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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – REAL ESTATE BROKERS AND SALESPERSONS

Introduced By: Representatives Medina, Nunes, Johnston, Williams, and Tanzi

Date Introduced: March 03, 2011

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-20.5-2, 5-20.5-3, 5-20.5-4, 5-20.5-6, 5-20.5-7, 5-20.5-10, 5-
2 20.5-11, 5-20.5-12, 5-20.5-14, 5-20.5-15, 5-20.5-20, 5-20.5-26 and 5-20.5-27 of the General
3 Laws in Chapter 5-20.5 entitled "Real Estate Brokers and Salespersons" are hereby amended to
4 read as follows:

5 **5-20.5-2. Persons exempt.** -- (a) Neither the term "real estate broker" nor "real estate
6 salesperson" is held to include:

7 (1) Any person, partnership, association, or corporation, who, as a bona fide owner,
8 lessee, or lessor, performs any of the previously stated acts as to property owned, or leased by
9 them, or to their regular employees, where those acts are performed in the regular course of, or as
10 an incident to the management of the property and the investment in the property; or

11 (2) Any person, partnership, association, or corporation, or any of their employees, who
12 seeks to acquire, lease, rent, sell, or deal in real estate which has been or will be used or held for
13 investment by that person, partnership, association, or corporation.

14 (b) This chapter is also not to be construed to include:

15 (1) ~~Any~~ The acts of any attorney at law licensed by the supreme court of the state, nor
16 any person holding in good faith, an executed power of attorney from the owner, authorizing the
17 final consummation and execution for the sale, purchase, leasing, or exchange of real estate;

18 (2) The acts of any person while acting as a receiver, trustee, administrator, executor,

1 guardian, or under court order, or while acting under authority of a deed of trust or will;

2 (3) The acts of any person, partnership, association, or corporation who appraises real or
3 personal property for the purpose of conducting a mass appraisal, municipal revaluation for tax
4 purposes or other forms of ad valorem appraisal; or

5 (4) Public officers while performing their duties as public officers.

6 **5-20.5-3. Contents of application -- Application fee -- Recommendations required. --**

7 (a) Applicants applying for the first time for a license to act as a real estate broker or real estate
8 salesperson shall file with the director an application for the license upon a printed or electronic
9 form as determined ~~furnished~~ by the director which, together with any additional information that
10 the director requires, contains a statement under oath by the applicant giving his or her age,
11 residence, place of business, present occupation ~~and occupation for the past five (5) years~~ and
12 whether or not he or she has been refused a real estate broker's or salesperson's license in this or
13 in any other state or had any real estate license suspended or revoked.

14 (b) All applicants for a license to act as a real estate broker or real estate salesperson
15 shall accompany their applications with a fee of ten dollars (\$10.00) to cover costs of processing
16 those applications.

17 (c) The application for a broker's license shall be accompanied by the ~~recommendation~~
18 names of at least three (3) ~~citizens who are property owners for at least three (3) years; Rhode~~
19 Island residents who have known the applicant for three (3) years, and are not related to the
20 applicant, ~~certifying and will attest~~ that the applicant bears a good reputation for honesty and
21 trustworthiness, and who will recommend ~~recommending~~ that a license be granted to the
22 applicant, ~~and the~~ The applicant must be a citizen or legal resident of the United States and at
23 least legal age of majority, if applicant for broker license, or at least eighteen (18) years of age for
24 salesperson license. In the case of an applicant for a real estate salesperson's license, he or she
25 must also file a statement under oath from the broker in whose employ the applicant desires to
26 enter that in his or her opinion the applicant is competent and trustworthy and is recommended as
27 a suitable person to be granted a salesperson's license.

28 (d) The director is authorized and empowered to require an applicant to pay additional
29 fees at the time of application as required by and set forth in the rules and regulations
30 promulgated by the department.

31 **5-20.5-4. Examination of applicants -- Examination fee -- Licensing without**

32 **examination.** -- (a) The director shall require any applicant for a real estate broker's or
33 salesperson's license to submit to and pass a written examination to show the applicant's
34 knowledge of the state statutes and the rules and regulations relating to real property, deeds,

1 mortgages, leases, contracts, and agency. An applicant shall not be required to take the uniform
2 portion of the Rhode Island real estate licensing examination if the applicant provides sufficient
3 evidence that the applicant possesses an existing valid real estate license from a state that has
4 similar statutes or regulations in effect which provide for reciprocal waiver of the uniform portion
5 of the real estate licensing examination for persons holding an existing valid Rhode Island real
6 estate broker's or salesperson's license ~~and the applicant has been licensed for a period of not less~~
7 ~~than two (2) consecutive years immediately prior to the date of his or her application; and further~~
8 ~~provided, that the applicant must be tested for the remainder of the Rhode Island real estate~~
9 ~~licensing examination as administered by the department of business regulation.~~ An applicant for
10 a real estate broker's or salesperson's license, prior to the taking of the examination, must pay an
11 examination fee, the cost of which is limited to the charge as designated by the appropriate testing
12 service's contract with the department of business regulation.

13 (b) An applicant for a real estate salesperson's license must submit satisfactory evidence
14 of completion of a minimum of forty-five (45) classroom hours in a real estate course given by a
15 school as defined in section 5-20.5-19. The applicant for a broker's license must also submit
16 satisfactory proof that he or she has been engaged full time as a real estate salesperson for at least
17 ~~one year~~ two (2) years immediately prior to the date of application, except that the period is
18 waived if the applicant has received a baccalaureate degree with a major in real estate, from an
19 accredited college or university; or has successfully completed at least ninety (90) hours of
20 approved classroom study in a school as defined in section 5-20.5-19, or equivalent in a
21 correspondence course offered by an extension department of an accredited college or university.
22 The director, in his or her sole discretion, may require any additional evidence or proof, as to the
23 honesty, trustworthiness, integrity, good reputation, and competency of any applicant.

24 (c) ~~The director shall notify applicants of the result of the examination within thirty (30)~~
25 ~~days of the date of the examination.~~ Any successful applicant who fails to remit the original
26 license fee as provided in section 5-20.5-11 within one year of the date of that examination may
27 be required by the director to re-submit to and pass a written examination as provided in
28 subsection (a) of this section.

29 (d) When an attorney-at-law licensed by the supreme court of the state desires to have a
30 real estate broker's license or a real estate salesperson's license, the attorney, by application, and
31 upon payment of the applicable fee as provided in section 5-20.5-11, shall be granted a license
32 without examination.

33 (e) A certificate of licensure shall be issued by the real estate division of the department
34 of business regulation within thirty (30) days after it is requested at a cost of not more than

1 twenty-five dollars (\$25.00) for each certificate issued.

2 **5-20.5-6. Duration of licenses -- Rules and regulations -- Suspension or revocation of**
3 **licenses. --** (a) If the director is satisfied that the applicant is competent and trustworthy and is

4 reasonably familiar with the statutes and law relating to real estate, he or she shall issue to the
5 applicant a license to act as a real estate broker or a real estate salesperson. The director shall
6 promulgate rules and regulations mandating the term of license for each category of license
7 issued pursuant to this chapter. No license shall remain in force for a period in excess of three (3)
8 years. Any fee for the initial issuance of a license or for renewal of a license issued pursuant to
9 this chapter is determined by multiplying the current annual fee by the term of years of the license
10 or renewal. The fee for the total number of years of the initial license or of the renewal shall be
11 paid in full prior to the issuance of the respective license. The license shall be renewed upon
12 payment of the renewal fee, [and proof of completion of any continuing education requirements as](#)
13 [set forth in the rules and regulations issued by the department of business regulation.](#) Any license
14 issued or renewed may be suspended or revoked by the director, for cause, prior to the expiration
15 date. The director shall issue reasonable rules and regulations with the consent of the majority of
16 the Rhode Island real estate commission governing the conduct of licensed real estate brokers and
17 salespersons, these rules and regulations shall be designed to implement the laws and policies of
18 this state and to protect the interests of the public.

19 (b) Any rules or regulations promulgated with regard to the requirement of continuing
20 education for the renewal of any real estate broker's and/or salesperson's license whose
21 application for an initial broker's and/or salesperson's license is approved within one hundred
22 eighty (180) days of the expiration date of his or her initial license is not subject to the continuing
23 education requirement at the time of his or her first renewal. The director, after a due and proper
24 hearing, may suspend, revoke, or refuse to renew any license upon proof that it was obtained by
25 fraud or misrepresentation or that the holder of the license has been guilty of fraud or
26 misrepresentation or criminal acts in the performance of his or her functions, or upon proof that
27 the holder of the license has violated this statute or any rule or regulation issued pursuant to this
28 statute.

29 (c) The director shall, for licenses issued or renewed after July 1, 2004, require proof of,
30 reasonable familiarity with and knowledge of duties and responsibilities established by the Lead
31 Poisoning Prevention Act, chapter 24.6 of title 23 of the general laws, and the Lead Hazard
32 Mitigation Act, chapter 128.1 of title 42 of the general laws. Notwithstanding the provisions of
33 subsection (b) above, the requirements of this subsection shall apply to first renewals when
34 licenses were initially issued before July 1, 2004. This subsection shall be put into force and

1 effect by the director in the manner set forth in chapter 128.1 of title 42 and with the advice of the
2 Rhode Island Real Estate Commission.

3 **5-20.5-7. Fixed office required -- Display of license -- Notice of change of address**
4 **and employment.** -- Each resident licensed real estate broker must maintain a fixed office within
5 this state ~~which is located to conform to zoning laws.~~ All business records relating to real estate
6 transactions and to the management of that office must be kept on the premises of the fixed office
7 location. The original license as real estate broker and the original license of each real estate
8 salesperson in the employ of or under contract with that real estate broker shall be prominently
9 displayed in the office. ~~Any change of place of business of a real estate broker and any change of~~
10 ~~employment of any real estate salesperson shall be immediately communicated to the director.~~ A
11 real estate broker shall communicate any change of fixed office location to the director, and a real
12 estate salesperson shall communicate any change of employment or broker affiliation to the
13 director, immediately upon or prior to such change.

14 **5-20.5-10. Nonresident brokers -- Employment of unlicensed brokers restricted --**
15 **Nonresident salespersons -- Service of process.** -- (a) A nonresident of this state may become a
16 real estate broker by conforming to all the provisions of this chapter, except that a nonresident
17 real estate broker regularly engaged in the real estate business as a vocation, and who maintains a
18 definite place of business and is licensed in some other state, which offers the same privileges to
19 the licensed brokers of this state, is not required to maintain a place of business within this state.
20 The director shall recognize the license issued to a real estate broker by another state as
21 satisfactorily qualifying him or her for a license as a broker in this state provided that the other
22 state permits licenses to be issued to licensed brokers in this state; without examination and
23 provided that the licensing requirements set forth in section 5-20.5-4 have been met.

24 (b) It is unlawful for any licensed real estate broker to employ or compensate directly or
25 indirectly any person for performing any of the acts regulated by this chapter who is not a
26 licensed real estate broker or licensed real estate salesperson; provided, that a licensed real estate
27 broker may pay a commission to a licensed real estate broker of another state; provided, that the
28 nonresident real estate broker does not conduct in this state any of the negotiations for which a
29 fee, compensation, or commission is paid.

30 (c) (1) A nonresident of this state may become a real estate salesperson by conforming to
31 all the provisions of this chapter, including those set forth in section 5-20.5-4 provided that the
32 nonresident real estate salesperson is regularly employed by a real estate broker licensed to do
33 business within this state.

34 (2) The director shall recognize the license issued to a real estate salesperson by another

1 state as satisfactorily qualifying him or her for a license as a salesperson in this state and also that
2 the other state permits licenses to be issued to licensed salespersons in this state, without
3 examination.

4 (d) No license shall be issued to a nonresident until he or she has filed with the director a
5 power of attorney constituting and appointing the director and his or her successor his or her true
6 and lawful attorney, upon whom all lawful processes in any action or legal proceeding against
7 him or her may be served, and in the power of attorney agrees that any lawful process against him
8 or her which may be served upon his or her attorney is of the same force and validity as if served
9 on the nonresident, and that the authority continues irrevocably in force as long as any liability of
10 the nonresident remains outstanding in the state. Service of that process shall be made by leaving
11 duplicate copies of it in the hands or office of the director, and the director shall immediately send
12 one of those copies by mail, postage prepaid, addressed to the defendant at his or her last address
13 as appearing on the records of the commission. One of the duplicates of that process, certified by
14 the director as having been served upon him or her is deemed sufficient evidence of that service,
15 and service upon that attorney is deemed service upon the principal.

16 **5-20.5-11. Fees and license renewals.** -- (a) The following fees shall be charged by the
17 director:

18 (1) For each application, a fee of ten dollars (\$10.00);

19 (2) For each examination a fee, the cost of which is limited to the charge as designated
20 by the appropriate testing service's contract with the department of business regulation;

21 (3) For each original broker's license issued, a fee of eighty-five dollars (\$85.00) per
22 annum for the term of the license and for each annual renewal of the license, a fee of eighty-five
23 dollars (\$85.00) per annum for the term of renewal. The total fees for the term of initial licensure
24 and of renewal ~~are~~ must be paid at the time of application for the license;

25 (4) For each original salesperson's license issued, a fee of sixty-five dollars (\$65.00) per
26 annum for the term of the license and for each renewal of the license, a fee of sixty-five dollars
27 (\$65.00) per annum for the term of the license. The total fees for the term of initial licensure and
28 of renewal ~~are~~ must be paid at the time of application for the license.

29 (5) For each change from one broker to another broker by a salesperson, or a broker, a
30 fee of twenty-five dollars (\$25.00), to be paid by the salesperson or the broker;

31 (6) For each duplicate license, where a license is lost or destroyed and affidavit is made
32 of that fact, a fee of twenty-five dollars (\$25.00);

33 (7) For each duplicate pocket card, where the original pocket card is lost or destroyed
34 and affidavit is made of that fact, a fee of twenty-five dollars (\$25.00);

1 (8) For each broker's license reinstated after its expiration date, a late fee of one hundred
2 dollars (\$100), in addition to the required renewal fee;

3 (9) For each salesperson's license reinstated after its expiration date, a late fee of one
4 hundred dollars (\$100) in addition to the required renewal fee.

5 (10) The director is authorized and empowered to set additional fees relative to the
6 issuance or re-issuance of licenses under this chapter as required by and set forth in the rules and
7 regulations promulgated by the department.

8 (b) Every licensed real estate broker and salesperson who desires to renew a license for
9 the succeeding year term shall apply for the renewal of the license upon a form furnished by the
10 director and containing information that is required by the director. Any renewal of a license is
11 subject to the same provisions covering issuance, suspension, and revocation of any license
12 originally issued. At no time shall any license be renewed without examination if the license has
13 expired beyond a period of one year.

14 **5-20.5-12. Commission -- Creation -- Composition -- Appointment, terms, and**
15 **compensation of members -- Officers -- Deputy directors -- Seal.** -- (a) (1) Within the
16 department of business regulation there is created the Rhode Island real estate commission,
17 subsequently referred to as "commission", to consist of nine (9) persons at least one from each
18 county to be appointed by the governor, each of whom has been a citizen of this state for at least
19 ten (10) years prior to the date of appointment, three (3) of whom have been engaged as a
20 licensed broker in this state for at least ten (10) years prior to the date of appointment, four (4) of
21 whom are members of the general public, at least one of whom has substantial academic
22 experience in real estate and at least one who has been active in citizen groups concerned with
23 real estate practices and activities. Two (2) members appointed for one year; two (2) members
24 shall be appointed for two (2) years; one member for three (3) years; one member for four (4)
25 years; and one member for five (5) years; beginning on December 31, 1973. Successors of all
26 members shall be appointed by the governor for terms of five (5) years each and until their
27 successors are appointed and qualify by subscribing to the constitutional oath of office, which
28 shall be filed with the secretary of state. Members to fill vacancies shall be appointed for the
29 unexpired term. No member shall be appointed to succeed himself or herself for more than one
30 full term. There are two (2) ex-officio members of the commission and they are the attorney
31 general or his or her designee and the director of the department or his or her designee. All ex-
32 officio members have full voting powers and serve without compensation. Upon qualification of
33 the members appointed, the commission shall organize by selecting from its members a
34 chairperson.

1 (2) The commission shall adopt reasonable rules and regulations to carry out its
2 purposes. The ~~division of professional~~ department of business regulation with the assistance of
3 the commission shall ~~implement a recertification program on or before January 1, 1982, and~~
4 establish any reasonable rules and regulations that are appropriate for that program to insure that
5 education and practice requirements of license holders meet the public interest.

6 (b) The director shall employ a deputy director and any other employees that he or she
7 deems necessary and proper to discharge the duties imposed by this chapter, and shall determine
8 and prescribe their duties and fix their compensation, subject to the general laws of the state.

9 (c) No member of the commission shall receive compensation for his or her official
10 duties but shall be reimbursed for his or her actual and necessary expenses incurred in the
11 performance of his or her official duties.

12 (d) The commission shall adopt a seal of any design that it prescribes. Copies of all
13 records and papers in the office of the commission, duly certified and authenticated by its seal,
14 shall be received in evidence in all courts with like effect as the original. All records of the
15 commission are open to public inspection under any reasonable rules and regulations that it
16 prescribes.

17 (e) The commission shall have a policy-making role in the preparation and composition
18 of the examinations to be administered by the division of professional regulation. Subsequent to
19 the administration of the examination, the commission shall review the examinations to evaluate
20 their effectiveness. The commission shall supervise the operations of the division in an advisory
21 capacity in promulgating any policy that is necessary to improve the operations of the division in
22 their areas of expertise. The promulgation of that policy is subject to the approval of the director
23 of the department of business regulation.

24 **5-20.5-14. Revocation, suspension of license -- Probationary period -- Penalties.** -- (a)

25 The director may upon his or her own motion, and shall, upon the verified complaint, ~~in writing,~~
26 of any person initiating a cause under this section, ascertain the facts and, if warranted, hold a
27 hearing for the suspension or revocation of a license. The director has power to refuse a license
28 for cause or to suspend or revoke a license or place a licensee on probation for a period not to
29 exceed one year where it has been obtained by false representation, or by fraudulent act or
30 conduct, or where a licensee, in performing or attempting to perform any of the acts mentioned in
31 this chapter, is found ~~guilty of~~ to have committed any of the following acts or practices:

32 (1) Making any substantial misrepresentation;

33 (2) Making any false promise of a character likely to influence, persuade or induce any
34 person to enter into any contract or agreement when he or she could not or did not intend to keep

1 that promise;

2 (3) Pursuing a continued and flagrant course of misrepresentation or making of false
3 promises through salespersons, other persons, or any medium of advertising, or otherwise;

4 (4) Any misleading or untruthful advertising;

5 (5) Failing to deposit money or other customers' funds received by a broker or
6 salesperson into an escrow account maintained by the broker which complies with the
7 requirements set forth in section 5-20.5-6, upon execution of a purchase and sales agreement;

8 (6) Failing to preserve for three (3) years following its consummation records relating to
9 any real estate transaction as described in the regulations issued by the department;

10 (7) Acting for more than one party in a transaction without the knowledge and consent,
11 in writing, of all parties for whom he or she acts;

12 (8) Placing a "for sale" or "for rent" sign on any property without the written consent of
13 the owner, or his or her authorized agent;

14 (9) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real
15 estate transaction to all signatories of the contract at the time of execution;

16 (10) Failing to specify a definite termination date that is not subject to prior notice, in
17 any listing contract;

18 (11) Inducing any party to a contract, sale, or lease to break that contract for the purpose
19 of substitution in lieu of that contract a new contract, where that substitution is motivated by the
20 personal gain of the licensee;

21 (12) Accepting a commission or any valuable consideration by a salesperson for the
22 performance of any acts specified in this chapter, from any person, except the licensed real estate
23 broker with whom he or she is affiliated;

24 (13) Failing to disclose to an owner his or her intention or true position if he or she
25 directly or indirectly through a third party, purchases for him or herself or acquires or intends to
26 acquire any interest in or any option to purchase property which has been listed with his or her
27 office to sell or lease;

28 (14) Being convicted in a court of competent jurisdiction of this or any other state, or
29 federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny,
30 extortion, conspiracy to defraud, or any ~~similar offense or offenses, or~~ felony by pleading guilty
31 or nolo contendere to any such criminal offense or offenses;

32 (15) Violating any rule or regulation promulgated by ~~the commission or~~ the department
33 in the interest of the public and consistent with the provisions of this chapter;

34 (16) In the case of a broker licensee, failing to exercise adequate supervision over the

1 activities of his or her licensed salesperson within the scope of this chapter ~~if the broker has~~
2 ~~knowledge of any misdeeds of his or her sales staff;~~

3 (17) Failing or refusing, ~~within a reasonable time~~, to provide information requested by
4 the ~~commission or~~ director as the result of a formal or informal complaint to the ~~commission or~~
5 director which would indicate a violation of this chapter;

6 (18) Soliciting, selling, or offering for sale real property by offering free lots, or
7 conducting lotteries or contests or offering prizes for the purpose of influencing a purchaser or
8 prospective purchaser of real property;

9 (19) Paying or accepting, giving or charging any undisclosed commission, rebate,
10 compensation, or profit or expenditures for a principal, or in violation of this chapter;

11 (20) Any conduct in a real estate transaction, which demonstrates bad faith, dishonesty,
12 untrustworthiness, or ~~incompetency~~ incompetence;

13 (21) Failing to have all listing agreements in writing, properly identifying the property
14 and containing all of the terms and conditions of the sale, including the commission to be paid,
15 the signatures of all parties concerned, and a definite expiration date in that contract, which shall
16 not require an owner to notify a broker of his or her intention to terminate. An exclusive agency
17 listing or exclusive right to sell listing shall be clearly indicated in the listing agreement;

18 (22) Accepting a listing based on "net price". In cases where the owner wishes to list in
19 this manner, the agreed-upon commission is added and listings made in the usual manner;

20 (23) Negotiating or attempting to negotiate the sale, exchange, or lease of any real
21 property directly with an owner or lessor knowing that the owner or lessor has an outstanding
22 exclusive listing contract with another licensee covering the same property, except when the real
23 estate broker or salesperson is contacted by the client of another broker regarding a real estate
24 service, and the broker or salesperson has not directly or indirectly initiated those discussions,
25 they may discuss the terms which they might enter into future agency agreement or they may
26 enter into an agency agreement which becomes effective upon termination of any existing
27 exclusive agreement; or they may enter into an agreement for other real estate service not covered
28 by an existing agency relationship;

29 (24) Accepting an exclusive right to sell or lease or an exclusive agency and
30 subsequently failing to make a diligent effort to sell or lease the listed property;

31 (25) Advising against the use of the services of an attorney in any real estate transaction;

32 (26) Representing to any lender or any other party in interest, either verbally or through
33 the preparation of a false sales contract, an amount ~~in excess of~~ other than the true and actual
34 sales price;

1 (27) Submitting to an owner a written offer to purchase or lease unless that offer contains
2 the essential terms and conditions of the offer including the manner in which the purchase price is
3 to be paid, and if that offer is contingent upon certain conditions, those conditions shall be clearly
4 stated in the offer, or unless the offer is conditioned upon the later execution of a complete
5 agreement for sale;

6 (28) ~~Wrongfully failing to refund to the buyer any sums of money paid by the buyer and~~
7 ~~held by the broker when the seller wrongfully fails or is unable to consummate a transaction and~~
8 ~~the buyer is ready, willing, and able to do so;~~ Paying any sums of money being held in an escrow
9 account to any person, or converting such sums of money for his or her own use, in the event of a
10 failed real estate transaction, without having complied with the department's rules and regulations
11 relative to the transfer of disputed deposit funds to the office of the general treasurer;

12 (29) Advertising to sell, buy, exchange, rent, or lease the property of another in a manner
13 indicating that the offer to sell, buy, exchange, rent, or lease that property is being made by a
14 private party not engaged in the real estate business, nor insert advertisements in any publication
15 containing only a post office or other box number, telephone number, or street address. No
16 salesperson shall advertise the property of another under his or her own name;

17 (30) As a licensed salesperson, failing ~~Failing~~ upon termination of his or her
18 employment or affiliation with a real estate broker and upon demand by the broker to
19 immediately turn over to the broker any and all information, ~~and~~ records or other materials
20 obtained during his or her employment whether the information or records were originally given
21 to him or her by ~~his or her employer~~ the broker or ~~copies copied~~ from the records of that
22 ~~employing~~ broker or affiliation or acquired by the salesperson during his or her employment;

23 (31) Offering, promising, giving or paying directly or indirectly, any part or share of his
24 or her commission or compensation arising or accruing from any real estate transaction to any
25 person who is not licensed as a real estate broker, but who by law should be licensed, or who is
26 not a real estate salesperson employed by that licensee;

27 (32) Soliciting the sale, lease, or the listing for sale or lease, of residential property on
28 the ground of loss of value due to the present or prospective entry in the neighborhood of a person
29 or persons of another race, religion, or ethnic origin, nor shall he or she distribute or cause to be
30 distributed material or make statements designed to induce a residential property owner to sell or
31 lease his or her property due to ~~the change in neighborhood~~ such factors;

32 (33) Failure of the employing broker to notify the director, in writing, within ten (10)
33 days of the termination of a salesperson's employment of contractual relationship, or failure of a
34 salesperson to notify the director, in writing, within ten (10) days of any change in his/her broker

1 [affiliation, including a statement explaining the reason for such change;](#)

2 (34) Failure to report all written offers to the owner prior to the signing of a purchase and
3 sale agreement by the owner; or

4 (35) Failure of agents to provide buyers and sellers of real property with disclosure
5 regarding real estate agency relationships as specified in chapter 20.6 of this title; or

6 (36) Failure of an associate broker to inform the public of associate broker status by not
7 listing associate broker on business cards and correspondence or by informing the public that his
8 or her status in the real estate firm is that of broker.

9 (b) The director is authorized to levy an administrative penalty not exceeding one
10 thousand dollars (\$1,000) for any violation under this section or the rules and regulations of the
11 department of business regulation.

12 **5-20.5-15. Hearings before revocation or suspension of license.** -- (a) (1) Before
13 refusing to issue a license or suspending or revoking a license on its own motion, the division of
14 professional regulation shall notify the applicant or licensee of its intended action and the grounds
15 for the action. The applicant or licensee may, within twenty (20) days file with the division, in
16 triplicate, a request for a hearing stating his or her answer to the grounds specified in the
17 notification. The division shall consider the answer and set a date for a hearing, notifying the
18 applicant or licensee of the date at least twenty (20) days prior to the hearing date.

19 (2) Before refusing to issue a license or suspending or revoking an existing license upon
20 the verified written complaint of any person stating a cause of action under section 5-20.5-17, the
21 department of business regulation shall, in writing, notify the accused applicant or licensee of its
22 receipt of the complaint, enclosing a copy of the complaint. The accused applicant or licensee
23 shall within twenty (20) days, file with the department, in quadruplicate, his or her answer to the
24 complainant or complainants.

25 (3) The division shall transmit a copy of the answer to the complainant or complainants
26 and set a time and place for a hearing, which is at least twenty (20) days prior to the hearing date.

27 (4) All notices and answers required or authorized to be made or filed under this section
28 may be served or filed personally, or by certified mail to the last known business address of the
29 addressee. If served personally, the time runs from the date of service; if by registered mail, from
30 the postmarked date of the letter enclosing the document.

31 (5) ~~At the discretion of the division, hearings~~ [Hearings](#) are open to the public, ~~and are~~
32 [conducted in accordance with the provisions of title 42, chapter 35 relating to Administrative](#)
33 [Procedures, and the department's rules of procedure for administrative hearings](#), and the applicant
34 or licensee has an opportunity to be heard in person or by counsel. ~~The division~~ [A hearing officer](#)

1 [appointed by the director](#) shall render a decision on any application or complaint within sixty (60)
2 days after the final hearing in the matter and shall immediately notify the parties to the
3 proceedings, in writing, its ruling, order or decision. In the event the matter contained in the
4 complaint has been filed or made a part of a case pending in any court in this state, the division
5 may then withhold its decision until the court action has been concluded. Hearings shall be held
6 in accordance with rules promulgated by the division in conformity with law.

7 (b) Any unlawful act or violation of any of the provisions of this chapter by any
8 salesperson is not cause for the suspension or revocation of the license of the broker with whom
9 he or she is affiliated unless it appears to the satisfaction of the division of professional regulation
10 that the broker had knowledge of the unlawful act or violation.

11 (c) The division of professional regulation is authorized and empowered to issue
12 subpoenas for the attendance of witnesses and the production of records or documents. The
13 process issued by the division may extend to all parts of the state, and ~~the~~ process may be served
14 by any person designated by the division. The person serving that process shall receive any
15 compensation that is allowed by the division, not to exceed the fee prescribed by law for similar
16 services. All witnesses subpoenaed who appear in any proceedings before the division shall
17 receive the same fees and mileage allowances allowed by law, and all those fees and allowances
18 are taxed as part of the cost of the proceedings.

19 (d) Where, in any proceeding before the division of professional regulation, any witness
20 fails or refuses to attend upon subpoena issued by the division, or refuses to testify, or refuses to
21 produce any records or documents the production of which is called for by the subpoena, the
22 attendance of the witness and the giving of his or her testimony and the production of the
23 documents and records shall be enforced by any court of competent jurisdiction of this state in the
24 same manner as are enforced the attendance, testimony of witnesses, and production of records in
25 civil cases in the courts of this state.

26 **5-20.5-20. Real estate school permit -- Fees -- Penalty for operation without permit**
27 **prohibited.** -- (a) It is unlawful for any school to offer courses or to conduct classes of instruction
28 in real estate subjects without first procuring a permit; or having obtained a permit, to represent
29 that its students are assured of passing examinations given by the division of professional
30 regulation, or to represent that the issuance of a permit is a recommendation or endorsement of
31 the school to which it is issued, or of any course of instruction given by it. (b) The application of
32 each school shall be accompanied by a first year license fee of two hundred fifty dollars (\$250)
33 and a further fee of one hundred dollars (\$100) multiplied by the remaining term of licensure. If
34 issued, the license is renewable on the payment of a renewal fee assessed at the rate of one

1 hundred fifty dollars (\$150) per annum. The total fee for the entire term of initial licensure and
2 renewal shall be paid at the time of application. Additional fees for the review and approval of
3 specific courses of study taught by a real estate school licensed under this section may be charged
4 to the school as set forth in the department's rules and regulations at the discretion of the director.

5 (c) In the event that any person is found guilty of violating this section in the operation
6 of a school, or any rule or regulation adopted pursuant to this section, or attempts to continue to
7 operate as a school after the revocation or during a period of suspension of a permit, he or she is
8 guilty of a misdemeanor.

9 (d) The department of business regulation shall promulgate rules and regulations
10 mandating the term of license and the term of renewal of each permit issued. No license shall
11 remain in force for a period in excess of three (3) years.

12 **5-20.5-26. Escrows.** -- (a) Escrow.

13 (1) Escrow accounts.

14 (i) Each real estate firm shall maintain an escrow account under the supervision of the
15 broker qualified to do business in the name and on behalf of the corporate, partnership or
16 association licensee. All those funds paid to a salesperson or paid directly to a broker shall be
17 segregated on the broker's books and deposited in an account in a recognized federally insured
18 financial institution in Rhode Island separate from any account containing funds owned by the
19 broker. A broker or salesperson shall not commingle deposit money or other customers' funds and
20 his or her own funds, use a customer's funds as his or her own, or fail to keep an escrow or trustee
21 account of funds deposited with him or her relating to a real estate transaction, for a period of
22 three (3) years, showing to whom the money belongs, date deposited, date of withdrawal, to
23 whom paid, and any other pertinent information that the commission requires. Those records are
24 to be available to the commission and the department or their representatives, on demand, or upon
25 written notice given to the depository. Each broker/office supervisor shall maintain a monthly
26 report as to the status of that office's escrow account, and is responsible for its accuracy.

27 (ii) A multi-office firm may either have an escrow account for each office or one central
28 escrow account for the firm.

29 (iii) Funds held in escrow may be applied to the commission when earned by the listing
30 company.

31 ~~(iv) Remaining escrow funds shall be brought to the closing for disbursement by the~~
32 ~~closing officer.~~

33 ~~(v)~~(iv) Whenever the ownership of any deposit monies received by a broker or
34 salesperson pursuant to this section is in dispute by the parties to a real estate transaction, the

1 broker or salesperson shall deposit the monies with the general treasurer within one hundred
2 eighty (180) days of the date of the original deposit, those monies to be held in trust by the
3 general treasurer until the dispute is mediated, arbitrated, litigated, or otherwise resolved by the
4 parties. The parties to a real estate transaction may agree in writing to extend the time period by
5 which the monies must be deposited with the general treasurer in accordance with regulations
6 promulgated by the department of business regulation.

7 ~~(vi)~~(v) The department of business regulation shall have the authority to promulgate
8 rules and regulations with respect to such escrow accounts and the deposit of monies with the
9 general treasurer.

10 (2) Escrow agents. - Funds or deposits placed in escrow may be held by any person or
11 entity legally authorized to hold funds in that capacity, e.g., the real estate broker or attorney.

12 (b) Dual activities. - In all real estate transactions in which a broker holds more than one
13 title, e.g., builder, contractor, or insurance agent, all deposit monies received must be placed in
14 the brokers real estate escrow account, unless there is a contractual agreement between the
15 principals to the contrary.

16 (c) Unlawful appropriation. - Pursuant to section 11-41-11.1, any licensee to whom any
17 money or other property is entrusted as escrow funds, who intentionally appropriates to the
18 licensee's own use that money or property, or transfers the funds from an escrow account to a
19 company or personal account prior to a closing, is guilty of unlawful appropriation.

20 **5-20.5-27. License required for ownership.** -- No person, firm or corporation shall have
21 an ownership interest in a real estate brokerage firm nor participate in the operation of the real
22 estate brokerage firm ~~if~~ unless the person, firm or ~~corporation's~~ corporation holds a valid real
23 estate broker's license, issued pursuant to the provisions of this chapter, ~~has been revoked.~~

24 SECTION 2. Section 5-20.5-24 of the General Laws in Chapter 5-20.5 entitled "Real
25 Estate Brokers and Salespersons" is hereby repealed.

26 ~~**5-20.5-24. Name change.** -- Wherever in this chapter there appear the words "salesman"~~
27 ~~or "salesmen", they shall be substituted with the words "salesperson" or "salespersons".~~

28 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS – REAL ESTATE BROKERS AND
SALESPERSONS

1 This act would allow for the implementation of electronic licensing, recognize reciprocity
2 requirements, require continuing education submissions at time of renewal, increase the time
3 period to qualify as a broker, allow flexibility in office location, and other technical corrections
4 with respect to real estate brokers and salespersons.

5 This act would take effect upon passage.

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