applications accompanied by the required fee must be filed with the commission no later than sixty (60) days prior to the approval's expiration date.

(e) A course approval renewal application received after the thirty-day or sixty-day deadline shall be treated as a late renewal.

(f) A course approval renewal application submitted to the commission after the course approval expiration date will be considered an original application for course approval.

17 CAR § 220-1505. Monitoring.

(a)(1) The Arkansas Real Estate Commission or its designee shall periodically monitor all aspects of real estate and property management education offerings.

(2) As such, a school's or association's course schedule should at all times be readily available to the commission.

(b)(1) For any real estate class that is offered and has an attendance of over forty (40) participants, that instructor or administrator shall have on file with the commission an approved monitoring plan.

(2) The plan shall be filed prior to the course offering.

(c) Any licensed school associated by name with a real estate or property management firm and whose courses are conducted primarily at that firm's place of business shall have an approved permanent monitoring plan on file with the commission.

(d) For any real estate or property management class that is offered and has instructional time devoted to luncheons, that instructor or administrator shall have on file with the commission an approved monitoring plan.

(e) For any real estate or property management class that is closed to a specific group of individuals, that instructor or administrator shall notify the commission two (2) weeks prior to the course offering of the date, time, and location of the class.

(f)(1) For any real estate or property management class that is offered with a third-party sponsor's participation, that instructor or administrator shall have on file with the commission an approved monitoring plan.

(2) The plan shall be filed not less than fourteen (14) days prior to the course offering.

(g) Any monitoring plan filed with the commission should include the following:

(1) Criteria for determining one hundred percent (100%) attendance and course completion by students enrolled in the course;

(2) Methods for monitoring students' attendance and participation;

(3) A copy of the school's or association's make-up policy; and

(4) Identification and signature or signatures of the principal instructor and other person or persons responsible for monitoring the course and students.

17 CAR § 220-1506. Third-party sponsors.

(a) Only principal instructors or instructors designated by the principal instructor and approved by the Executive Director of the Arkansas Real Estate Commission may contract with a third-party sponsor to offer a continuing education course.

(b) Time committed to product or service promotion shall not be considered instructional time.

(c)(1) Students must be notified in advance of the time during which the third-party sponsor will be presenting product or service promotion to the class.

(2) Attendance will be neither monitored nor required during that time by this part.

(d)(1) Third-party sponsors must sign a statement affirming that their sponsorship of the course is not in violation of the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. § 2601 et seq.

(2) This statement must accompany the monitoring plan filed with the Arkansas Real Estate Commission.

(e) The principal instructor should obtain the signature of an authorized representative of the third-party sponsor on the monitoring plan filed with the commission.

17 CAR § 220-1507. Distance education.

(a) Schools offering distance education must also offer classroom courses in Arkansas.

(b) Distance education instructors must meet the requirements listed under 17 CAR § 220-1501.

(c) Distance education instructors must hold the ARELLO® Certified Distance Education Instructor designation.

(d) For every distance education course, the instructor associated with the course must actively interact with the students completing the course.

(e) All distance education courses must be ARELLO® certified unless the course content is developed by and the delivery method or methods are approved by the Arkansas Real Estate Commission.

(f) In any distance education course, the student must attest that they personally completed the coursework.

(g) The commission, at the discretion of the executive director, may waive the distance education requirement listed in this section for property management courses.

17 CAR § 220-1508. Course requirements.

(a)(1) All real estate and property management education courses shall be conducted in a facility that provides an appropriate learning environment.

(2) At a minimum, the classroom shall:

(A) Be of sufficient size to comfortably accommodate all enrolled students;

(B) Be adequately equipped with student desks, worktables with chairs, or other seating having a writing surface and arranged so that the writing surface is in

front of students allowing students to have an unobstructed view of the instructor and opportunities for interaction;

(C) Have adequate light, heat, cooling, ventilation, and public address equipment; and

(D) Be free of distractions that disrupt class sessions.

(b)(1) All real estate and property management education courses shall require one hundred percent (100%) attendance for satisfactory completion.

(2) Activities of a nonparticipatory nature shall not qualify as attendance.

(3) Therefore, a student's physical presence in the classroom does not, in and of itself, establish satisfactory completion.

(c) It is the duty of the principal instructor or administrator to immediately notify the Arkansas Real Estate Commission in writing of any student or real estate licensee who petitions any person associated with a licensed school or association to falsify course attendance or completion.

(d) Make-up policies filed with the commission will set forth provisions for student absences and tardiness with corresponding methods for making up any course content or assignments missed.

(e) A school shall issue a certificate of completion to a student who has paid the appropriate fees and complied with all attendance and make-up policy requirements for satisfactory completion of the course.

(f) Notwithstanding 17 CAR § 220-1507(e), nothing in this part shall require an instructor, a school, or an association to issue a certificate of completion to an individual student who, in the instructor's opinion, has not satisfactorily completed the course.

(g) The commission shall annually establish subject matter topics acceptable for continuing education courses.

(h) For any topic required by the commission under Arkansas Code § 17-42-514(a)(2), the commission may establish additional parameters governing course content and delivery.

(i) All post-license education and ~~broker~~ pre-license education must include learning objectives established by the commission.

17 CAR § 220-1509. Felony reporting requirements.

(a) All real estate and property management instructors and administrators of licensed associations must comply with the requirements set forth in 17 CAR § 220-1015(a) and (b).

(b) An applicant for a real estate or property management instructor license who has been convicted of or pleaded guilty or nolo contendere to any crime other than a traffic violation or who, after the initiation of an investigation, hearing, or other administrative action has surrendered or has had a professional, vocational, or occupational license, permit, certification, or registration denied, revoked, suspended, or canceled or who has been subjected to any sanctions, including probation, involving such a license, permit, certification, or registration shall furnish the written report referred to in 17 CAR § 220-1015(a) or 17 CAR § 220-1015(b) to the Arkansas Real Estate Commission at the time the application is submitted.

17 CAR § 220-1510. Maintenance of records — School or association closings.

(a)(1) Each principal instructor, school owner, or administrator must maintain complete records of all real estate and property management education business handled by that school or association.

(2) For example, enrollment forms, attendance records, certificates of completion, etc.

(b)(1) All records shall be:

(A) Maintained by the principal instructor or administrator for three (3) years or such time as may be required by law, whichever is greater; and

(B) Open to inspection by and made available to the staff of the Arkansas Real Estate Commission at the school or association's location or other location designated by the commission.

(2) All records required by this part may be maintained in an electronic form, provided that a copy of the records can be produced as required by this part.

(c)(1) When a school or association ceases to offer real estate or property management education, the last principal instructor or administrator remaining with the school or association shall be responsible for all records of the school or association pertaining to real estate or property management education, and at the time the school or association ceases to offer real estate or property management education, the principal instructor or administrator shall immediately notify the commission of the address and phone number of the place where those records are being maintained.

(2) If for any reason that instructor or administrator delivers custody of or responsibility for those records to another person or entity, he or she shall immediately notify the commission of such transfer and furnish the name, address, and phone number of such person or entity.

(d)(1) When a school or association closes and students have paid for education offerings not yet delivered, the commission may arrange for completion of those students' education through another licensed instructor.

(2) The commission may be assigned by these students all rights and claims that they may have against the school or association involved.

State of Arkansas *As Engrossed: S3/5/25*
95th General Assembly **A Bill**
Regular Session, 2025 HOUSE BILL 1558

By: Representatives McGrew, R. Scott Richardson, Bentley, R. Burkes, Duffield, Furman, Long, McClure, Torres
By: Senator Caldwell

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE ARKANSAS REAL ESTATE COMMISSION; TO CREATE A PROPERTY MANAGEMENT BROKER AND PROPERTY MANAGEMENT ASSOCIATE LICENSE; TO AMEND THE REAL ESTATE LICENSE LAW; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE ARKANSAS REAL ESTATE COMMISSION; TO CREATE A PROPERTY MANAGEMENT BROKER AND PROPERTY MANAGEMENT ASSOCIATE LICENSE; AND TO AMEND THE REAL ESTATE LICENSE LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) The Arkansas Real Estate Commission currently requires an individual to have a real estate broker license issued through the commission to rent or lease real property on behalf of an owner;

(2) The knowledge and skills necessary for a property management broker to protect citizens and the business community can be specialized and does not require the same skills and knowledge as those for a real estate broker or salesperson;

(3) A property management broker license could create a higher quality of property management broker in Arkansas with specialized knowledge;

(4) The creation of a property management broker license would reduce the education burden on individuals who might not otherwise pursue other real estate broker license occupations and potentially create new jobs; and

(5) The commission is the appropriate entity to license an individual as a property management broker or as a property management associate.

SECTION 2. Arkansas Code § 17-42-103 is amended to read as follows:

17-42-103. Definitions.

As used in this chapter:

(1)(A) "Associate broker" means an individual who has a broker's license and who is employed by a principal broker, or is associated with a principal broker as an independent contractor, and who participates in any activity described in subdivision (10) or subdivision (12) of this section while under the supervision of a principal broker or executive broker.

(B) An associate broker shall have no supervisory authority over any other licensee;

(2) "Branch office" means a principal broker's office or property management broker's office other than his or her principal place of business;

(3) "Broker's price opinion" means an estimate prepared by a ~~licensee~~ salesperson or real estate broker that details the probable selling price of real estate and provides a varying level of detail about the real estate's condition, market, and neighborhood, and information about sales of comparable real estate;

(4) "Classroom hour" means a period of at least fifty (50) minutes~~,~~ but not more than sixty (60) minutes~~,~~ of actual classroom instruction with ~~the~~ an instructor present;

(5) "Continuing education" means postlicensure education derived from participation in courses in real estate-related subjects that have been approved by the Arkansas Real Estate Commission or that are not required to be approved by the commission;

(6) "Continuing education unit" means a period of ten (10) contact hours of actual classroom instruction with ~~the~~ an instructor present;

(7)(A) "Executive broker" means an individual who:

(i) Has a real estate broker's license;

(ii) Is employed by a principal broker or associated

with a principal broker as an independent contractor; and

(iii) Participates in any activity described in subdivision (10) or subdivision (12) of this section while under the supervision of a principal broker.

(B) An executive broker may supervise associate brokers and salespersons;

(8)(A) "Licensee" means an individual who holds any type of license issued by the commission.

(B) "Licensee" includes a principal broker, an executive broker, an associate broker, ~~and~~ a salesperson, a property management associate, and a property management broker.

(C) This chapter does not preclude a licensee from:

(i) Doing business as a:

(a) Professional corporation under § 4-29-101 et seq.; or

(b) Professional limited liability company under § 4-38-1201 et seq.; or

(ii) Receiving payment from a real estate firm or principal broker of an earned commission to the licensee's legal business entity if the licensee earned the commission on behalf of the real estate firm or principal broker;

(9) "Participate in a real estate auction" means to do any act or conduct for compensation or the expectation of compensation on behalf of a seller at auction and designed, intended, or expected to affect the bidding or results of a real estate auction, including without limitation serving as an auctioneer or ringman or encouraging, soliciting, or receiving bids;

(10)(A) "Principal broker" means an individual expecting to act or acting for another for a fee, commission, or other consideration who:

~~(A)~~(i) Sells, exchanges, purchases, rents, or leases real estate;

~~(B)~~(ii) Offers to sell, exchange, purchase, rent, or lease real estate;

~~(C)~~(iii) Negotiates, offers, attempts, or agrees to negotiate the sale, exchange, purchase, rent, or lease of real estate;

~~(D)~~(iv) Lists, offers, attempts, or agrees to list real estate for sale, lease, or exchange;

~~(E)~~(v) Auctions, offers, attempts, or agrees to auction real estate, or participates in a real estate auction;

~~(F)~~(vi) Buys, sells, or assigns or offers to buy, sell, or assign or otherwise deals in options on real estate or improvements to real estate;

~~(G)~~(vii) Collects, offers, attempts, or agrees to collect rent for the use of real estate;

~~(H)~~(viii) Advertises or holds himself or herself out as being engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

~~(I)~~(ix) Assists or directs in the procuring of prospects calculated to result in the sale, exchange, lease, or rent of real estate;

~~(J)~~(x) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, lease, or rent of real estate;

~~(K)~~(xi) Engages in the business of charging an advance fee in connection with any contract whereby he or she undertakes to promote the sale or lease of real estate either through its listing in a publication issued for such a purpose or for referral of information concerning the real estate to brokers, or both; or

~~(L)~~(xii) Performs any of the acts described in this subdivision (10) as an employee of or on behalf of the owner of, or any person who has an interest in, real estate~~;~~.

(B) A principal broker may perform any act listed in subdivision (12) of this section;

(11)(A) "Property management associate" means an individual who has a property management associate license and who is employed by a property management broker, or is associated with a property management broker as an independent contractor, and who participates in an activity described in subdivision (12) of this section while under the supervision of a property management broker.

(B) A property management associate shall have no supervisory authority over another licensee;

(12) "Property management broker" means an individual licensed under this chapter who for a salary, commission, or compensation of any kind

or with the intent or expectation of receiving valuable consideration engages in the business of leasing, renting, or subleasing real estate located in this state on behalf of an owner, lessor, or potential lessee and who:

(A) Accepts employment by or on behalf of the owner, lessor, or potential lessee of real estate to promote or conduct the leasing or subleasing of the real estate;

(B) Negotiates or attempts to negotiate the lease of real estate located in this state or of the improvements on real estate located in this state;

(C) Engages in the business of promoting the lease or rental of real estate located in this state;

(D) Assists in completing real estate lease contracts or property management agreements;

(E) Procures tenants for owners of real estate located in this state;

(F) Aids or offers to aid for a fee a person in locating or obtaining real estate for lease in this state;

(G) Makes the advertising of real property for lease available by public display to potential tenants;

(H) Shows rental or leased properties to potential tenants;

(I) In conjunction with property management responsibilities, acts as a liaison between the owners of real estate and a tenant or potential tenant;

(J) In conjunction with property management responsibilities, generally oversees the inspection, maintenance, and upkeep of leased real estate belonging to others;

(K) In conjunction with property management responsibilities, collects rents or attempts to collect rents for real estate located in this state;

(L) Pays a fee, commission, or other compensation to a licensed broker, salesperson, or property manager for referral of the name of a prospective lessor or lessee of real property;

(M) Receives a fee, commission, or other compensation from a licensed real estate broker, salesperson, or property management broker for referring the name of a prospective lessor or lessee of real property; or

(N) Advertises or represents to the public that the individual is engaged in any of the activities referred to in this subdivision (12);

~~(11)(A)~~(13)(A) "Real estate" means an interest in real property.

(B) "Real estate" includes without limitation a leasehold, time-share interval, or an interest in real property that is purchased or sold in connection with the purchase or sale of all or part of the assets, stock, or other ownership interest of a business or other organization;

(14) "Real estate broker" means a principal broker, an executive broker, or an associate broker;

~~(12)~~(15) "Salesperson" means an individual who:

(A) Has a salesperson's license;

(B) Is employed by a principal broker or is associated with a principal broker as an independent contractor; and

(C) Participates in any activity described in subdivision (10) or subdivision (12) of this section while under the supervision of a principal broker or executive broker; and

~~(13)~~(16) "Unlicensed real estate activity" means offering or engaging in any practice, act, or operation set forth in subdivision (10) or subdivision (12) of this section without a valid active Arkansas license issued by the commission.

SECTION 3. Arkansas Code § 17-42-104(a)(6), concerning exemptions to Real Estate License Law, is amended to read as follows:

(6) A person other than a property management associate employed only at a salaried or hourly rate to engage in the leasing of real ~~property~~ estate for or on behalf of a licensed principal broker, the real estate firm of a licensed principal broker, a licensed property management broker, or an owner of real estate, if the person:

(A) Does not otherwise engage in or offer to perform any practice, act, or operation set forth in § 17-42-103(10) or § 17-42-103(12) other than receiving a security deposit or payment as permitted by subdivision (a)(6)(B)(iii) of this section; and

(B) Performs only one (1) or more of the following functions:

(i) Delivering a lease application, lease, or an

amendment to a lease application or lease to any person;

(ii) Receiving a lease application, lease, or an amendment to a lease application for delivery to the principal broker, real estate firm, property management broker, or owner;

(iii) Receiving a security deposit, rental payment, or any related payment for delivery to and made payable to the principal broker, real estate firm, property management broker, or owner;

(iv) Acting under the direct written instructions of the principal broker, real estate firm, property management broker, or owner:

(a) Showing a rental unit to any person; or

(b) Assisting in the execution of a preprinted lease or rental agreement containing terms established by the principal broker, real estate firm, property management broker, or owner; or

(v) Conveying information prepared by the principal broker, real estate firm, property management broker, or owner about a lease application, lease, the status of a security deposit, or the payment of rent to or from any person;

SECTION 4. Arkansas Code § 17-42-107(a), concerning the capacity to sue and be sued under the Real Estate License Law, is amended to read as follows:

(a) An action or suit shall not be instituted, nor recovery be had, in any court of this state by any person or other legal entity for compensation for performance of any acts described in § 17-42-103(10) or § 17-42-103(12) unless at the time of offering to perform and performing any such act or procuring any promise to contract for the payment of compensation for any such contemplated act:

(1) The person holds an active license under this chapter as a principal broker; ~~or~~

(2) The person or other legal entity was the owner of the real estate firm that contracted for or otherwise performed the acts for the compensation that is the subject of the action or suit through either a principal broker or a person approved by the Arkansas Real Estate Commission under § 17-42-301(f) while licensed or approved by the commission at the time of the acts;

(3) The person holds an active license under this chapter as a

property management broker; or

(4) The person or other legal entity was the owner of the property management firm that contracted for or otherwise performed the acts for the compensation that is the subject of the action or suit through either a property management broker or a person approved by the commission under § 17-42-301(h) while licensed or approved by the commission at the time of the acts.

SECTION 5. Arkansas Code § 17-42-109(b), concerning civil penalties for engaging in unlicensed real estate activity, is amended to read as follows:

(b) The fact that a person offers to engage in or offers to perform any practice, act, or operation set forth in § 17-42-103(10) or § 17-42-103(12) without ~~a~~ the appropriate license is prima facie evidence that the person is engaged in unlicensed real estate activity.

SECTION 6. Arkansas Code § 17-42-110(a), concerning the authority to issue broker's price opinions, is amended to read as follows:

(a) A ~~licensee~~ real estate broker or salesperson may prepare, provide, and collect a fee for issuing a broker's price opinion for:

(1) An existing or potential seller for the purposes of listing and selling real estate;

(2) An existing or potential buyer of real estate;

(3) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease, or acquisition price of real estate; or

(4)(A) An existing or potential lienholder.

(B) However, a broker's price opinion prepared for an existing or potential lienholder in conjunction with the purchase of a buyer's principal residence shall not be used as the primary basis to determine the value of the buyer's principal residence for the purpose of a loan origination of a residential mortgage loan secured by the buyer's principal residence.

SECTION 7. Arkansas Code Title 17, Chapter 42, Subchapter 1, is amended to add an additional section to read as follows:

17-42-111. Rules.

The Arkansas Real Estate Commission shall promulgate rules to implement this act.

SECTION 8. Arkansas Code § 17-42-203(e), concerning the powers and duties of the Arkansas Real Estate Commission, is amended to add an additional subdivision to read as follows:

(3) Shall post prominently on the commission's website a link entitled "Property Management Licensee Information" that leads directly to information that is helpful to existing and prospective property management brokers and property management associates, including without limitation:

(A) Application and renewal requirements, procedures, forms, deadlines, and related information;

(B) Commission-sponsored educational courses and materials and other educational courses and materials; and

(C) Links to websites containing industry standards and best practices.

SECTION 9. Arkansas Code § 17-42-301(a) and (b), concerning licenses required by the Arkansas Real Estate Commission and violations of the Real Estate License Law, are amended to read as follows:

(a) ~~No~~ A person shall not practice or represent himself or herself as a real estate broker, property management associate, property management broker, or salesperson without first applying for and receiving ~~a~~ the appropriate license to practice under this chapter.

(b) Any person who directly or indirectly for another with the intention, or on the promise of receiving any valuable consideration, offers, attempts, or agrees to perform any single act described in § 17-42-103(10) or § 17-42-103(12), whether as part of a transaction or as an entire transaction, shall be deemed a broker, property management associate, property management broker, or salesperson within the meaning of this chapter.

SECTION 10. Arkansas Code § 17-42-301(d), concerning license required by the Arkansas Real Estate Commission and violations of the Real Estate License Law, is amended to read as follows:

(d) It shall be unlawful for any person, directly or indirectly, to act as a real estate broker, property management associate, property management broker, or salesperson without first obtaining ~~a~~ the appropriate license and otherwise complying with the provisions of this chapter.

SECTION 11. Arkansas Code § 17-42-301(e), concerning licenses required by the Arkansas Real Estate Commission and violations of the Real Estate License Law, is amended to read as follows:

(e)(1) Notwithstanding the provisions of this section, a person or other legal entity not licensed by the Arkansas Real Estate Commission may own a real estate firm, provided the employees or agents employed by or associated with the firm who perform real estate activities identified under § 17-42-103(10) or § 17-42-103(12) hold an active license under this chapter.

(2) The firm may enter into contracts or otherwise perform activities identified under § 17-42-103(10) or § 17-42-103(12) only through a principal broker and a licensee employed by or associated with the principal broker that holds an active license issued by the commission at the time of performing the contract or activities.

SECTION 12. Arkansas Code § 17-42-301, concerning licenses required by the Arkansas Real Estate Commission and violations of the Real Estate License Law, is amended to add additional subsections to read as follows:

(g)(1) Notwithstanding the provisions of this section, a person or other legal entity not licensed by the commission may own a property management firm, provided the employees or agents employed by or associated with the firm who perform property management activities identified under § 17-42-103(12) hold an active license under this chapter.

(2) A firm under subdivision (g)(1) of this section may enter into contracts or otherwise perform activities identified under § 17-42-103(12) only through a property management broker or a licensee employed by or associated with the property management broker who holds an active license issued by the commission at the time of performing the contract or activities.

(h) The commission may provide for the continuing temporary operation of a property management firm having all rights under § 17-42-107(a) upon the death, resignation, termination, or incapacity of the property management

broker or upon the closing of a property management firm, under the direction of a person approved by the commission, subject to time limitations and other conditions imposed by the commission.

SECTION 13. Arkansas Code § 17-42-303 is amended to read as follows:

17-42-303. Education and experience requirements.

(a) The Arkansas Real Estate Commission shall establish education requirements for licensure, including the standards and procedures for approval of education programs, subject to the following conditions:

(1)~~(A)~~ The ~~most~~ education hours required of an applicant for a real estate broker's license shall not exceed one hundred twenty (120) hours within the thirty-six (36) months immediately preceding the date of application~~.~~ and shall include

~~(B) Effective on May 1, 2014, an applicant for a broker's license shall complete~~ at least forty-five (45) ~~of the required education~~ hours in a course developed by the commission; ~~and~~

(2) The ~~maximum number of~~ education hours required of an applicant for a salesperson's license shall not exceed ninety (90) hours, at least thirty (30) hours of which shall be in the basic principles of real estate~~.~~;

(3) The education hours required of an applicant for a property management broker's license shall not exceed sixty (60) hours and shall include property management principles and practices, including without limitation:

(A) Thirty (30) hours consisting of the following topics:

(i) Landlord-tenant law;

(ii) Federal and state fair housing laws;

(iii) The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq;

(iv) State licensing law and rules;

(v) Trust accounts;

(vi) Accounting procedures and recordkeeping;

(vii) Contract law; and

(viii) Agency and disclosure; and

(B) Thirty (30) hours of commission property management supervision best practices; and

(4) The education hours required of an applicant for a property management associate's license shall not exceed thirty (30) hours and shall include property management principles and practices, including without limitation:

(A) Landlord-tenant law;

(B) Federal and state fair housing laws;

(C) The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq;

(D) State licensing law and rules;

(E) Trust accounts;

(F) Accounting procedures and recordkeeping;

(G) Contract law; and

(H) Agency and disclosure.

(b)(1) The commission shall establish the experience requirement for licensure for an applicant for a real estate broker's license subject to the condition of serving an active, bona fide apprenticeship by holding a valid salesperson's license issued by the commission or by holding a valid salesperson's license or real estate broker's license issued by the appropriate licensing agency of another state for a period of not less than twenty-four (24) months within the previous forty-eight-month period immediately preceding the date of application.

(2) However, the commission may waive the experience requirement for a real estate broker applicant who has held an active real estate broker's license for a period of not less than eighteen (18) months or who has experience acceptable to the commission in a field considered real estate-related for a period of not less than twenty-four (24) months within the previous forty-eight-month period immediately preceding the date of application.

(3) The experience requirement for licensure for an applicant for a property management broker license shall be any combination of:

(A) Two (2) years of experience as a licensed property management associate;

(B) Two (2) years of experience managing not less than seven (7) residential or commercial units; or

(C) A total of two (2) years of a combination of the experience in subdivisions (b)(3)(A) and (b)(3)(B) of this section.

(c)(1) The commission shall establish a post-licensure education requirement for individuals in their first ~~year~~ six (6) months of licensure as salespersons, property management associates, property management brokers, or real estate brokers.

(2) The commission shall not require more than thirty (30) classroom hours of post-licensure education hours under subsection (c)(1) of this section.

SECTION 14. Arkansas Code § 17-42-304 is amended to read as follows:

17-42-304. Fees.

The Arkansas Real Estate Commission shall have authority to establish, charge, and collect the following fees:

(1) An application fee not to exceed fifty dollars ($50.00);

(2) An original real estate broker's license fee not to exceed eighty dollars ($80.00);

(3) A real estate broker's license annual renewal fee not to exceed eighty dollars ($80.00);

(4) An original salesperson's license fee not to exceed sixty dollars ($60.00);

(5) A salesperson's license annual renewal fee not to exceed sixty dollars ($60.00);

(6) A real estate broker's expired license fee not to exceed one hundred ten dollars ($110) per year or fraction thereof;

(7) A salesperson's expired license fee not to exceed eighty dollars ($80.00) per year or fraction thereof;

(8) An original property management broker license fee not to exceed eighty dollars ($80.00);

(9) A property management broker license annual renewal fee not to exceed eighty dollars ($80.00);

(10) A property management broker expired license fee not to exceed one hundred ten dollars ($110.00) per year or fraction thereof;

(11) An original property management associate license fee not to exceed sixty dollars ($60.00);

(12) A property management associate annual renewal fee not to exceed sixty dollars ($60.00);

(13) A property management associate expired license fee not to

exceed eighty dollars ($80.00);

(14) A license reissuance fee not to exceed thirty dollars ($30.00);

~~(9)~~(15) An initial duplicate license fee not to exceed thirty dollars ($30.00);

~~(10)~~(16) A duplicate license annual renewal fee not to exceed thirty dollars ($30.00);

~~(11)~~(17) A transfer fee not to exceed thirty dollars ($30.00);

~~(12)(A)~~(18)(A) An examination fee not to exceed seventy-five dollars ($75.00).

(B) However, the commission at its discretion may direct each applicant to pay the actual costs of the examination fee directly to a testing service engaged by the commission to administer the examination;

~~(13)~~(19) Pursuant to § 17-42-313, an appeal filing fee not to exceed one hundred dollars ($100);

~~(14)~~(20) A Real Estate Recovery Fund fee not to exceed twenty-five dollars ($25.00); and

~~(15)~~(21) The actual cost of a state and federal criminal history background check.

SECTION 15. Arkansas Code § 17-42-306 is amended to read as follows:

17-42-306. Application procedure — Licensing examination required.

(a)(1) Applications for licensure shall be submitted on forms provided by the Arkansas Real Estate Commission.

(2) The commission may require any information and documentation needed to determine if the applicant meets the criteria for licensure as provided in this chapter.

(3) Each applicant shall pay an application fee and examination fee as the commission may require under § 17-42-304.

(4)(A) Applicants that have provided all required information and documentation to the commission may sit for the licensing examination, if a request has been sent to the Identification Bureau of the ~~Department~~ Division of Arkansas State Police for a state and federal criminal background check.

(B) A ~~real estate~~ license shall not be issued until the applicant has successfully completed the licensing examination and the

commission receives and approves the state and federal criminal background check.

(b)(1)(A) An applicant who successfully completes the licensing examination shall pay, within ninety (90) days from the date of the licensing examination, such license fee and Real Estate Recovery Fund fee as the commission may require under § 17-42-304.

(B)(i) If the federal criminal background check has not been received by the commission within ninety (90) days of the date of the licensing examination, the date may be extended by the commission until receipt of the federal criminal background check.

(ii) A ~~real estate~~ license shall not be issued until receipt and approval by the commission of the state and federal criminal background checks.

(2) The applicant's failure to pay the license fee and Real Estate Recovery Fund fee within the ninety-day period under subdivision (b)(1)(A) of this section shall invalidate the licensing examination results, and the applicant shall be required to make new application and retake the licensing examination as an original applicant.

SECTION 16. Arkansas Code § 17-42-307(b)(4), concerning license expiration and renewal under the Real Estate License Law, is amended to read as follows:

(4) ~~Effective September 30, 2019, the~~ The commission may promulgate rules to add additional hours of continuing education to the annual amount required under subdivision (b)(1)(A) of this section with no statutory maximum for hours of continuing education.

SECTION 17. Arkansas Code § 17-42-307(c)-(f), concerning license expiration and renewal under the Real Estate License Law, are amended to read as follows:

(c)(1) A property management broker or property management associate shall complete annually:

(A) Not less than six (6) hours nor more than seven (7) classroom hours of continuing education required by the commission, with at least one (1) classroom hour focusing on safety;

(B) The distance education equivalent of subdivision

(c)(1)(A) of this section required by the commission; or

(C) A course that the commission has determined to demonstrate mastery of an acceptable property management subject.

(2) A licensee who satisfies subdivision (c)(1) of this section completes the continuing education requirements for the licensing year.

(3) If a licensee files for renewal of a license but fails to provide proof of continuing education, the licensee's license is inactive until proof is provided to the commission.

(d)(1) To renew or reactivate a license, a licensee shall complete the number of classroom hours of continuing education or the distance education equivalent of continuing education required by the commission for each inactive year not to exceed a total of thirty (30) classroom hours.

(2) Except as provided in subdivision ~~(c)(1)~~(d)(1) of this section, a person is not subject to the education requirements of this section while the person's license is inactive.

(3) The commission may waive all or part of the requirements of subdivision ~~(c)(1)~~(d)(1) of this section if a licensee is unable to complete the continuing education due to extenuating circumstances.

~~(d)(1)~~(e)(1) For each active licensee, the commission shall issue a new license for each ensuing renewal period in the absence of a reason or condition that may warrant the refusal of a license, upon receipt of the:

(A) Written request for license renewal at least ninety (90) days before the expiration of the license upon forms provided by the commission; and

(B) Renewal fee.

(2)(A) A broker, ~~or~~ salesperson, property management associate, or property management broker who does not wish to engage in the real estate or property management business may renew a license on inactive status in the absence of a reason or condition that may warrant the refusal of a license upon receipt of the:

(i) Written request of the applicant at least ninety (90) days before the expiration of the license upon forms provided by the commission; and

(ii) Renewal fee.

(B) The commission may limit the number of renewal periods in which a license may be renewed on inactive status.

(C) The renewal fee for inactive status is the same as for renewal of an active license.

(3) An application for renewal filed after the date established by the commission to renew a license is treated as an application to renew an expired license.

~~(e)~~(f) If a person to whom a valid license has been issued permits the license to expire for a period not in excess of that established by the commission, the commission shall issue to the person a current license without requiring the person to submit to an examination if the person furnishes the information required by the commission, including proof of completion of appropriate continuing education requirements, and pays the fee required by the commission.

~~(f)(1)~~(g)(1) New salesperson, property management associate, property management broker, and real estate broker licensees shall complete post-licensure education under § 17-42-303(c).

(2) If the licensee fails to complete the post-licensure education requirements within ~~twelve (12)~~ six (6) months after the date the license was issued, the commission shall place the license on inactive status until the commission receives documentation that the licensee has completed the post-licensure education requirements.

SECTION 18. Arkansas Code § 17-42-308(a)(2), concerning an inactive license under the Real Estate License Law, is amended to read as follows:

(2) The holder of an inactive license shall not practice as a real estate broker, ~~or~~ salesperson, property management associate, or property management broker in this state without first activating the license.

SECTION 19. Arkansas Code § 17-42-309, concerning a place of business, is amended to add additional subsections to read as follows:

(c) Every property management broker shall maintain a place of business and shall display a sign that is permanently attached to the building bearing the name under which the property management broker conducts his or her property management business and the words “property management”, “rentals”, “leasing”, or other words approved by the commission that clearly indicate to the public that the property management broker is engaged in the

property management business.

(d)(1) If a property management broker maintains a branch office, a duplicate license shall be issued upon payment by the property management broker of the initial fee and, thereafter, such renewal fee as the commission may require under § 17-42-304.

(2) However, a duplicate license shall not be issued for a branch office at which property management associates are assigned unless the property management broker establishing the branch office has designated another property management broker with the firm to supervise the property management associates.

SECTION 20. Arkansas Code § 17-42-310(c)—(e), concerning the names and affiliations of licensees under the Real Estate License Law, are amended to read as follows:

(c) The licenses of the principal broker or property management broker and all licensees employed by or associated with him or her shall be retained by the principal broker or property management broker and conspicuously displayed in his or her place of business.

(d)(1) Upon the termination of a licensee's employment by or association with a principal broker or property management broker, the licensee shall promptly deliver his or her pocket card to the principal broker or property management broker, and the principal broker or property management broker shall promptly notify the commission of the termination and return to the commission the license and pocket card of the terminated licensee, which shall automatically inactivate the license.

(2) If the pocket card is unavailable, the principal broker or property management broker shall promptly ~~so~~ notify the commission in writing.

(e) A license inactivated under this section may be transferred to another principal broker or property management broker upon application of the licensee, payment of the relevant fee, and submission of a statement that he or she is not taking any listings, management contracts, appraisals, lease agreements, or copies of any such documents or any other pertinent information belonging to the licensee's previous principal broker, property management broker, or firm.

SECTION 21. Arkansas Code § 17-42-311(a)(9)—(13), concerning violations under the Real Estate License Law, are amended to read as follows:

(9) Acting as a broker ~~or~~, salesperson, property management associate, or property management broker while not licensed with a principal broker or property management broker, representing or attempting to represent a broker other than the principal broker or property management broker with whom he or she is affiliated without the express knowledge and consent of the principal broker or property management broker, ~~or~~ representing himself or herself as a salesperson or having a contractual relationship similar to that of a salesperson with anyone other than a licensed principal broker, or representing himself or herself as a property management associate or having a contractual relationship similar to that of a property management associate with anyone other than a licensed property management broker;

(10) Advertising in a false, misleading, or deceptive manner;

(11) Being unworthy or incompetent to act as a property management associate, property management broker, real estate broker, or salesperson in such a manner as to safeguard the interests of the public;

(12) Paying a commission or valuable consideration to any person for acts or services performed in violation of this chapter, including paying a commission or other valuable consideration to an unlicensed person for participation in a real estate auction; ~~and~~

(13) While licensed only as a property management broker or property management associate, participating in or accepting anything of value for the listing, negotiation, or sale of real estate that is not owned by the property management broker or property management associate, including without limitation real estate managed by a property management broker or property management associate; and

(14) Any other conduct, whether of the same or a different character from that specified in this section, which constitutes improper, fraudulent, or dishonest dealing.

SECTION 22. Arkansas Code § 17-42-312(a)(1), concerning investigation of complaints, citations, and penalties under the Real Estate License Law, is amended to read as follows:

(a)(1) The Arkansas Real Estate Commission may, on its own motion, and shall, upon the verified complaint in writing of any person, provided that

the complaint and any evidence, documentary or otherwise, presented in connection therewith shall make out a prima facie case, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, ~~or~~ real estate salesperson, property management associate, or property management broker regardless of whether the transaction was for his or her own account or in his or her capacity as a broker, ~~or~~ salesperson, property management associate, or property management broker.

SECTION 23. Arkansas Code § 17-42-312(d)(1)(A) and (B), concerning investigation of complaints, citations, and penalties under the Real Estate License Law, are amended to read as follows:

(A) A penalty of not more than one hundred dollars ($100) to a broker, ~~or~~ salesperson, property management associate, or property management broker who:

(i) Fails to complete annual education requirements; or

(ii) Fails to complete post-licensure education requirements by the established deadline; or

(B) A penalty of not more than two hundred fifty dollars ($250) to a broker, salesperson, property management associate, property management broker, or the supervising broker of a broker, ~~or~~ salesperson, or property management broker if a broker, ~~or~~ salesperson, property management associate, or property management broker:

(i) Performs activities that require an active real estate license while his or her license is expired; or

(ii) Advertises, publishes, or otherwise distributes information about real property, ~~or~~ real estate brokerage, or property management business or activities in violation of this chapter or rules adopted under this chapter.

SECTION 24. Arkansas Code § 17-42-313(a), concerning complaints and appeals before the Arkansas Real Estate Commission, is amended to read as follows:

(a) Any person whose complaint against a licensed real estate broker, ~~or~~ salesperson, property management associate, or property management broker

is dismissed by the Executive Director of the Arkansas Real Estate Commission without a hearing may appeal the dismissal to the Arkansas Real Estate Commission subject to and in accordance with the following provisions:

(1) The request for appeal must be in writing and received in the office of the commission not later than sixty (60) days following the date of dismissal by the executive director;

(2) The request for appeal must be accompanied by such filing fee as the commission may require pursuant to § 17-42-304; and

(3)(A)(i) The appellant must also pay the cost of preparing the record for the commission's review, which cost shall be determined by the commission.

(ii)(a) The costs must be paid by the appellant within thirty (30) days after notification of the amount.

(b) Otherwise, the appeal shall be dismissed.

(B) However, if the commission's review results in a hearing being ordered on the complaint, both the filing fee and the cost of preparing the record shall be refunded to the appellant.

(C) Any person who is indigent and unable to pay either the filing fee or the cost of the record, or both, may file a pauper's oath in such form as required by the commission, and, if the commission determines that the appellant is indeed indigent, the filing fee or cost of the record, or both, shall be waived.

SECTION 25. Arkansas Code § 17-42-314(b), concerning hearings under the Real Estate License Law, is amended to read as follows:

(b) Except in cases in which a licensee has obtained a license by false or fraudulent representation, the Arkansas Real Estate Commission shall not investigate the actions of or conduct any disciplinary hearing regarding any real estate broker, ~~or~~ salesperson, property management associate, or property management broker unless the complaint is filed or the investigation initiated within three (3) years from the date of the actions complained of or concerning which an investigation is initiated.

SECTION 26. Arkansas Code § 17-42-501 is amended as follows:

17-42-501. Real estate education program.

(a) The Arkansas Real Estate Commission shall establish an education

program for real estate brokers, salespersons, and property management licensees to ensure that education is available and accessible to an applicant or a licensee.

(b) The education program is intended to fulfill the education requirements for a real estate broker, salesperson, or property management license and to provide real estate and property management courses intended to fulfill the education requirements for a real estate broker, salesperson, or property management license.

SECTION 27. Arkansas Code § 17-42-502(3)-(5), concerning definitions under the education programs of the Real Estate License Law, are amended to read as follows:

(3) "Approved course" means a course of instruction approved by the commission that satisfies the education requirements for prelicense education, postlicense education, or continuing education for a real estate license issued by the commission;

(4) "Associate instructor" means a person who is licensed by the commission to teach real estate or property management courses while under the supervision of an administrator or principal instructor that satisfy the education requirements for a real estate license issued by the commission;

(5) "Association license" means a license granted by the commission to a real estate trade or professional association offering approved education that satisfies education requirements for a real estate license issued by the commission;

SECTION 28. Arkansas Code § 17-42-502(12)-(14), concerning definitions under the education programs of the Real Estate License Law, are amended to read as follows:

(12) "Nonqualified offering" means a course in real estate education that has not been approved by the commission but is offered to persons intending to apply for a real estate license issued by the commission;

(13) “Postlicense education” means real estate or property management education required to be successfully completed within a time frame established by the commission after a real estate or property management license is issued;

(14) “Prelicense education” means real estate or property management education required to be successfully completed by an applicant before sitting for the examination for a broker or salesperson license issued by the commission;

SECTION 29. Arkansas Code § 17-42-502(15)(B)(iv) and (v), concerning definitions under the education programs of the Real Estate License Law, are amended to read as follows:

(iv) Advertise as being engaged in the business of offering real estate or property management education courses; and

(v) Charge tuition and fees for real estate or property management education courses;

SECTION 30. Arkansas Code § 17-42-502(17) and (18), concerning definitions under the education programs of the Real Estate License Law, are amended to read as follows:

(17) "School license" means a license granted by the commission to a proprietary education institution offering education courses approved by the commission that fulfill mandatory education requirements for attaining or maintaining a real estate license issued by the commission; and

(18) "Student" means an applicant or licensee who attends real estate or property management education courses approved by the commission.

SECTION 31. Arkansas Code § 17-42-503(b), concerning exemptions to the course approval authority of the Arkansas Real Estate Commission, is amended to read as follows:

(b) The requirement for course approval by the Arkansas Real Estate Commission under this subchapter does not apply to:

(1) A classroom course in a real estate-related subject identified by the commission as an approved topic if it is offered by the National Association of Realtors, the National Association of Real Estate Brokers, or other associated entities;

(2) A course of at least three (3) semester hours or equivalent in a real estate or property management subject that is approved by the commission and offered by an accredited college or university;

(3) A course in a property management or real estate-related

subject offered by the commission;

(4) A course or a conference in a property management or real estate-related subject approved by the commission and offered annually on a limited basis in Arkansas; or

(5) A course that is not used to fulfill the education requirements of this subchapter for attaining a real estate or property management license.

SECTION 32. Arkansas Code § 17-42-504(c), concerning requirements to provide real estate education courses under the Real Estate License Law, is amended to read as follows:

(c)~~(1)~~ On and after June 1, 2026, a person shall not practice as a provider of property management education for property management licensure unless the commission approves that education practitioner as a subject matter expert in the field of property management or that person holds a property management broker license issued by the commission.

(d) A person or school shall not represent that an offered property management course satisfies the education requirements for property management licensure unless the course is approved by the commission.

(e)(1) It is a violation of this subchapter to fail to obtain:

(A) A license to practice as a provider of real estate education for real estate licensure; ~~or~~

(B) Approval for a real estate education course by the commission;

(C) A license to practice as a provider of property management education for property management licensure; or

(D) Approval for a property management education course by the commission.

(2) A real estate or property management education course offered in violation of this subchapter is a nonqualified offering.

SECTION 33. Arkansas Code § 17-42-506 is amended to read as follows:

17-42-506. Powers and duties.

(a) The Arkansas Real Estate Commission may adopt rules as necessary to implement this subchapter.

(b) The commission shall license, approve, and regulate schools,

associations, principal instructors, and associate instructors offering commission-approved prelicense, postlicense, and continuing education courses offered to satisfy education requirements for ~~real estate~~ licensure under this chapter.

(c) The commission shall establish the licensing or education requirements for:

(1) A school or association that applies for a license to offer ~~real estate~~ courses that satisfy the education requirements for ~~real estate~~ licensure under this chapter;

(2) Principal and associate instructors of courses approved by the commission;

(3) Courses that satisfy the education requirements for applicants for ~~real estate~~ licensure ~~and~~ under this chapter, real estate licensees, and property management licensees; and

(4) Guest speakers of courses approved by the commission.

(d) The commission shall:

(1) Establish procedural guidelines for licensed schools and their locations and those providing real estate or property management education designed for students to meet the education requirements for a real estate license or property management license issued by the commission;

(2) Charge fees and pay the necessary expenses to develop, approve, sponsor, contract for, or conduct real estate or property management courses and seminars for real estate or property management licensees or instructors of real estate or property management education;

(3) Maintain in electronic format a list of the names of ~~real estate~~ approved schools, associations, administrators, instructors, and courses approved under this subchapter;

(4) Publish in electronic format the names of the persons, associations, or schools that have been sanctioned by formal hearing or consent order under this subchapter;

(5) Periodically monitor courses offered or taught by the licensed schools and instructors; and

(6) Establish course requirements with respect to:

(A) Accessibility;

(B) Attendance;

(C) Satisfactory completion; ~~and~~

(D) Curricula; and

(E) Student license or applicant type.

SECTION 34. Arkansas Code § 17-42-513(a), concerning the approval of courses and course content by the Arkansas Real Estate Commission, is amended to read as follows:

(a) Except for courses exempted in § 17-42-503(b), a real estate or property management course that is intended to satisfy the education requirements for a real estate or property management license issued by the Arkansas Real Estate Commission shall first be approved by the ~~Arkansas Real Estate Commission~~ commission.

SECTION 35. Arkansas Code § 17-42-514(a)(1), concerning curricula required by the Real Estate License Law, is amended to read as follows:

(1) Require ~~not less than six (6) nor more than seven (7) classroom hours of~~ continuing education for licensees under § 17-42-307;

SECTION 36. Arkansas Code § 17-42-514(a), concerning curricula required by the Real Estate License Law, is amended to add an additional subdivision to read as follows:

(6) Develop and require a specific curriculum for continuing education courses for property management associates and property management broker licensees.

SECTION 37. Arkansas Code § 17-42-514 is amended to read as follows:

17-42-514. Curricula.

(a) The Arkansas Real Estate Commission may:

(1) Require not less than six (6) nor more than seven (7) classroom hours of continuing education for licensees;

(2) Identify subject matter topics for continuing education courses;

(3) Identify a specific topic of not more than three (3) classroom hours to be included in the annual continuing education requirement;

(4) Develop and require a specific curriculum for continuing education courses for licensed brokers or their designees; and

(5) Identify subject matter topics for which licensed schools and instructors may develop courses that fulfill the annual continuing education requirements.

(b)(1) The commission may develop the curricula for prelicense and postlicense education.

(2) Prelicense and postlicense courses that are intended to satisfy the education requirements for a property management license shall be approved by the commission for participation and attendance by applicants for property management licensure.

(3) Prelicense and postlicense courses that are intended to satisfy the education requirements for a real estate license shall only be approved by the commission for participation and attendance by applicants for a real estate license.

SECTION 38. Arkansas Code § 17-42-515 is amended to read as follows:

17-42-515. Violations.

An applicant for a ~~real estate educator~~ license or a licensee under this chapter is subject to disciplinary action under this subchapter if the applicant for a ~~real estate educator~~ license or a licensee pleads guilty or nolo contendere to or is found guilty of any of the following:

(1) Obtaining ~~a real estate educator license~~ an instructor license, school license, or ~~real estate~~ education course approval by fraud, misrepresentation, or concealment;

(2) Violating this subchapter, the rules adopted by the Arkansas Real Estate Commission, or an order issued by the commission;

(3) Committing an act, a felony, or a crime involving moral turpitude, fraud, dishonesty, untruthfulness, or untrustworthiness regardless of whether the imposition of the sentence has been deferred or suspended;

(4) Engaging or allowing unlawful discriminatory practices;

(5) Violating the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., regarding access to and delivery of real estate or property management education courses;

(6) Issuing or reporting a false certificate of completion for a real estate or property management education course;

(7) Teaching a course in a way that instructs licensees to engage in unlawful or noncompliant activities;

(8) Failing to monitor attendance of students to ensure satisfactory completion of real estate or property management education courses approved by the commission;

(9) Utilizing an instructor or guest speaker who does not meet the requirements of this subchapter;

(10) Making a substantial misrepresentation of a material fact to the commission;

(11) Advertising in a false, misleading, or deceptive way;

(12) Being unworthy or incompetent to act or operate as a real estate education school or association or a real estate educator; ~~or~~

(13) Refusing or failing to make available to the commission for inspection the records required to be maintained by a principal instructor or administrator;

(14) Refusing or failing to cooperate with an investigation commenced by the commission under this chapter; or

(15) Engaging in other conduct that constitutes improper, fraudulent, or dishonest dealing.

SECTION 39. TEMPORARY LANGUAGE. DO NOT CODIFY. Change of heading for Title 17, Chapter 42, Subchapter 5.

The Code Revisor shall change the heading of Title 17, Chapter 42, Subchapter 5 from "Renewal of Licenses" To "Real Estate and Property Management Education".

SECTION 40. DO NOT CODIFY. Rules implementing this act.

(a)(1) When adopting the initial rules to implement this act, the final rules shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before June 1, 2026; or

(B) If approval under § 10-3-309 has not occurred by June 1, 2026, as soon as practicable after approval under § 10-3-309.

(2) The Arkansas Real Estate Commission shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of June 1, 2026, so that the Legislative Council may consider the rule for approval before June 1, 2026.

(b) The General Assembly finds that:

(1) Each of the existing rules of the commission is necessary for the efficient operation of the commission; and

(2) The repeal of any of the commission's rules would cause unnecessary hardship and may render the commission unable to fully discharge its duties and responsibilities.

/s/McGrew

APPROVED: 3/25/25

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1794

By: Representatives Duke, Hawk
By: Senator C. Penzo

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES; TO CREATE CONTINUING EDUCATION EXEMPTIONS FOR CERTAIN REAL ESTATE BROKER LICENSEES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES; AND TO CREATE CONTINUING EDUCATION EXEMPTIONS FOR CERTAIN REAL ESTATE BROKER LICENSEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-42-307(c), concerning the expiration and renewal of a real estate license, is amended to read as follows:

(c)(1) ~~To~~ Except as provided under subdivision (c)(3) of this section, to renew or reactivate a license, a licensee shall complete the number of classroom hours of continuing education or the distance education equivalent of continuing education required by the commission for each inactive year not to exceed a total of thirty (30) classroom hours.

(2) Except as provided in subdivision (c)(1) of this section, a person is not subject to the education requirements of this section while the person's license is inactive.

(3)(A) ~~The commission~~ In addition to the continuing education exemptions under subdivision (c)(3)(B) of this section, the Executive Director of the Arkansas Real Estate Commission may waive all or part of the

requirements of subdivision (c)(1) of this section:

(i) ~~if~~ If a licensee is unable to complete the continuing education due to extenuating circumstances~~.~~;

(ii) On the basis of health-related concerns or restrictions of the licensee; or

(iii) In recognition of a licensee's achievements, including without limitation achievements relating to the real estate industry or legislative service.

(B)(i) A salesperson licensee or an associate broker licensee may submit a written application to the commission for exemption from the requirements of subdivision (c)(1) of this section with satisfactory proof that, in the calendar year immediately preceding the renewal or reactivation of a salesperson license or an associate broker license, the salesperson licensee or the associate broker licensee:

(a) Is seventy-two (72) years of age or older;

(b) Has held an active Arkansas salesperson or an active Arkansas associate broker license for a consecutive twenty-five (25) years or more;

(c) Has had no disciplinary action taken against him or her by the commission during the five (5) years immediately preceding the renewal or reactivation period of his or her salesperson license or associate broker license; and

(d) Has had no delinquent continuing education requirements under subdivision (c)(1) of this section during the five (5) years immediately preceding the renewal or reactivation period of his or her salesperson license or associate broker license.

(ii) A principal broker licensee or an executive broker licensee may submit a written application to the commission for exemption from the requirements of subdivision (c)(1) of this section with satisfactory proof that, in the calendar year immediately preceding the renewal or reactivation of a principal broker license or an executive broker license, the principal broker licensee or an executive broker licensee:

(a) Is seventy-two (72) years of age or older;

(b) Has held an active Arkansas principal broker license or an active Arkansas executive broker license for a consecutive twenty-five (25) years or more;

(c) Has had no disciplinary action taken against himself or herself or a licensee under his or her supervision by the commission during the five (5) years immediately preceding the renewal or reactivation period of his or her principal broker license or executive broker license; and

(d) Has had no delinquent continuing education requirements himself or herself or a licensee under his or her supervision has had no delinquent continuing education requirements under subdivision (c)(1) of this section during the five (5) years immediately preceding the renewal or reactivation period of his or her principal broker license or executive broker license.

(4) A continuing education exemption approved by the executive director under subdivision (c)(3) of this section may be revoked as a result of disciplinary action taken against a licensee after approval is granted.

(5) A continuing education exemption denied by the executive director under subdivision (c)(3) of this section may be appealed to the commission.

(6) Except as provided under subdivision (c)(3) of this section, an executive broker licensee, a principal broker licensee, an associate broker licensee, or a salesperson licensee is not exempt from the requirements of subdivision (c)(1) of this section.

APPROVED: 4/14/25

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1853

By: Representatives J. Moore, Hawk
By: Senators C. Penzo, J. Dotson, Hester

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING AGENCY RELATIONSHIP AND DUTIES RELATED TO REAL ESTATE LICENSES; TO CLARIFY THE OBLIGATIONS OF DUAL AGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING AGENCY RELATIONSHIP AND DUTIES RELATED TO REAL ESTATE LICENSES; AND TO CLARIFY THE OBLIGATIONS OF DUAL AGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-42-316 is amended to read as follows:

17-42-316. Agency relationship and duties generally.

(a) The common law of agency under Arkansas as supplemented by this section applies to the relationship between a licensee and the licensee's client.

(b)(1)(A) ~~In~~ Except as provided under subdivision (b)(1)(B) of this section, in accepting employment by a client, a licensee pledges a primary duty of absolute fidelity to protect and promote the interests of the client or clients.

(B) Multiple clients who are represented by the licensee and have consented to dual agency may contractually waive the primary duty of absolute fidelity of the licensee under subdivision (b)(1)(A) of this section.

(2) The licensee's duty includes without limitation the

obligation to:

(A) Use reasonable efforts to further the interest of the client;

(B) Exercise reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;

(C) Perform the terms of the written agency agreement;

(D) Follow lawful instructions of the client unless doing so would expose the licensee to liability from another party to a contract, lease, or rental agreement;

(E) Perform all duties specified in this section in a manner that demonstrates loyalty to the interests of the client;

(F) Comply with all requirements of this section and other applicable statutes and rules;

(G) Disclose to the client material facts of the transaction that the licensee is aware of or should be aware of in the exercise of reasonable skill and care and that are not confidential information under a current or prior agency or dual agency relationship;

(H) Advise the client to obtain expert advice concerning material matters when necessary or appropriate;

(I) Account in a timely manner for all moneys and property received in which the client has or may have an interest;

(J)(i) ~~Keep confidential all confidential information~~ Except as provided in subdivision (b)(2)(J)(ii) of this section, refrain from disclosing any confidential information.

(ii) The disclosure of confidential information may be limited by contract when a licensee is an authorized dual agent under subdivision (b)(1)(B) of this section, including without limitation confidential information from or concerning the client that may materially compromise the negotiating position of the client, unless disclosure is required by law or is authorized in writing by the client; and

(K) Refrain from disclosing confidential information to a licensee who is not an agent of the client.

(c) ~~The~~ Except as provided in subsection (b)(1)(B) and subdivision (b)(2)(J)(ii) of this section, the duties required of a licensee under this section may not be waived by a client.

APPROVED: 4/17/25