Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

Real Estate Commission

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

FINAL

2900 Real Estate Commission

ORDER

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on May 10, 2012 at a scheduled meeting of the Delaware Real Estate Commission ("the Commission") to receive comments regarding proposed amendments to the Commission's Rules and Regulations. The Commission has proposed revisions to Rule 13.0, pertaining to continuing education requirements. Specifically, pursuant to the revisions, 21 hours of continuing education will be required for each licensure renewal period. Currently, the Commission requires 15 hours. The revised rules state that the required hours must be taken in specified subject matters, or modules. In addition, new licensees, other than licensees already licensed in another state, will be required to take 12 hours of continuing education relevant to the skills required for new practitioners. Those 12 hours will be applied to the required 21 hours and pro-rated accordingly. The Commission also proposes revisions to certain rules addressing administrative issues.

Pursuant to the Administrative Procedures Act, 29 **Del.C.** §10115, notice of the proposed amendments to the Rules and Regulations was published on April 1, 2012 in the *Delaware Register of Regulations,* Volume 15, Issue 10 at 15 DE Reg. 1449.

Summary of the Evidence and Information Submitted

The Commission received written and verbal comments at the public hearing on May 10, 2012. The following notices, written comments and documents were admitted as exhibits and made part of the record:

Exhibit 1: May 4, 2012 letter from Trina Joyner, President, Sussex County Association of Realtors, concerning proposed Rule 13.0. Ms. Joyner commented that the proposed amendments, requiring 21 hours of continuing education, do not consider licensees with significant experience and education. She expressed concern about the monitoring of compliance with the requirements for new licensees.

Exhibit 2: May 10, 2012 letter from Todd Stonesifer, President, Delaware Association of Realtors, supporting the proposed amendments to the Rules and Regulations.

Exhibit 3: *News Journal* Affidavit of Publication.

Exhibits 4 and 5: *Delaware State News* Affidavits of Publication.

Exhibit 6: Letter from Carol Burns, President, Kent County Association of Realtors, supporting the changes to the education requirements for licensees.

Exhibit 7: May 8, 2012 letter from Thomas J. Hanna, Vice President, Harvey Hanna & Associates, requesting that the Commission delay action on proposed expansion of continuing education requirements, commenting that there is insufficient information warranting more education and stating that there is an economic cost to requiring a 40% increase in continuing education requirements.

Exhibit 8: May 10, 2012 letter from Dick Brogan supporting the proposed changes to the Rules and Regulations.

The following individuals provided verbal comment at the public hearing:

The first witness to address the Commission was Doug Doyle. Mr. Doyle has been licensed since 1995 and is the current chair of the Education Committee. He has served on the Education Committee for two years. Mr. Doyle testified that, two years ago, the Education Committee began to discuss increasing standards for education, including both pre-licensing and continuing education. There had been no changes to the education system for years and improvement was needed. The Education Committee's proposed changes were approved by the Commission and represented a huge improvement over the existing system. Mr. Doyle added that the real estate profession has changed dramatically over the years and the proposed changes will act to protect the public and ensure standards of competence in the delivery of services to the public. Mr. Doyle also explained that the course approval process will not change with the new modules.

The next witness to address the Commission was Kevin Gilligan, who has been a licensed broker in Delaware for 10 years. Mr. Gilligan testified that the emphasis should be placed on the quality and content of continuing education rather than the quantity of hours. Mr. Gilligan stated that he opposed increasing the required hours from 15 to 21.

Todd Stonesifer, the President of the Delaware Association of Realtors, addressed the Commission by offering his support to the proposed changes to the Rules and Regulations. Mr. Stonesifer has been licensed for 12 years. Mr. Stonesifer testified that the education requirements have changed very little but the industry has changed greatly and licensees need to stay on top of those changes. The problem now is that continuing education classes are repetitive and boring. The new modules will allow licensees to pick and choose their courses with the result that they will start to enjoy continuing education. Mr. Stonesifer asked the Commission to implement the proposed changes to protect the public and improve the competence of licensees.

Tim Riale next addressed the Commission. Mr. Riale is a licensed broker. He testified that the proposed changes to the Rules and Regulations will benefit the public. The results of previous continuing education audits demonstrated a need to adjust the continuing education requirements.

Shirley Kalvinsky addressed the Commission. She has been licensed for 35 years and an instructor for more than 30 years. Ms. Kalvinsky offered her support for the increase in continuing education hours and the new modules. Feedback regarding continuing education classes showed a need for change. Ms. Kalvinsky testified that the modules offer variety and flexibility with no time parameters or canned outlines. The modules do not involve specialized training but offer general topics.

Bill Lucks was the next witness to address the Commission. Mr. Lucks has two licenses in Delaware. He testified that he supports the changes to the continuing education requirements. The changes address both content and quality. The increased hours and the modules will ensure that licensees understand the applicable rules and how to conduct themselves. Mr. Lucks commented that these changes are needed given the rapid changes in the real estate industry.

Carol Burns, President of the Kent County Association of Realtors, addressed the Commission. Ms. Burns testified that the Kent County Association of Realtors fully supports the proposed changes to the continuing education requirements. She commented that the changes will increase licensee knowledge and professionalism and improve standards in the delivery of services to the public.

Greg Ellis, the President of the Commercial Industrial Realty Council of Delaware, addressed the Commission. He testified that he offered his comments on behalf of CIRS and on his own behalf. Mr. Ellis stated that while he applauded efforts to improve continuing education, he did not think that the proposed modules would have the intended result. The basic concepts in the modules have been taught repeatedly. The existing concepts need to be improved to make sure licensees understand what they are being taught. Increased continuing education hours won't fix the problem. Mr. Ellis testified that the industry needs to be more professional, and the modules won't help get the basic concepts across to licensees.

Dan Lesher addressed the Commission, stating that, like Mr. Ellis, he is from the Commercial Industrial Realty Council of Delaware. The proposed changes represent a 40% increase in continuing education hours. Real estate salespeople operate as small businessmen and the increase in hours will lead to increased costs. Increasing the hours won't necessarily result in a smarter industry. The modules will present less flexibility and less elective continuing education courses. Mr. Lesher testified that he reviewed Commission minutes and found no information showing a connection between the amount of continuing education hours and problems with Delaware licensees. He does not believe that the change will result in a smarter industry. The change will result in a 40% increase in income for instructors.

The next witness to address the Commission was Gene Millman, who testified that he is in favor of the proposed changes. He served on the subcommittee which addressed the continuing education issue. He has been in the real estate business for 27 years and an instructor for 21 years for the Delaware Association of Realtors. Mr. Millman stated that he found that agents with many years in the business don't understand changes in the law. Mr. Millman supported the increase in hours and changes in education content. He stated that the modules will allow for the incorporation of contemporary issues in continuing education.

Dick Brogan, who has been a licensee since 1994 and a broker since 2001, addressed the Commission. Mr. Brogan offered his support for the proposed changes. He testified that the changes focus on quality and the actual number of hours is not important. The Commission needs to continue with increasing continuing education requirements.

Donna Klimowicz next addressed the Commission. She is an associate broker who has been licensed since 1980. When she was first licensed, there were no continuing education requirements. Ms. Klimowicz testified that she is on the Commission's Education Committee and the Education Committee of the Delaware Association of Realtors. Ms. Klimowicz testified that the real estate industry is changing, including advances in technology, and the public is knowledgeable. The consumer is the priority and increased continuing education is needed for licensees. Many agents are inept and need the additional education. The Education Committee worked hard on the changes. Ms. Klimowicz stated that the proposed changes will give flexibility in terms of courses and increased quality. The public will benefit from these revisions to the continuing education requirements.

William Lower addressed the Commission. Mr. Lower is with a commercial redevelopment firm in Wilmington. He asked the Commission to delay immediate action on the proposed revisions on the basis that there has been insufficient information communicated to licensees regarding the increase in hours. The changes will result in a diminished curriculum and increased cost. Given the current market, the changes will put a burden on licensees. Mr. Lower suggested that the Commission postpone its decision until there is a greater consensus.

Danielle Benson addressed the Commission. She is a broker and has been licensed for 17 years. She serves on the Education Committee and commented that the discussion regarding the modules involved a great deal of time, effort and differing opinions. The modules present a great format to start with. Working in management, she has been surprised by the actions of certain licensees. The public would be reluctant to work with these people. The revised education standards will increase professionalism with the result that the entire profession will be improved.

Rob Burton next addressed the Commission. He offered that there are two problems with the proposed revisions. Currently, there is no requirement at the end of a course that the course participant demonstrate knowledge. The courses "stink" and present information in a way that is not grasped by many people. Increasing the continuing education hours will be like throwing money at the problem with no understanding of what the problem is. Mr. Burton testified that the problem is that brokers are not doing their jobs. Brokers need to provide oversight, guidance and instruction. Requiring more continuing education classes, without requiring attendees to demonstrate their knowledge, is wrong. Attendees should be required to pass a test at the end of the course to show if they are being taught. Brokers vary in terms of how they educate their agents. In terms of requiring extra hours, Mr. Burton stated that in his view 15 hours are sufficient, if licensees are required to show their knowledge at the end of a course. Without this requirement, a licensee can just sit through a course and do nothing, and the certificate means nothing.

The next individual to address the Commission was Joe Hill, a Rehoboth Beach broker who has been licensed for 42 years. Mr. Hill offered his view that the problem with continuing education lies with instructors who are not doing their jobs. The Commission should overhaul the process and require that instructors be qualified first and then increase the hours. Mr. Hill pointed out that, in real estate schools, teachers must be certified.

Joe Wells addressed the Commission. Mr. Wells, a realtor and appraiser, testified that the focus should be on improving the quality of continuing education. An added burden for him is the fact that he needs 28 hours of continuing education to maintain his appraiser's license. Mr. Wells testified that that the real estate and appraisal professions are inter-related and the Commission should be more liberal in the approval of appraisal courses for elective credits. As a person who is dual licensed, under the proposed continuing education requirements, he would need to obtain almost 50 hours of continuing education, which would create a burden for him.

Tom Burns next addressed the Commission. He testified that with changes in the real estate industry, there were concerns regarding the quality of continuing education offerings and a perceived need to improve teaching methods. The proposed modules are imperfect, but will expose the licensee to all aspects of real estate. The modules provide maximum flexibility and will ensure that courses are not redundant. The Education Committee also recommended revisions to the course evaluation forms, which will lead to higher quality instructors. Currently, the broker course is the same course every two years. With the proposed revisions, this will change. The modules will lead to quality instruction and exposure to current issues in the profession. Mr. Burns concluded that he strongly supported the recommended revisions to the Rules. Shirley Kalvinsky again addressed the Commission by testifying that she wanted to clarify an issue presented in earlier public comment. The modules will include a test feature at the end of each course. She also spoke in favor of the required courses for new licensees.

Kathy Sperl-Bell addressed the Commission. She testified that currently there is a national debate about changes in the real estate industry. There is a need to improve professionalism in the real estate business. She noted that currently, in pre-licensing courses, there is a focus on teaching to the test, which involves materials unrelated to become a broker. Ms. Sperl-Bell commented that certain brokers are not ensuring that their agents are up to par.

Findings of Fact and Conclusions

The Commission considered the written and verbal comments provided at the public hearing.

The Commission deliberated on the public comment for and against the amendments to the Rules and Regulations. In particular, the Commission considered the public comment that the increase in continuing education hours was not warranted, would pose a hardship to licensees, and result in financial benefit to instructors. The majority of the Commissioners, with two members dissenting, voted to approve the proposed changes. The Commission found that the purpose of the licensing law is to improve licensee competence, enhance standards, and thus safeguard the interests of the public. The real estate business is changing rapidly. Licensees should be highly knowledgeable about their profession, and the new continuing education modules will address important current issues in the profession, including risk management. Continuing education is essential to ensure ongoing competence of licensees, and the increased hours will enhance licensees' skills and professionalism.

The Commission delegated to the Education Committee the task of developing improved continuing education standards. The process involved in developing the new standards was lengthy and thorough. Discussions were held in public meetings and input was sought from all parties. As evidenced by the written comment and testimony presented at the hearing, the proposed revisions had extensive support, including support from Delaware professional associations.

The Commission finds that the proposed amendments to the Rules and Regulations pertaining to continuing education requirements will serve to enhance the skills and competence of licensees and in this way protect the interests of the public, consistent with the mandate of 24 **Del.C.** §2900.

The Law

The Commission's rulemaking authority is provided by 24 **Del.C.** §2906(a)(1).

Decision and Effective Date

The Commission hereby adopts the proposed amendments to the Rules and Regulations as effective 10 days following publication of this Order in the *Delaware Register of Regulations.*

Text and Citation

The text of the revised Rules and Regulations remains as published in the *Delaware Register of Regulations,* Volume 15, Issue 10 on April 1, 2012, without modification.

SO ORDERED this 14th day of June 2012.

DELAWARE REAL ESTATE COMMISSION

Andrew Staton, Professional Member, Chairperson

Michael Harrington, Sr., Professional Member, Secretary

Christopher J. Whitfield, Professional Member, Vice-Chairperson (Dissenting)

Joseph McCann

Ricky H. Allamong, Professional Member

Patricia O'Brien, Public Member

James C. Brannon, Jr., Public Member

Vincent M. White, Professional Member

Gilbert Emory, Public Member (Dissenting)

2900 Real Estate Commission

1.0 Introduction

1.1 Authority [24 **Del.C.** §2906(a)(1)]

1.1.1 Pursuant to 24 **Del.C.** §2906(a)(1), the Delaware Real Estate Commission is authorized and empowered and hereby adopts these Rules and Regulations.

1.1.2 Pursuant to the Administrative Procedure Act, 29 **Del.C.** Ch. 101, the Commission reserves the right to make any amendments, modifications or additions to the Rules and Regulations that, in its discretion, are necessary or desirable.

1.1.3 The Commission reserves the right to grant exceptions to the requirements of the Rules and Regulations upon a showing of good cause by the party requesting such exception, provided such exception is not inconsistent with the requirements of 24 **Del.C.** Ch. 29.

1.1.4 The Commission's Rules and Regulations are available on the Division of Professional Regulation's website, www.dpr.delaware.gov.

1.2 Applicability

1.2.1 The Commission's Rules and Regulations are applicable to all current Licensees and to all applicants for licensure.

1.3 Broker's Responsibilities [24 **Del.C.** §§2902(a)(2), 2902(a)(11), 2919(d)]

1.3.1 It is the responsibility of the employing Broker to insure that his or her Licensees comply with the Commission's Rules and Regulations. Every Broker is responsible for making certain that all of his or her Salespersons and Associate Brokers are currently licensed, make timely application for license renewal, and meet the Commission's continuing education requirements. The Broker shall maintain copies of continuing education certificates for his or her Salespersons and Associate Brokers for at least three years after the conclusion of each renewal period. A Broker's failure to meet these responsibilities may result in a civil fine against the Broker of up to $1,000.00 per violation.

1.3.2 Each office location shall be under the direction of a Broker, who shall provide complete and adequate supervision of that office. A Broker shall apply for and obtain a license in his or her name for each office and for each branch office. An application for an additional license shall state the location of the branch office and the name of the Designated On-Site Supervisor, who shall be a Delaware Licensee and who shall be in charge of managing the branch office on a full time basis. For new office applications submitted after February 3, 2012, pursuant to 29 **Del.C.** §2919(d), the Designated On-Site Supervisor shall be a Licensee with a minimum of five (5) years of continuous Real Estate Services experience, which shall be documented on the office application.

1.3.3 Where an unforeseen event, such as a resignation or termination from employment, death, emergency, illness, call to military service or training, or a sanction imposed by the Commission, causes or necessitates the removal of the sole licensed Broker in an office, a written request shall be submitted to the Division of Professional Regulation for substitution of another Broker for said office on a temporary basis.

1.3.4 The employment of a Designated On-Site Supervisor, sales manager, administrative manager, trainer, or other similar administrator shall not relieve the Broker of the responsibilities contained and defined in these Rules and Regulations.

1.3.5 The failure of any Licensee to comply with the provisions of 24 **Del.C.** Ch. 29 and the Commission's Rules and Regulations may also result in disciplinary action against his or her Broker's license.

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

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

The Commission shall consider any Salesperson applicant who meets the requirements of 24 **Del.C.** §2907(b) and the requirements of this Rule:

2.1 Has successfully completed the accredited Salesperson pre-licensing course through an approved course provider, as set forth in the Commission's Real Estate Education Guidelines.

2.2 Has passed in no more than 3 attempts, both the general and State portions of the Salesperson real estate examination, through the approved professional testing service.

2.2.1 ~~The testing service will provide the applicant with an original licensure application for use in making application for licensure.~~ The applicant shall obtain an original licensure application from the Division of Professional Regulation's website, www.dpr.delaware.gov, for use in making application for licensure.

2.2.2 An applicant shall retake the Salesperson pre-licensing course if the applicant is unable to pass the applicable portion(s) of the examination in 3 or less attempts.

2.3 Has submitted the licensure application within 12 months of completing the Salesperson pre-licensing course. If the application is not submitted within 12 months of completing the Salesperson pre-licensing course, the applicant shall submit proof of completion of continuing education, pro-rated pursuant to the pro-ration requirements of Rule 13.2.2.

2.3.1 The licensure application shall be complete and notarized and include the following:

2.3.1.1 A copy of the original school certificate(s) provided at course completion by the approved course provider(s).

2.3.1.2 If the applicant is currently licensed in another jurisdiction, ~~a copy of that license and~~ or has ever been licensed in another jurisdiction, a licensure history provided by ~~the~~ each licensing jurisdiction dated within 30 days of the application.

2.3.1.3 Written acceptance by a sponsoring Broker.

2.4 Applicants should refer to the Commission website for information on approved pre-licensing courses, course providers, fees, the professional testing service and testing application instructions. http://dpr.delaware.gov/boards/realestate/index.shtml.

5 DE Reg. 1387 (1/01/02)

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

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

The Commission shall consider any Associate Broker applicant who meets the requirements of 24 **Del.C.** §2907(c) and the requirements of this Rule:

3.1 Has been actively licensed in Delaware or another jurisdiction for 5 continuous years immediately preceding application.

3.1.1 Licensure shall be considered continuous even where the license has been renewed late, as long as the late renewal occurs within 60 days of the expiration date.

3.2 Has successfully completed the accredited Broker pre-licensing course through an approved course provider as set forth in the Commission's Real Estate Education Guidelines.

3.2.1 If the applicant is actively licensed as a Broker in another jurisdiction, Broker pre-licensing course hours completed in that jurisdiction may be used towards the course hour requirement.

3.3 Has passed in no more than 3 attempts, both the general and State portions of the Broker real estate examination through the approved professional testing service.

3.3.1 ~~The testing service will provide the applicant with an original licensure application for use in making application for licensure.~~ The applicant shall obtain an original licensure application from the Division of Professional Regulation's website, www.dpr.delaware.gov, for use in making application for licensure.

3.3.2 An applicant shall retake the Broker pre-licensing course if the applicant is unable to pass the applicable portion(s) of the examination in 3 or less attempts.

3.4 Has submitted the application within 12 months of completing the Broker pre-licensing course. Pre-licensing courses included in Rule 3.2.1 are exempt from this 12 month requirement. If the application is not submitted within 12 months of completing the Broker pre-licensing course, the applicant shall submit proof of completion of continuing education, pro-rated pursuant to the pro-ration requirements of Rule 13.2.2.

3.4.1 The licensure application shall be complete and notarized and include the following:

3.4.1.1 A copy of the original school certificate(s) provided at course completion by the approved course provider(s).

3.4.1.2 If the applicant is currently licensed in another jurisdiction, ~~a copy of that license and a~~ or has ever been licensed in another jurisdiction, licensure history provided by ~~the~~ each licensing jurisdiction dated within 30 days of the application.

3.4.1.3 Written acceptance by a sponsoring Broker.

3.4.1.4 The Guaranty Fund fee shall not be required if the applicant has already paid the fee when obtaining their Salesperson license.

3.4.1.5 A list of at least thirty sale or lease transactions completed by the applicant in a licensed capacity within the 5 years immediately preceding application. Upon approval of the Commission, the thirty transactions may include real estate services performed for an employer, while licensed, during the 5 years immediately preceding application. If the applicant, as a designated agent or team leader, has directly supervised licensees who completed the transactions, then the transactions completed by those supervised licensees may be a part of this list. The list of transactions shall be signed by the Broker(s) who supervised the transactions.

3.4.1.5.1 The list shall contain the sale or lease completion date, property address, purchaser/lessee name, seller/lessor name, specify if completed by the applicant or designated agent subordinates and be signed by the applicant.

3.4.1.5.2 Time share and property management transactions are not considered as eligible sale or lease transactions.

3.5 Applications shall include the applicable fees as described in 24 **Del.C.** §2907(g) as a financial prerequisite for licensure.

3.6 Applicants should refer to the Commission website for information on approved pre-licensing courses, course providers, fees, the professional testing service and testing application instructions. http://dpr.delaware.gov/boards/realestate/index.shtml.

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

5 DE Reg. 1387 (1/01/02)

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

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

The Commission shall consider the application for a Broker license provided the applicant meets all of the requirements of 24 **Del.C.** §2907(d), Rule 3.0, and:

4.1 Submits evidence that the applicant has been actively engaged in the practice of Real Estate Services, either as a licensed Salesperson or licensed Associate Broker for 3 years immediately preceding application.

4.2 Submits a completed Application for a Real Estate Office Permit along with the fees as set forth in 24 **Del.C.** §2907(g).

4.3 An application shall include evidence to support that the Broker applicant has complied with, and will continue to comply with, the Escrow Account provisions set forth in 24 **Del.C.** §2923(a) and Rule 6.0.

4.4 The Broker shall attest that he or she is responsible for the day to day management and supervision of the office, as set forth in 24 **Del.C.** §2907(d).

4.5 If applying to be a replacement Broker for an established real estate office, the Broker shall submit with the application a letter signed by the current Broker naming the applicant as the replacement Broker. If the replacement Broker cannot supply a letter signed by the current Broker, the replacement Broker shall submit a letter of explanation.

5 DE Reg. 1387 (1/01/02)

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

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

5.1 Each applicant for a reciprocal license shall submit a complete and notarized application and the application fee.

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

5.2.1 The list shall contain the sale or lease completion date, property address, purchaser/lessee name, seller/lessor name, specify if completed by the applicant or designated agent subordinates and be signed by the applicant.

5.2.2 Time share and property management transactions are not considered as eligible sale or lease transactions.

5.3 In addition to meeting the requirements set forth in 29 **Del.C.** §2909(c), an Associate Broker applicant shall provide a list of at least thirty sale or lease transactions completed by the applicant in a licensed capacity within the 5 years immediately preceding application. Upon approval of the Commission, the thirty transactions may include real estate services performed for an employer, while licensed, during the 5 years immediately preceding application. If the applicant, as a designated agent or team leader, has directly supervised licensees who completed the transactions, then the transactions completed by those supervised licensees may be a part of this list. The list of transactions shall be signed by the Broker(s) who supervised the transactions.

5.3.1 The list shall contain the sale or lease completion date, property address, purchaser/lessee name, seller/lessor name, specify if completed by the applicant or a designated agent subordinate and be signed by the applicant.

5.3.2 Time share and property management transactions are not considered as eligible sale or lease transactions.

5.4 In addition to meeting the requirements set forth in 29 **Del.C.** §2909(d), a Broker applicant shall also meet the requirements of Rules 4.3 and 5.3.

5 DE Reg. 1070 (11/1/01)

4 DE Reg. 457 (9/1/00)

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

6.0 Escrow Accounts [24 Del.C. §2923]

6.1 When the real estate transaction is a non-recurring residential rental agreement of one hundred twenty (120) days or less, the Broker may, in accordance with written authorization from his or her principal, transfer from the escrow account a management fee and an amount specified up to a stated dollar amount for authorized repairs or cleaning expenses. Any amounts transferred in accordance with this shall be reconciled and reflected in a written full accounting.

6.2 Unless agreed to in writing by the parties, a Licensee shall not accept, as a good faith or earnest money deposit in connection with a real estate transaction, a photocopy, facsimile, or other copy of a personal check or draft, nor shall a Licensee accept as a good faith or earnest money deposit a check or draft that is postdated.

6.3 A Broker shall maintain in his or her office, or have available electronically in his or her office, a complete record of all moneys received or escrowed on real estate transactions, including the sources of the money, the date of receipt, depository, and date of deposit; and when a transaction has been completed, the final disposition of the moneys. The records shall clearly show the amount of the Broker's personal funds in escrow at all times. Such records shall be retained for at least 3 years.

6.4 An Escrow Account shall be opened and maintained by the Broker in a bank with an office located in Delaware in order to receive and maintain a valid license.

6.5 Interest accruing on money held in escrow belongs to the owner(s) of the funds unless otherwise stated in the agreement of sale or lease.

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

7.0 Transfer of Licensees

7.1 All Licensees who transfer to another office, or Brokers who open their own offices, but who were associated previously with another Broker, shall present a completed Change Form to the Commission signed by the individual Broker with whom they were formerly associated, before the license will be transferred.

7.2 The Commission reserves the right to waive the requirement of Rule 7.1 upon a determination of good cause.

7.3 All Brokers who move the physical location of their office shall notify the Commission in writing at least 30 days, or as soon as practical, prior to such move by filing a new office application.

5 DE Reg. 1387 (1/01/02)

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

8.0 Business Relationships and Practices [24 Del.C. Chapter 29, Subchapter II]

8.1 Written Listing Agreements [24 **Del.C.** §2930(a)]

8.1.1 Listing Agreements for the sale, lease or exchange of real property, whether exclusive or open, shall be in writing and shall be signed by the seller, owner, Broker or Broker's designee.

8.2 Buyer Agency Agreements [24 **Del.C.** §2930(a)]

8.2.1 Exclusive buyer agency agreements, or buyer agency agreements that obligate the buyer to pay the Broker, shall be in writing and signed by the buyer.

8.3 Copy of agreements

8.3.1 Every party to a listing agreement, agreement of sale, written buyer agency agreement or lease shall be furnished with an executed copy of such agreement or agreements. It shall be the responsibility of the Licensee to deliver an executed copy of the agreements to the principals within a reasonable length of time after execution.

8.4 Advertising [24 **Del.C.** §§2906(a)(1), 2912(a)]

8.4.1 The purpose of the advertising rules is to protect the general public and to prohibit misrepresentation and false, misleading, untrue or deceptive advertising practices by Licensees.

8.4.2 "Advertise" or "advertising" shall mean a Licensee's use of Internet electronic communication, print, or other media, business cards, signs and billboards to publish information to promote a Real Estate Services provider or the sale or lease of real estate. Internet electronic communication shall include, but is not limited to, websites, social networks, e-mail, e-mail discussion groups and bulletin boards.

8.4.3 A Licensee who violates the advertising rules may be in violation of one or more of the provisions set forth in 24 **Del.C.** §2912(a) and subject to the disciplinary sanctions set forth in 24 **Del.C.** §2914.

8.4.4 A Licensee shall not knowingly use, publish or disseminate misrepresentations or any false, misleading, untrue or deceptive advertising in any manner.

8.4.5 Disclosure

8.4.5.1 Any Licensee who advertises real property personally owned or real property in which the Licensee has any ownership interest shall include in the advertisement that he or she is the owner of said property, and that he or she is a real estate licensee. This Rule does not apply to signs.

8.4.5.2 Any Licensee who advertises an offer to purchase real property shall include in the advertisement that he or she is a real estate Licensee.

8.4.5.3 Any Licensee who advertises any real property for sale, lease, exchange, or transfer that is listed with a Broker shall include in legible print in the advertisement the complete Brokerage Organization name that has been registered with the Commission, and Brokerage Organization phone number registered by the Broker with the Commission for that office location. Nothing contained herein shall preclude the listing of additional licensee names and/or team names or phone numbers. All such advertising shall also contain language or abbreviations that clearly identify each phone number listed; examples include, but are not limited to: "Office"; "Home"; "Res."; and "Cell".

8.4.5.4 All advertisements for personal promotion of Licensees shall include the complete Brokerage Organization name that has been registered with the Commission, and office phone number registered by the Broker with the Commission for that office location.

8.4.5.5 In the case of Internet electronic communication, the disclosures required in Rule 8.4.5.3 shall be included in every viewable page or message and may be made by link to a full disclosure. In addition, the disclosures shall include the city and state in which the Broker's main office is located and the Broker's jurisdiction of licensure.

8.4.6 The publisher of advertising provided by a Licensee pursuant to agreement between the publisher and the licensee is not subject to discipline under these Rules.

8.5 Office Permits [24 **Del.C.** §2919]

8.5.1 For each office location, the Broker shall submit an application and applicable fee. The application shall include a telephone number, and, as applicable, a fax number, e-mail address and web address.

8.5.2 At each office location, the Broker shall place, in a conspicuous location, a permanent sign indicating the name under which the office is registered with the Commission.

8.5.3 Prior to commencing business, an office located in a private home shall be approved by the Commission and have a separate entrance.

8.5.4 Licensees may interact by electronic means with other licensees or members of the public from places other than an approved office location.

8.5.5 Brokerage Organizations may share facilities approved by the Commission with other businesses, such as insurance, banking, or others that the Commission shall deem compatible.

8.6 Compensation and Inducements [24 **Del.C.** §2930]

8.6.1 Licensees cannot use commissions or income received from commissions as rebates or compensation paid to or given to non-licensed persons, partnerships or corporations as inducements to do or secure business, or as a finder's fee.

8.6.2 This Rule does not prohibit a Licensee from giving a rebate or discount or any other thing of value directly to the purchaser or seller of real estate.

8.6.3 A Licensee has an affirmative obligation to make timely disclosure, in writing, to his or her principal of any rebate or discount that may be made to the other party.

8.6.4 Licensees shall not accept compensation from more than one party to a transaction, even if permitted by law, without timely disclosure to all parties to the transaction.

8.6.5 When acting as agent, a Licensee shall not accept any commission, rebate, or profit on expenditures made for his or her principal without the principal's knowledge and informed consent.

8.6.6 A Licensee may pay a referral fee to a person licensed as a real estate broker in another jurisdiction.

8.6.7 A licensed salesperson or broker from another jurisdiction may represent a client in a transaction involving a Delaware property if the licensee affiliates with a Delaware Licensee, provided that one of the following requirements is met:

8.6.7.1 For 1-4 family residential property, all of the showings and negotiations are performed by the Delaware Licensee, with the licensee from another jurisdiction participating in discussions with the client as the client requests, in writing, with terms of compensation, if any, in writing; or

8.6.7.2 For property that is not predominantly 1-4 family residential, the licensee from another jurisdiction affiliates with a Delaware Licensee and agrees, in writing, as to the responsibilities of each broker and agrees, in writing, as to the terms of compensation, if any.

5 DE Reg. 1387 (1/01/02)

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

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

9.0 Disclosure

9.1 A Licensee who is the owner, the prospective purchaser, lessor or lessee or who has any personal interest in a transaction, shall disclose his or her status as a Licensee to all persons with whom he or she is transacting such business, prior to the execution of any agreements and shall include on the agreement such status.

9.2 Any Licensee advertising real estate for sale stating in such advertisement, "If we cannot sell your home, we will buy your home", or words to that effect, shall disclose in the original listing agreement at the time he or she obtains the signature on the listing agreement, the price he will pay for the property if no sales agreement is executed during the term of the listing. Said Licensee shall have no more than sixty (60) days to purchase and settle for the subject property upon expiration of the original listing or any extension thereof.

9.3 A written confirmation of the agency relationship shall be included in the agreement for the real estate transaction regardless of whether the relationship is a statutory agency relationship or a common law agency relationship.

9.4 Consumer Information Statement ("CIS") [24 **Del.C.** §2938(b)]

9.4.1 The Commission shall approve a CIS which will be available on its website for use by Licensees. The Commission may also approved alternative CIS's, which also will be posted on its website. Any changes to a CIS shall be approved by a quorum of the Commission.

9.5 Common Law Agency Relationships [24 **Del.C.** §2932]

9.5.2 When acting as a common law agent, the disclosure as to whom the Licensee represents shall be made at the first substantive contact to each party to the negotiation or transaction. In all cases such disclosure shall be made prior to the presentation of an offer to purchase.

9.5.3 A written confirmation of disclosure in the agreement shall be worded as follows:

9.5.3.1 With respect to agent for seller: "This Broker, any cooperating Broker, and any Associate Broker or Salesperson working with either, are representing the seller's interest and have fiduciary responsibilities to the seller, but are obligated to treat all parties with honesty. The Broker, any cooperating Broker, and any Associate Broker or Salesperson working with either, without breaching the fiduciary responsibilities to the seller, may, among other services, provide a potential purchaser with information about the attributes of properties and available financing, show properties, and assist in preparing an offer to purchase. The Broker, any cooperating Broker, and any Associate Broker or Salesperson working with either, also have the duty to respond accurately and honestly to a potential purchaser's questions and disclose material facts about properties, submit promptly all offers to purchase and offer properties without unlawful discrimination."

9.5.3.2 With respect to agent for buyer: "This Broker, and any Associate Broker or Salesperson working for this Broker, is representing the buyer's interests and has fiduciary responsibilities to the buyer, but is obligated to treat all parties with honesty. The Broker, and any Associate Broker or Salesperson working for the Broker, without breaching the fiduciary responsibilities to the buyer, may, among other services, provide a seller with information about the transaction. The Broker, and any Associate Broker or Salesperson working for the Broker, also has the duty to respond accurately and honestly to a seller's questions and disclose material facts about the transaction, submit promptly all offers to purchase through proper procedures, and serve without unlawful discrimination."

9.5.3.3 In the case of a transaction involving a lease in excess of 120 days, substitute the term "lessor" for the term "seller", substitute the term "lessee" for the terms "buyer" and "purchaser", and substitute the term "lease" for "purchase" as they appear above.

9.6 If a property is the subject of an agreement of sale or lease but being left on the market for backup offers, or is the subject of an agreement of sale or lease which contains a right of first refusal clause, the existence of such agreement shall be disclosed by the listing Broker to any individual who makes an appointment to see such property at the time such appointment is made.

9.7 Seller's Disclosure of Real Property Condition Report ("Condition Report") [6 **Del.C.** Ch. 25]

9.7.1 Licensees shall obtain a Condition Report from the seller of residential property prior to accepting a written listing agreement and shall make the Condition Report available to any buyer. The Condition Report shall be completed by the seller on the form approved by the Commission. Licensees shall provide the seller's most recent Condition Report to a buyer before the buyer enters into an agreement of sale and make the Condition Report a part of any agreement of sale.

9.7.1.1 For any residential property that is being offered for sale and which has not yet been issued a certificate of occupancy, the Condition Report approved by the Commission for New Construction shall be used in place of the standard Condition Report. If a certificate of occupancy is received by a seller prior to entering into an agreement of sale, then the Licensee shall obtain the standard Condition Report from the seller and make it available to any prospective buyer.

9.7.1.2 Exempt Property Certification. A Condition Report shall not be required from a seller of residential property if the seller meets one of the exemptions contained in the Seller's Disclosure of Real Property Condition Report and Radon Disclosure Exempt Property Certification. Licensees shall obtain a certification in lieu of the Condition Report and Radon Disclosure prior to accepting a written listing agreement and shall make the certification readily available to any prospective buyer. Licensees shall provide the certification to a buyer before the buyer enters into an agreement of sale and make the certification a part of any agreement of sale.

9.8 Radon Disclosure [6 **Del.C.** §2572A]

9.8.1 Licensees shall obtain a Radon Disclosure from the seller of residential property prior to accepting a written listing agreement, unless the property qualifies for exemption as outlined in 9.7.1.2, and shall make the Radon Disclosure readily available to any prospective buyer. Licensees shall provide the seller's most recent Radon Disclosure along with a copy of "Radon Rights, Risks and Remedy for the Home Buyer" to a buyer before the buyer enters into an agreement of sale and make the Radon Disclosure a part of any agreement of sale.

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

10.0 Open Houses [24 Del. C. §2901(a)]

10.1 For any property listed with a Broker for sale, lease or exchange, only a Licensee shall be permitted to host or staff an open house or otherwise show a listed property. That Licensee may be assisted by non-licensed persons provided a Licensee is on site. This Rule shall not prohibit a seller from showing their own house.

10.2 For new construction, subdivision, or development listed with a Broker for sale, lease or exchange, a Licensee shall always be on site when the site is open to the general public, except where a builder and/or developer has hired a non-licensed person who is under the direct supervision of said builder and/or developer for the purpose of staffing said project.

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

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

11.0 Renewal of Licenses [24 Del.C. §2910]

11.1 All licenses shall be renewed biennially. Licenses shall expire on April 30 of each even numbered year. A Licensee who fails to renew a license before the expiration date may renew on a late basis for a period not to exceed sixty days with submission of a late fee. The failure of the Commission to give, or the failure of the Licensee to receive, notice of the expiration date of a license shall not prevent the license from becoming invalid after its expiration date.

11.2 As a condition of renewal, all Licensees shall be required to satisfy the continuing education requirements set forth in Rule ~~14.0~~ 13.0 and pay the renewal fee.

11.3 A Licensee shall not practice Real Estate Services after a license has expired.

11.4 License renewal shall be completed online at www.dpr.delaware.gov.

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

12.0 Reinstatement of Licenses [24 Del.C. §2910]

12.1 A license expired for more than sixty days shall be reinstated only after the Licensee pays the necessary fees and passes any examinations required by the Commission and provides proof of completion of the required continuing education. If the Licensee fails to apply for renewal within 6 months of the expiration date, the Licensee shall be required to take the state portion of the examination. If the Licensee fails to apply for renewal before the next renewal period commences (two years), the Licensee shall be required to pass both the state and the general portions of the examination.

12.2 No person whose license has been revoked will be considered for the issuance of a new license for a period of at least two (2) years from the date of the revocation of the license. Such person shall then fulfill the following requirements: he or she shall attend and pass the applicable real estate course for Salespersons or Brokers; take and pass the Commission's applicable examination for Salespersons or Brokers; and any other criteria established by the Commission. Nothing above shall be construed to allow anyone to take the course for the purpose of licensing until after the waiting period of two (2) years. Nothing contained herein shall require the Commission to issue a new license upon completion of the above mentioned requirements, as the Commission retains the right to deny any such application. Where a person's license has been permanently revoked by the Commission, the person is not eligible for issuance of a new license at any time.

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

13.0 Continuing Education [24 Del.C. §§2909(a)(7), 2910(d)]

13.1 Effective until the license renewal period ~~ending April 30, 2012,~~ beginning May 1, 2012, Licensees shall meet the following CE requirements:

~~13.1.1 Each Salesperson licensee shall complete three (3) hours in the salesperson's core course, three hours in legislative update relating to Delaware and Federal law, and nine (9) hours in elective credits.~~

~~13.1.2 Each Broker and Associate Broker licensee shall complete six (6) hours in the broker's core course and nine (9) hours in elective credits.~~

13.1.1 During each licensure renewal period, Licensees shall complete the following twenty-one (21) hours of CE:

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

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

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

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

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

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

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

13.1.2 New licensees, other than new Licensees previously licensed in another state, shall complete the following twelve (12) hours of CE during the first twelve months of licensure. These twelve (12) hours of CE will be applied to the total amount of required CE hours pursuant to the pro-ration schedule in Rule 13.2:

13.1.2.1 Three (3) hours in professional standards.

13.1.2.2 Three (3) hours in agreement of sale and buyer representation.

13.1.2.3 Three (3) hours in real estate documents and seller representation.

13.1.2.4 Three (3) hours in real estate professionalism.

13.2 CE hours shall be prorated in accordance with the following schedule:

13.2.1 For new Licensees:

13.2.1.1 No continuing education is required for fewer than six months of licensure.

13.2.1.2 Six (6) hours of continuing education are required after at least six months but less than twelve months of licensure.

~~13.2.1.3 Fifteen (15) hours of continuing education are required after twelve months of licensure, in compliance with the requirements of Rule 13.1.~~

13.2.1.3 The twelve (12) hours of continuing education set forth in Rule 13.1.2 are required after at least twelve months but less than twenty-four months of licensure.

13.2.1.4 Twenty-one (21) hours of continuing education are required after twenty-four months of licensure, consisting of: the twelve (12) hours of CE set forth in Rule 13.1.2, three (3) hours in agency and fair housing (Module 1), three (3) hours in legislative issues (Module 5) and three (3) hours in practices of real estate (Module 6).

13.2.2 For persons who have successfully completed the pre-licensing course but who have not yet made application:

13.2.2.1 ~~Six (6)~~ Twelve (12) hours of continuing education are required more than twelve months but less than eighteen months after course completion.

13.2.2.2 ~~Fifteen (15)~~ Twenty-one (21) hours of continuing education are required more than eighteen months after course completion, in compliance with the requirements of Rule 13.1.1.

13.2.2.3 For more than eighteen months after course completion, ~~fifteen~~ Twenty-one (21) hours of CE are required for each biennial renewal period, in compliance with the requirements of Rule 13.1.1.

13.3 At the time of renewal, the Licensee shall attest to completion of the required CE. Attestation shall be completed electronically.

13.3.1 The Licensee's attestation as to completion of CE does not relieve the Broker of his or her duty to ensure that the Licensee has completed the required CE during the licensure renewal period. Each Broker shall maintain copies of CE certificates for his or her Salespersons and Associate Brokers for at least three years after the conclusion of each renewal period.

13.3.2 Licensees selected for random audit are required to supplement the attestation with attendance verification as provided in Rule 13.3.6.

13.3.3 Random audits shall be performed by the Commission to ensure compliance with the CE requirements.

13.3.4 The Commission shall notify Licensees within sixty (60) days after June 30 of each biennial renewal period that they have been selected for audit.

13.3.5 Licensees selected for random audit shall be required to submit verification within twenty (20) business days of receipt of notification of selection for audit.

13.3.6 Verification shall include such information necessary for the Commission to assess whether the course meets the CE requirements in Rule 13.0. While course brochures may be used to verify CE hours, they are not considered to be acceptable proof for use of verification of course attendance. Verification shall include the official certificate of completion, as provided by the course provider.

13.3.7 The Commission shall review all documentation submitted by Licensees pursuant to the continuing education audit. If the Commission determines that the Licensee has met the continuing education requirements, his or her license shall remain in effect. If the Commission determines that the Licensee has not met the continuing education requirements, the Licensee shall be notified and a hearing may be held pursuant to the Administrative Procedure Act. The hearing will be conducted to determine if there are any extenuating circumstances justifying noncompliance with the continuing education requirements. Unjustified noncompliance with the continuing education requirements set forth in these Rules and Regulations shall constitute a violation of 24 **Del.C.** §2912(a)(9) and the Licensee may be subject to one or more of the disciplinary sanctions set forth in 24 **Del.C.** §2914.

13.3.8 Licensees who renew their licenses under the late renewal provision shall be audited for CE completion. These Licensees shall submit documents that evidence satisfactory completion of their CE requirements for the prior licensure period.

13.4 Definition of Acceptable Continuing Education Credits:

13.4.1 All CE activities shall be pre-approved by the Commission, pursuant to the Commission's Real Estate Education Guidelines.

13.4.2 Activities shall be a minimum of one (1) hour and delivered in one (1) hour increments.

13.5 The Commission may waive or postpone all or part of the continuing education requirements of these Rules and Regulations if a Licensee submits a written request for a waiver and provides evidence to the satisfaction of the Commission of an illness, injury, financial hardship, family hardship, or other similar extenuating circumstance which precluded the Licensee's completion of the requirements. Application for waiver or postponement shall be made in writing to the Commission and shall be received by the Commission no later than 60 days prior to the biennial license renewal date.

<u>13.6 The Commission may appoint a committee to assist in the Commission's educational objectives.</u>

<u>13.7 Members of the Real Estate Commission who attend at least eighty percent (80%) of Commission meetings during a biennial licensure period may receive one hour of CE for each Commission meeting attended and said hour may be applied to any CE required for licensure renewal.</u>

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

14.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

14.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

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

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

14.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

14.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in section 15.8.

14.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

14.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

14.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

14.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

14.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

14.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/ her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

14.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

14.6.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

14.6.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

14.6.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

14.6.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

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

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

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

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

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

15.1.1 Aggravated menacing. 11 **Del.C.** §602(b)

15.1.2 Reckless endangering in the first degree. 11 **Del.C.** §604

15.1.3 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605

15.1.4 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606

15.1.5 Assault in the second degree. 11 **Del.C.** §612

15.1.6 Assault in the first degree. 11 **Del.C.** §613.

15.1.7 Assault by abuse or neglect. 11 **Del.C.** §615

15.1.8 Gang participation. 11 **Del.C.** §616

15.1.9 Terroristic threatening; felony. 11 **Del.C.** §621(a) and (b)

15.1.10 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626
15.1.11 Murder by abuse or neglect in the second degree; class B felony. 11 **Del.C.** §633
15.1.12 Murder by abuse or neglect in the first degree; class A felony. 11 **Del.C.** §634
15.1.13 Murder in the second degree; class A felony. 11 **Del.C.** §635
15.1.14 Murder in the first degree; class A felony. 11 **Del.C.** §636
15.1.15 Unlawful sexual contact in the third degree; class A misdemeanor. 11 **Del.C.** §767
15.1.16 Unlawful sexual contact in the second degree; class G felony. 11 **Del.C.** §768
15.1.17 Unlawful sexual contact in the first degree; class F felony. 11 **Del.C.** §769
15.1.18 Rape in the fourth degree; class C felony. 11 **Del.C.** §770
15.1.19 Rape in the third degree; class B felony. 11 **Del.C.** §771
15.1.20 Rape in the second degree; class B felony. 11 **Del.C.** §772
15.1.21 Rape in the first degree; class A felony. 11 **Del.C.** §773
15.1.22 Sexual extortion. 11 **Del.C.** §776
15.1.23 Continuous sexual abuse of a child; class B felony. 11 **Del.C.** §778
15.1.24 Dangerous crime against a child; class B felony. 11 **Del.C.** §779
15.1. 25 Unlawful imprisonment in the first degree. 11 **Del.C.** §782
15.1.26 Kidnapping in the second degree; class C felony. 11 **Del.C.** §783
15.1.27 Kidnapping in the first degree; class B felony. 11 **Del.C.** §783A
15.1.28 Arson in the third degree; class G felony. 11 **Del.C.** §801
15.1.29 Arson in the second degree; class D felony. 11 **Del.C.** §802
15.1.30 Arson in the first degree; class C felony. 11 **Del.C.** §803
15.1.31 Criminal mischief. 11 **Del.C.** §811
15.1.32 Trespassing with intent to peep or peer. 11 **Del.C.** §820
15.1.33 Burglary in the third degree. 11 **Del.C.** §824
15.1.34 Burglary in the second degree; class D felony. 11 **Del.C.** §825
15.1.35 Burglary in the first degree; class C felony; class B felony. 11 **Del.C.** §826
15.1.36 Possession of burglar's tools or instruments facilitating theft. 11 **Del.C.** §828
15.1.37 Robbery in the second degree; class E felony. 11 **Del.C.** §831
15.1.38 Robbery in the first degree; class B. 11 **Del.C.** §832
15.1.39 Carjacking in the second degree. 11 **Del.C.** §835
15.1.40 Carjacking in the first degree; class C felony; class B felony. 11 **Del.C.** §836
15.1.41 Shoplifting; felony. 11 **Del.C.** §840
15.1.42 Theft. 11 **Del.C.** §841
15.1.43 Theft; lost or mislaid property; mistaken delivery. 11 **Del.C.** §842
15.1.44 Theft; false pretense. 11 **Del.C.** §843
15.1.45 Theft; false promise. 11 **Del.C.** §844
15.1.46 Theft of services. 11 **Del.C.** §845
15.1.47 Extortion; class E felony. 11 **Del.C.** §846
15.1.48 Misapplication of property; class G felony. 11 **Del.C.** §848
15.1.49 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices; felony. 11 **Del.C.** §850
15.1.50 Receiving stolen property. 11 **Del.C.** §851
15.1.51 Theft of rented property; class G felony. 11 **Del.C.** §849
15.1.52 Identity theft; class E felony; class D felony. 11 **Del.C.** §854
15.1.53 Forgery; class F felony; class G felony. 11 **Del.C.** §861
15.1.54 Possession of forgery devices; class G felony. 11 **Del.C.** §862
15.1.55 Falsifying business records. 11 **Del.C.** §871
15.1.56 Tampering with public records in the first degree; class E felony. 11 **Del.C.** §876
15.1.57 Offering a false instrument for filing. 11 **Del.C.** §877
15.1.58 Issuing a false certificate; class G felony. 11 **Del.C.** §878
15.1.59 Defrauding secured creditors. 11 **Del.C.** §891

15.1.60 Fraud in insolvency. 11 **Del.C.** §892
15.1.61 Interference with levied-upon property. 11 **Del.C.** §893
15.1.62 Issuing a bad check; felony. 11 **Del.C.** §900
15.1.63 Unlawful use of credit card; felony. 11 **Del.C.** §903
15.1.64 Reencoder and scanning devices. 11 **Del.C.** §903A
15.1.65 Deceptive business practices. 11 **Del.C.** §906
15.1.66 Criminal impersonation. 11 **Del.C.** §907
15.1.67 Criminal impersonation, accident related. 11 **Del.C.** §907A
15.1.68 Criminal impersonation of a police officer. 11 **Del.C.** §907B
15.1.69 Unlawfully concealing a will. 11 **Del.C.** §908
15.1.70 Securing execution of documents by deception. 11 **Del.C.** §909
15.1.71 Debt adjusting. 11 **Del.C.** §910
15.1.72 Fraudulent conveyance of public lands; class G felony. 11 **Del.C.** §911
15.1.73 Fraudulent receipt of public lands; class G felony. 11 **Del.C.** §912
15.1.74 Insurance fraud; class G felony. 11 **Del.C.** §913
15.1.75 Health care fraud. 11 **Del.C.** §913A
15.1.76 Home improvement fraud; class G felony. 11 **Del.C.** §916
15.1.77 New home construction fraud; class C felony, class F felony, class G felony. 11 **Del.C.** §917
15.1.78 Unauthorized access. 11 **Del.C.** §932
15.1.79 Theft of computer services. 11 **Del.C.** §933
15.1.80 Interruption of computer services. 11 **Del.C.** §934
15.1.81 Misuse of computer system information. 11 **Del.C.** §935
15.1.82 Destruction of computer equipment. 11 **Del.C.** §936
15.1.83 Unrequested or unauthorized electronic mail or use of network or software to cause same. 11 **Del.C.** §937
15.1.84 Failure to promptly cease electronic communication upon request. 11 **Del.C.** §938
15.1.85 Dealing in children; class E felony. 11 **Del.C.** §1100
15.1.86 Endangering the welfare of a child; class E or G felony. 11 **Del.C.** §1100
15.1.87 Sexual exploitation of a child; class B felony. 11 **Del.C.** §1108.
15.1.88 Unlawfully dealing in child pornography; class D felony. 11 **Del.C.** §1109
15.1.89 Possession of child pornography; class F felony. 11 **Del.C.** §1111
15.1.90 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112
15.1.91 Sexual solicitation of a child; class C felony. 11 **Del.C.** §1112A
15.1.92 Bribery; class E felony. 11 **Del.C.** §1201
15.1.93 Receiving a bribe; class E felony. 11 **Del.C.** §1203
15.1.94 Giving unlawful gratuities. 11 **Del.C.** §1205
15.1.95 Receiving unlawful gratuities. 11 **Del.C.** §1206
15.1.96 Improper influence. 11 **Del.C.** §1207
15.1.97 Official misconduct. 11 **Del.C.** §1211
15.1.98 Profiteering. 11 **Del.C.** §1212
15.1.99 Perjury in the second degree; class F felony. 11 **Del.C.** § 1222
15.1.100 Perjury in the first degree; class D felony. 11 **Del.C.** §1223
15.1.101 Making a false written statement. 11 **Del.C.** §1233
15.1.102 Terroristic threatening of public officials or public servants; felony. 11 **Del.C.** §1240
15.1.103 Hindering prosecution; felony. 11 **Del.C.** §1244
15.1.104 Falsely reporting an incident; felony. 11 **Del.C.** §1245
15.1.105 Escape in the second degree. 11 **Del.C.** §1252
15.1.106 Escape after conviction. 11 **Del.C.** §1253
15.1.107 Promoting prison contraband; felony. 11 **Del.C.** §1256
15.1.108 Bribing a witness. 11 **Del.C.** §1261
15.1.109 Bribe receiving by a witness. 11 **Del.C.** §1262

15.1.110 Tampering with a witness. 11 **Del.C.** §1263
15.1.111 Interfering with child witness. 11 **Del.C.** §1263A
15.1.112 Bribing a juror. 11 **Del.C.** §1264
15.1.113 Bribe receiving by a juror. 11 **Del.C.** §1265
15.1.114 Tampering with a juror. 11 **Del.C.** §1266
15.1.115 Misconduct by a juror. 11 **Del.C.** §1267
15.1.116 Tampering with physical evidence; class G felony. 11 **Del.C.** §1269
15.1.117 Unlawful grand jury disclosure. 11 **Del.C.** §1273
15.1.118 Hate crimes; class G felony, class F felony, class E felony, class D felony, class C felony, class B felony, class A felony. 11 **Del.C.** §1304
15.1.119 Stalking; felony. 11 **Del.C.** §1312A
15.1.120 Violation of privacy; felony. 11 **Del.C.** §1335
15.1.121 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338
15.1.122 Carrying a concealed deadly weapon. 11 **Del.C.** §1442
15.1.123 Possessing a destructive weapon. 11 **Del.C.** §1444
15.1.124 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445
15.1.125 Possession of a deadly weapon during commission of a felony; class B felony. 11 **Del.C.** §1447
15.1.126 Possession of a firearm during commission of a felony; class B felony. 11 **Del.C.** §1447A
15.1.127 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
15.1.128 Giving a firearm to person prohibited. 11 **Del.C.** §1454
15.1.129 Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455
15.1.130 Removing a firearm from the possession of a law enforcement officer; class C felony. 11 **Del.C.** §1458
15.1.131 Organized Crime and Racketeering, Class B Felony. 11 **Del.C.** §1504
15.1.132 Victim or Witness Intimidation 11 **Del.C.** §3532 and 3533
15.1.133 Abuse of patient or resident in nursing home; Class D felony; Class G felony; Class A felony. 16 **Del.C.** §1136(a)
15.1.134 Abuse of patient or resident in nursing home; Class D felony; Class G felony; Class A felony. 16 **Del.C.** §1136(a)
15.1.135 Financial exploitation of residents or patients; felony. 16 **Del.C.** §1136(b)
15.1.136 Drug dealing - aggravated possession; class B felony. 16 **Del.C.** §4752
15.1.137 Drug dealing - aggravated possession; class C felony. 16 **Del.C.** §4753
15.1.138 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A
15.1.139 Any offense under the Uniform Controlled Substances Act, Title 16 of the Delaware Code, in violation of the aggravating factors in 16 **Del.C.** §4751A
15.1.140 Drug paraphernalia; felony. 16 **Del.C.** §4771 (b) and (c) [manufacture and sale, delivery to a minor]
15.1.141 Third or more conviction for driving a vehicle while under the influence or with a prohibited alcohol or drug content; felony. 21 **Del.C.** §4177(a); 21 **Del.C.** §4177(d)(3)-(7)
15.1.142 Attempt to evade or defeat tax. 30 **Del.C.** §571
15.1.143 Failure to collect or pay over tax. 30 **Del.C.** §572
15.1.144 Failure to file return, supply information or pay tax. 30 **Del.C.** §573
15.1.145 Fraud and false statements. 30 **Del.C.** §574
15.1.146 Misdemeanors [tax related]. 30 **Del.C.** §576
15.1.147 Obtaining benefit under false representation; felony. 31 **Del.C.** §1003
15.1.148 Reports, statements and documents; felony. 31 **Del.C.** §1004
15.1.149 Kickback schemes and solicitations. 31 **Del.C.** §1005
15.1.150 Conversion of payment. 31 **Del.C.** §1006
15.1.151 Violations of the Securities Act. 6 **Del.C.** §7322
15.1.152 Attempt to Intimidate. 11 **Del.C.** §3534
15.1.153 Alteration, Theft or Destruction of Will. 12 **Del.C.** §210
15.1.154 Financial exploitation of infirm adult; felony. 31 **Del.C.** §3913
15.1.155 Prohibited trade practices against infirm or elderly. 6 **Del.C.** §2581

15.1.156 Prohibition of intimidation [under the Fair Housing Act]; felony. 6 **Del.C.** 9

15.1.157 Knowing or reckless abuse of an infirm adult; Class D felony; Class E felony; Class G felony; Class A felony. 31 **Del.C.** §3913

15.2 Crimes substantially related to the practice of Real Estate Services shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this Rule.

4 DE Reg. 457 (9/1/00)
4 DE Reg. 846 (11/01/00)
5 DE Reg. 1070 (11/1/01)
5 DE Reg. 1387 (1/01/02)
11 DE Reg. 87 (07/01/07)
15 DE Reg. 1185 (02/01/12)
16 DE Reg. 99 (07/01/12) (Final)