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United States • Pennsylvania Real Estate Salesperson License Exam

Pennsylvania

Study Guide

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CHAPTER 1

Subch. B: General provisions – definitions, exclusions from the act, fees

1.1 Broker Definition and Activities

A broker is an individual or entity holding a standard or reciprocal license who, for another and for a fee, commission or other valuable consideration, performs real estate activities. The two-part test requires acting 'for another' AND 'for a fee.' Activities include negotiating/aiding in locating real estate, negotiating listings/sales/leases/time shares/financing/options, managing real estate, representing oneself as a real estate consultant/counsellor/house finder, promoting sale/exchange/purchase/rental, performing a comparative market analysis (CMA), or attempting any of these.

- ✓ A broker must hold a standard or reciprocal license and act 'for another and for a fee, commission or other valuable consideration'
- ✓ Performing a comparative market analysis is a licensed broker activity
- ✓ The promotion activity does not apply to an individual/entity whose main business is advertising, promotion or public relations
- ✓ Even attempting to perform any listed broker action falls under the definition

1.2 Salesperson Definition and Permitted Activities

A salesperson is an individual holding a standard or reciprocal license who is EMPLOYED BY A BROKER to perform specified acts. Unlike a broker, a salesperson always works under a broker's employ. Permitted activities include selling/offering to sell/listing real estate, buying/offering to buy, negotiating purchase/sale/exchange, negotiating a loan on real estate, leasing/renting or offering to, collecting rent, assisting a broker in managing property, and performing a comparative market analysis.

- ✓ A salesperson must be employed by a broker to conduct real estate activities
- ✓ A salesperson may perform a comparative market analysis and negotiate loans on real estate
- ✓ A salesperson may assist a broker in managing property but works under the broker's supervision

1.3 Agency Relationship and Principal

An agency relationship is a fiduciary relationship between a broker (or licensees employed by the broker) and a consumer who becomes a principal. A principal is a consumer who has entered into an agency relationship with a broker or another licensee employed by the broker. A consumer is any individual or entity who is the recipient of any real estate service.

- ✓ An agency relationship is fiduciary in nature between a broker/licensee and the principal
- ✓ A principal is a consumer who has entered into an agency relationship
- ✓ A consumer is any recipient of a real estate service, whether or not an agency relationship exists

1.4 Types of Agents: Seller, Buyer, Dual, Designated, Subagent

Pennsylvania recognizes multiple agency roles. A seller agent enters an agency relationship with a seller/landlord; a buyer agent with a buyer/tenant. A dual agent acts as agent for BOTH buyer/tenant and seller/landlord in the same transaction. A designated agent is one or more licensees designated by the employing broker, with the principal's consent, to act exclusively for the principal to the exclusion of all other licensees in the broker's employ. A subagent is a licensee NOT in the listing broker's employ who cooperates with the listing broker as the seller's/landlord's agent and is deemed to have an agency relationship with the seller.

- ✓ A dual agent represents both buyer/tenant and seller/landlord in the same transaction
- ✓ A designated agent is appointed by the employing broker with the principal's consent
- ✓ A subagent is not in the listing broker's employ but is deemed to have an agency relationship with the seller

1.5 Transaction Licensee

A transaction licensee is a licensee who, WITHOUT entering into an agency relationship with the consumer, provides communication or document preparation services or performs other acts listed in the broker/salesperson definitions. This is a non-agent role — no fiduciary duties arise, distinguishing it from seller/buyer agents.

- ✓ A transaction licensee does NOT enter into an agency relationship with the consumer
- ✓ A transaction licensee may provide communication/document preparation and other broker/salesperson acts without owing fiduciary agency duties

1.6 Exclusions from the Act — Owners and Attorneys

Certain persons are excluded from the act and Chapter 35. An owner of real estate is excluded regarding property owned/leased by the owner — but for a corporation/partnership this exclusion does NOT extend to more than five partners/officers, nor to other employees. An attorney-in-fact acting under a recorded power of attorney is excluded if not used to circumvent the act (granting POA to a property manager solely to avoid using a licensed broker IS a circumvention). An attorney-at-law is excluded when receiving a fee from a client within the attorney-client relationship and not holding himself out as a broker.

- ✓ The owner exclusion for a corporation/partnership does not extend to more than five partners/officers, nor to other employees
- ✓ An attorney-in-fact's recorded power of attorney cannot be used to circumvent the act (e.g., avoiding a licensed broker)
- ✓ An attorney-at-law is excluded only when acting within the attorney-client relationship and not holding out as a broker

1.7 Accuracy and Veracity of Papers Filed

Under § 35.204, any application, statement, character reference or other paper filed for examination, licensure, registration or approval is subject to Commission investigation for accuracy and truthfulness. An applicant's KNOWING failure to provide accurate/truthful information is grounds for DENIAL of the application. A licensee's knowing failure in connection with such an application is grounds for DISCIPLINARY ACTION.

- ✓ Filed papers are subject to Commission investigation to confirm accuracy and truthfulness
- ✓ An applicant's knowing failure to provide truthful information is grounds for denial of the application
- ✓ A licensee's knowing failure to provide truthful information is grounds for disciplinary action

1.8 Standard License vs. Reciprocal License

A standard license is issued to an individual/entity who has fulfilled the education/experience and examination requirements of the act. A reciprocal license is issued to an individual/entity whose principal place of business for real estate services is OUTSIDE Pennsylvania and who holds a current license from a state that either executed a reciprocal agreement with the Commission or has substantially comparable licensure qualifications.

- ✓ A standard license requires meeting PA education/experience and examination requirements
- ✓ A reciprocal license requires the principal place of business be outside Pennsylvania and a current out-of-state license
- ✓ Reciprocity requires either a reciprocal agreement or substantially comparable qualifications

1.9 Associate Broker and Broker of Record

An associate broker is an individual broker who is employed by another broker. A broker of record is the individual broker responsible for the real estate transactions of a partnership, association or corporation that holds a broker's license. These distinctions clarify supervision and responsibility within entity licensees.

- ✓ An associate broker holds a broker license but works employed under another broker
- ✓ A broker of record bears responsibility for the transactions of a licensed partnership, association, or corporation

1.10 Listing Broker and Listing/Buyer Agency Agreements

A listing broker has entered a written agreement with a seller/landlord to market property as a seller's agent, dual agent, or transaction licensee. An open listing agreement is a nonexclusive listing where the seller retains the right to employ multiple brokers. A nonexclusive buyer agency agreement lets the buyer retain the right to employ multiple brokers to purchase or lease.

- ✓ A listing broker acts under a written agreement as a seller's agent, dual agent, or transaction licensee
- ✓ An open listing agreement is nonexclusive — the seller may employ multiple brokers
- ✓ A nonexclusive buyer agency agreement allows the buyer to employ multiple brokers

1.11 Comparative Market Analysis and Broker Price Opinion

A comparative market analysis (CMA) is a written analysis/opinion/conclusion by a broker, associate broker or salesperson on the probable sale or rental price of a specified parcel at a specified time, prepared for a seller/buyer/lessor/lessee or a person performing due diligence. A broker price opinion (BPO) is an estimate detailing probable selling price with varying detail on condition, market, neighborhood, and comparable sales — but does NOT include an automated valuation model (AVM). An AVM is a computerized model used by mortgage originators/secondary market issuers to determine collateral worth of a mortgage secured by a consumer's principal dwelling.

- ✓ A CMA and BPO may be prepared by a broker, associate broker, or salesperson
- ✓ A broker price opinion excludes an automated valuation model (AVM)
- ✓ An AVM is a computerized valuation model used by mortgage originators/secondary market issuers

1.12 Consumer Notice Disclosure Reference

For purposes of the consumer notice in § 35.336(a) (disclosure summary for purchase/sale of residential or commercial real estate, or lease when the licensee works on behalf of the tenant), the term 'licensee' means a broker or salesperson. This ties the definition of licensee to the mandatory consumer notice disclosure obligations.

- ✓ For consumer notice purposes under § 35.336(a), 'licensee' means a broker or salesperson
- ✓ The consumer notice applies to purchase/sale of residential or commercial real estate and to leases when representing the tenant

1.13 Education Terms: Credit and Hour of Instruction

For continuing/pre-licensing education: a 'credit' equals 15 hours of instruction, and an 'hour of instruction' is a period of at least 50 minutes. Distance education is delivered where student and instruction are separated by distance/time. Independent learning provides no instructor contact; instructor-led learning provides significant ongoing instructor contact.

- ✓ One credit equals 15 hours of instruction
- ✓ An hour of instruction is a period of at least 50 minutes
- ✓ Independent learning has no instructor contact; instructor-led learning has significant ongoing instructor contact

1.14 Exclusions from the Act — Other Categories

Additional excluded categories include: officers/employees of energy or mineral resource businesses when real estate transactions are common/necessary to the principal business; a trustee in bankruptcy, administrator, executor, trustee, or guardian acting under court order/will/trust; officers/directors of banking/savings/credit institutions when only the institution's own real estate is involved; certain cemetery company officers/employees showing family burial lots incidentally without remuneration; cemetery companies owned by bona fide churches/religious/fraternal organizations; licensed auctioneers at bona fide auctions; and certain employees managing multifamily dwellings who lack authority to enter leases/negotiate terms/hold tenant money.

- ✓ A trustee, administrator, executor, or guardian acting under court order, will, or trust instrument is excluded
- ✓ A multifamily dwelling employee is excluded only if not authorized to enter leases, negotiate occupancy terms, or hold tenant money (may still show apartments and provide rental info)
- ✓ A licensed auctioneer is excluded only while performing authorized duties at a bona fide auction
- ✓ Bank officers/employees performing appraisals/evaluations for the institution's loan transactions are excluded

1.15 Commission Fee Schedule

Section 35.203 sets Commission fees. Key examples: review of broker/cemetery broker exam qualifications $40; application for standard/reciprocal broker/cemetery broker/rental listing referral agent licensure $75; branch office application $65; associate broker/salesperson application $25; biennial renewal for broker/branch/rental listing referral agent $126; biennial renewal for salesperson/associate broker/cemetery salesperson $96 (later $64 variants listed). Late renewal adds $5 for each month or part beyond the renewal date, in addition to the prescribed renewal fee.

- ✓ Late renewal costs an additional $5 for each month or part of a month beyond the renewal date, plus the renewal fee
- ✓ Licenses renew on a biennial (two-year) cycle
- ✓ Application, initial licensure, and biennial renewal are separately assessed fees

1.16 Short Sale Definition

A short sale is a sale of real property in which the seller's proceeds are less than the amount required to pay off all liens secured by the property. Recognizing short sales is relevant to disclosure and transaction handling by licensees.

- ✓ A short sale occurs when seller's proceeds are less than the amount required to pay off all liens
- ✓ The lien shortfall distinguishes a short sale from a standard sale

1.17 Time Share and Campground Membership

A time share is the right to use/occupy one or more units on a periodic basis under an arrangement allocating use/occupancy among similar users; a 'unit' is a building/portion permanently affixed to real property designed for separate occupancy (or a campground membership portion). A time share does NOT include a campground membership. A campground membership (an interest other than fee simple or lease) gives the right to locate a recreational vehicle/trailer/tent/camper on a periodic basis under a membership contract.

- ✓ A time share expressly does NOT include a campground membership
- ✓ A campground membership is an interest other than in fee simple or by lease for locating a recreational vehicle/trailer on a periodic basis
- ✓ A licensed broker, salesperson, or time-share salesperson need not hold a campground membership salesperson's license to sell campground memberships

1.18 Real Estate and Cemetery Definitions

'Real estate' means an interest or estate in land — corporeal or incorporeal, freehold or nonfreehold, in or outside PA — including leasehold interests and time shares. A cemetery is a place for disposal/burial of deceased humans by cremation or in a grave/mausoleum/vault/columbarium, but does NOT include a private family cemetery. Cemetery brokers/salespersons operate exclusively within the limited field of cemetery lots, plots, and mausoleum spaces.

- ✓ Real estate includes leasehold interests and time share interests, whether the land is in PA or elsewhere
- ✓ A cemetery does not include a private family cemetery
- ✓ A cemetery broker is limited exclusively to cemetery lots, plots, and mausoleum spaces or openings

1.19 Rental Listing Referral Agent and Manager of Record

A rental listing referral agent is an individual/entity that owns or manages a business collecting rental information to refer prospective tenants to rental units — but does NOT include an official/employee of a public housing authority created under state or federal law. A manager of record is the individual rental listing referral agent responsible for the transactions of a licensed partnership, association or corporation.

- ✓ A rental listing referral agent collects rental info to refer prospective tenants to rental units
- ✓ The term excludes a public housing authority official or employee
- ✓ A manager of record is responsible for the rental listing transactions of a licensed entity

CHAPTER 2

Subch. C: Licensure – broker, salesperson, cemetery, builder-owner, rental listing referral agent, reciprocal, offices

2.1 General Licensure Requirements for All Applicants

Section 35.221 sets baseline submission requirements that apply to every standard or reciprocal real estate license applicant, in addition to the specific requirements for the license sought. Applicants must submit the license fee, disclose all criminal history, and consent to service of process.

- ✓ Every applicant must submit the license fee prescribed in § 35.203 with the application
- ✓ Applicants must provide complete details of any conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed
- ✓ For a corporation, partnership or association, the criminal-disclosure requirement applies to each member of the partnership/association and each officer of the corporation
- ✓ Applicants must give written consent that valid service of process may be made by serving the Chairperson of the Commission and the Secretary of the Commonwealth if service cannot otherwise be made

2.2 Standard Broker's License Requirements

Section 35.222(a) governs individuals seeking a standard broker's license. Applicants must pass the broker's exam, meet office requirements, and submit recommendations attesting to good reputation.

- ✓ Must pass each part of the broker's licensing examination within 3 years prior to submitting a completed application
- ✓ An applicant actively licensed as a broker in another state within the last 5 years need take and pass only the Pennsylvania portion of the exam
- ✓ Must comply with §§ 35.241 and 35.242 (general office requirement and broker office standards)
- ✓ Must submit recommendations from one Commission-licensed real estate broker and two unrelated property owners in the applicant's county of residence/business (plus two from a prior county if residence changed within the past year)

2.3 Reciprocal Broker's License Requirements

Section 35.222(b) allows an out-of-state broker to obtain a Pennsylvania reciprocal broker's license. The applicant must hold a current out-of-state license, meet office rules, submit verified statements, and provide a certification from the other state's licensing authority.

- ✓ Must hold a current broker's license from a state that grants reciprocity to PA licensees or has substantially comparable qualifications
- ✓ If the other state would require PA licensees to complete additional education/experience/exams, the reciprocal applicant must complete equivalent requirements
- ✓ Must submit a verified statement disclosing no discipline/investigations, familiarity and agreement to be bound by the act and chapter, and consent to record disclosure
- ✓ If acting as an associate broker, must submit a sworn statement from the affiliating broker attesting to good reputation and certifying active supervision/training
- ✓ Must submit a certification from the other state confirming active license in good standing, describing past discipline, and listing office/employing broker

2.4 Standard Salesperson's License Requirements

Section 35.223(a) sets requirements for a standard salesperson license, including passing the exam, submitting a broker's sworn statement, and providing transcripts of required education.

- ✓ Must pass each part of the salesperson's licensing exam within 3 years prior to a completed application
- ✓ An applicant actively licensed as a broker or salesperson in another state within the last 5 years need pass only the Pennsylvania portion of the exam
- ✓ Must submit a sworn statement from the affiliating broker attesting to good reputation and certifying active supervision/training
- ✓ Must submit official transcripts evidencing degrees or course credits required by § 35.272(a)(2)

2.5 Broker License for Entities (Partnership/Corporation)

Section 35.222(c) covers a partnership, association, or corporation seeking a standard or reciprocal broker's license. The entity must ensure its active members/officers are licensed and must designate a broker of record.

- ✓ Each member/officer engaging in the real estate business must hold a current standard or reciprocal salesperson or broker license from the Commission
- ✓ The entity must designate a Commission-licensed broker to serve as broker of record
- ✓ The entity must comply with § § 35.241 and 35.242 and submit a completed application

2.6 Reciprocal Salesperson's License Requirements

Section 35.223(b) governs reciprocal salesperson licensure for out-of-state licensees, requiring a current out-of-state license, verified statements, an authority certification, and a broker's sworn statement.

- ✓ Must hold a current out-of-state broker's or salesperson's license under reciprocity or with substantially comparable qualifications; must complete equivalent requirements if the other state imposes more on PA licensees
- ✓ Must submit a verified statement on discipline status, familiarity with the act/chapter, and consent to disclosure
- ✓ Must submit a certification from the other state's licensing authority (active/good standing, past discipline, office and employing broker)
- ✓ Must submit a sworn statement from a standard or reciprocal broker attesting to good reputation and certifying active supervision/training

2.7 Cemetery Broker License Requirements

Section 35.224 governs standard and reciprocal cemetery broker licenses for individuals and entities. Requirements parallel the broker rules but use the cemetery broker exam and permit cemetery broker credentials for entity members.

- ✓ Standard applicants must pass the salesperson's licensing exam within 3 years (only the PA portion if actively licensed as a cemetery broker in another state within 5 years) and comply with § § 35.241 and 35.242
- ✓ Standard applicants must submit recommendations from one Commission-licensed broker and two unrelated county property owners (plus prior-county references if moved within a year)
- ✓ Reciprocal applicants must hold a current out-of-state cemetery broker license, submit verified statements, a state authority certification, and an associate-broker sworn statement if applicable
- ✓ Entities must ensure members/officers hold appropriate broker/cemetery broker licenses and designate a broker or cemetery broker as broker of record

2.8 Cemetery Salesperson License Requirements

Section 35.225 governs standard and reciprocal cemetery salesperson licenses. There is no exam requirement for the standard license, but the applicant must be at least 18 and have an affiliating broker.

- ✓ Standard applicants must be 18 years of age or older
- ✓ Standard applicants must submit a sworn affidavit from the affiliating broker or cemetery broker attesting to good reputation and certifying active supervision/training
- ✓ Reciprocal applicants must hold a current out-of-state cemetery salesperson license, submit a state authority certification, a verified statement, and an affiliating broker's sworn statement

2.9 General Office Requirement

Section 35.241 requires brokers, cemetery brokers, and rental listing referral agents to maintain a main office in Pennsylvania, with branch office licensing for additional locations.

- ✓ A broker, cemetery broker, or rental listing referral agent must maintain a main PA office unless he maintains a main office in another state where he holds the equivalent of a standard license
- ✓ A broker or cemetery broker may maintain multiple PA offices, but a branch office license is required for each additional office

2.10 Office Standards for Broker or Cemetery Broker

Section 35.242 sets physical and signage standards for a broker's or cemetery broker's office to ensure professional, private conduct of real estate business.

- ✓ The office must be devoted to real estate business and arranged to permit business to be conducted in privacy
- ✓ If located in a private residence, the office must have an entrance separate from the residence entrance
- ✓ The broker's/cemetery broker's business name as designated on the license must be displayed prominently and permanently outside the office
- ✓ Branch offices must also comply with these office standards

2.11 Branch Office Licensure

Section 35.243 requires a separate branch office license before opening any additional broker/cemetery broker office, issued in the broker's licensed business name.

- ✓ A broker or cemetery broker may not open a branch office without first obtaining a branch office license for that location, submitting an application and the fee in § 35.203
- ✓ A branch office license is issued in the name under which the broker/cemetery broker is licensed at the main office
- ✓ A branch office license terminates automatically upon suspension, revocation, or discontinuance of the broker's/cemetery broker's license

2.12 Supervision and Operation of Office

Section 35.244 requires each office to be under the direction of a properly licensed broker and requires salespersons and associate brokers to practice in affiliation with a broker.

- ✓ A broker's main or branch office must be directed and supervised by a broker or associate broker holding a standard or reciprocal license
- ✓ A cemetery broker's office must be supervised by a broker, cemetery broker, associate broker, or associate cemetery broker
- ✓ Associate brokers, salespersons, cemetery salespersons, campground membership salespersons, and time-share salespersons must practice in affiliation with a Commission-licensed broker
- ✓ A branch office may not be operated to permit an employee to carry on business for the employee's sole benefit; a rental listing referral agent may not supervise more than one office

2.13 Inspection of Office

Section 35.246 authorizes the Commission to conduct routine and special inspections of licensee offices to verify compliance, with defined scope and notice requirements.

- ✓ Routine inspections may occur no more than four times a year during regular business hours to determine compliance with the act and chapter
- ✓ Special inspections may be conducted upon a complaint/reasonable belief of violation or as a follow-up to noncompliance found in a prior inspection
- ✓ The Commission must advise the licensee in charge before starting that the inspection is being made under and limited by this section
- ✓ During inspection the Commission may examine transaction/entity records, inspect all office areas, interview employees, and obtain written authorization to receive escrow account records from the broker's bank

2.14 Relicensure Following Revocation

Section 35.251 governs when an individual whose license was revoked may seek relicensure. A minimum waiting period applies before the Commission will consider a petition.

- ✓ The Commission will not authorize relicensure for at least 5 years following the date revocation begins
- ✓ After the 5-year period, the individual may petition the Commission for relicensure, but the decision is within the Commission's discretion
- ✓ If relicensure is permitted, the individual must comply with current licensure requirements before the license is issued

2.15 Termination of Deceased Sole-Proprietor Broker's Business

Section 35.252 sets procedures for winding down a deceased sole-proprietor broker's business, including timely appointment of a supervising broker and limits on activity during the termination period.

- ✓ Within 15 days of the broker's death, the estate must notify the Commission it has appointed another licensed broker (with a current license) to supervise termination
- ✓ During termination, no new listing agreements may be entered and no new licensees may be hired
- ✓ Unexpired listings may be promoted unless cancelled by the seller/lessor, but expire automatically 90 days after the broker's death and may not be renewed
- ✓ Pending agreements of sale or lease may proceed to consummation

2.16 Replacement of Broker of Record Due to Death

Section 35.253 requires prompt designation of a new broker of record for an entity when the current broker of record dies.

- ✓ Within 15 days following the death of a broker of record, a partner or corporate officer must file an application with the Commission
- ✓ The application must designate another individual to serve as broker of record

2.17 Builder-Owner Salesperson License Requirements

Section 35.226 governs standard and reciprocal builder-owner salesperson licenses. The applicant works for a builder-owner of dwellings rather than a broker.

- ✓ Standard applicants must pass the salesperson's exam within 3 years (only the PA portion if actively licensed as broker, salesperson, or builder-owner salesperson in another state within 5 years)
- ✓ Standard applicants must submit a sworn statement from a builder-owner attesting to good reputation and certifying that the builder-owner builds single/multifamily dwellings and employs the applicant
- ✓ Reciprocal applicants must hold a current out-of-state builder-owner salesperson license, submit a state authority certification, verified statement, and a builder-owner's sworn statement

2.18 Rental Listing Referral Agent License Requirements

Section 35.227 governs standard and reciprocal rental listing referral agent licenses for individuals and entities. Requires passing the salesperson exam and compliance with the general office requirement (but not § 35.242).

- ✓ Standard applicants must pass the salesperson's exam within 3 years (only PA portion if actively licensed as broker, salesperson, or rental listing referral agent in another state within 5 years) and comply with § 35.241
- ✓ Reciprocal applicants must hold a current out-of-state license under reciprocity, submit a state authority certification and verified statement, and comply with § 35.241
- ✓ Entities must designate an individual holding a current standard or reciprocal rental listing referral agent license to serve as manager of record and comply with § 35.241

2.19 Campground Membership Salesperson License Requirements

Section 35.228 governs standard and reciprocal campground membership salesperson licenses, requiring a Commission-developed course and onsite training rather than an exam.

- ✓ Standard applicants must be 18 or older and complete the one-credit (15-hour) Commission-developed 'Campground Membership Sales' course before onsite training at an approved PA institution
- ✓ Standard applicants must complete 30 days of onsite training at a campground membership facility during a 90-day period within 3 years prior to application, supervised by a broker
- ✓ Standard applicants must submit an official transcript and a sworn statement from the supervising broker
- ✓ Reciprocal applicants must hold a current out-of-state license, submit a state authority certification, verified statement, and a supervising broker's sworn statement

2.20 Time-Share Salesperson License Requirements

Section 35.229 governs standard and reciprocal time-share salesperson licenses, requiring a Commission-developed course and onsite training.

- ✓ Standard applicants must be at least 18 and complete the two-credit (30-hour) Commission-developed 'Time Share Sales' course before onsite training at an approved PA institution
- ✓ Standard applicants must complete 30 days of onsite training at a time-share facility during a 90-day period within 3 years prior to application, supervised by a broker
- ✓ Standard applicants must submit an official transcript and a supervising broker's sworn statement
- ✓ Reciprocal applicants must hold a current out-of-state license, submit a state authority certification, verified statement, and a supervising broker's sworn statement

2.21 Display of Licenses in Office

Section 35.245 governs where current licenses must be maintained. Commencing with the 2006-2008 renewal period, licenses are kept at the main office rather than displayed at each branch.

- ✓ The current licenses of the broker/cemetery broker/rental listing referral agent and their affiliated licensees must be maintained at the main office
- ✓ A broker or cemetery broker must maintain, at each branch office, a list of the licensees who work out of that branch

CHAPTER 3

Subch. D: Licensing examinations

3.1 Broker's License Examination Eligibility Requirements

To sit for the standard broker's examination, a candidate must meet age, education, and experience thresholds. The candidate must be at least 21 years old, a high school graduate (or GED), and have 3 years of licensed salesperson experience (or equivalent experience/education). They must also acquire 16 credits (240 hours) of professional real estate education. Note the Bhala decision: merely holding a salesperson license for 3 years does not itself qualify a person to sit for the broker's exam — the experience qualifications must be adequate for broker practice.

- ✓ Must be 21 years of age or older
- ✓ Must be a high school graduate or have passed a GED examination
- ✓ Must have 3 years as a licensed salesperson or equivalent experience/education
- ✓ Must acquire 16 credits (240 hours) of professional real estate education
- ✓ Holding a salesperson license 3+ years alone does not qualify one to sit for the broker exam (Bhala v. State Real Estate Commission)

3.2 Broker Education Requirement Standards and Degree Exemptions

The Commission accepts certain degrees as satisfying the 16-credit education requirement: a bachelor's degree with a real estate major, a bachelor's degree with coursework equivalent to a real estate major, or a juris doctor from an accredited law school. Candidates without such degrees must complete 16 credits including 2 credits in a real estate office management course and 2 credits in a law course, with at least 6 of the remaining 12 credits in 3+ Commission-developed courses. Credits used for the salesperson exam cannot be reapplied to the broker education requirement.

- ✓ A real estate bachelor's degree, equivalent coursework bachelor's, or J.D. satisfies the education requirement
- ✓ Non-degree candidates need 16 credits: 2 in office management and 2 in law
- ✓ At least 6 of the remaining 12 credits must be in 3 or more Commission-developed courses
- ✓ Credits used to qualify for the salesperson exam cannot be applied to the broker requirement
- ✓ A maximum of 4 credits allowed per real estate course and per study area
- ✓ Courses must be completed within 10 years prior to passing the licensing exam
- ✓ 2 credits allowed per year of active out-of-state broker practice in the prior 10 years

3.3 Salesperson's License Examination Requirements

A candidate for the standard salesperson's examination must be at least 18 years old and successfully complete 4 credits (60 hours) of basic real estate courses. The application is submitted with the exam fee. Degree exemptions (real estate bachelor's, equivalent bachelor's, or J.D.) apply. Acceptable courses include Real Estate Fundamentals and Real Estate Practice offered by accredited colleges or approved education providers, completed within 10 years before passing the exam.

- ✓ Must be 18 years of age or older
- ✓ Must complete 4 credits (60 hours) of basic real estate courses
- ✓ A qualifying degree (real estate bachelor's, equivalent, or J.D.) exempts specific coursework
- ✓ Courses must be completed within 10 years prior to passing the licensing exam

3.4 Broker Exam Application Documentation

A broker exam candidate must submit a completed application with supporting documents: official transcripts of course credits; a detailed resume of real estate activities plus a sworn statement from the employing broker (if a licensed salesperson); a description of relevant work/education (if not a salesperson); a certification from the licensing authority for brokerage experience claimed toward education; and the qualification review fee plus exam administration fees under § 35.203.

- ✓ Official transcripts evidencing course credits must be submitted
- ✓ Licensed salesperson candidates must provide a resume and a sworn statement from the employing broker
- ✓ Non-salesperson candidates must describe relevant work experience and education
- ✓ Fees for qualification review (§ 35.203) and exam administration must accompany the application

3.5 Cemetery Broker's License Examination Requirements

A cemetery broker candidate must be at least 21 years old, have 3 years of experience as a licensed salesperson or cemetery salesperson (or equivalent), and complete 4 credits (60 hours) of basic real estate courses. Application requires transcripts, a resume with an employing broker's sworn statement (if licensed), and fees under § 35.203. Credits are allowed for Real Estate Fundamentals, Real Estate Practice, and cemetery courses, including courses from out-of-state cemetery associations if equivalent to approved Commonwealth courses.

- ✓ Must be 21 years of age or older
- ✓ Must have 3 years as a licensed salesperson or cemetery salesperson (or equivalent)
- ✓ Must complete 4 credits (60 hours) of basic real estate courses
- ✓ Cemetery association courses from outside the Commonwealth qualify if equivalent to approved courses
- ✓ Courses must be completed within 10 years prior to passing the exam

3.6 Builder-Owner Salesperson Examination Requirements

A builder-owner salesperson candidate must be at least 18 years old and be employed by a builder-owner with a good reputation for honesty, trustworthiness, integrity, and competence. The application is submitted with the exam fee. Notably, there is no basic real estate coursework requirement for this license type — the reputational employment standard replaces the education requirement.

- ✓ Must be 18 years of age or older
- ✓ Must be employed by a builder-owner of good reputation for honesty, trustworthiness, integrity, and competence
- ✓ No basic real estate coursework requirement applies to this license type

3.7 Rental Listing Referral Agent Examination Requirements

A rental listing referral agent candidate must be at least 18 years old and complete 4 credits (60 hours) of basic real estate courses, submitting the application with the exam fee. Degree exemptions apply, and credits are allowed for Real Estate Fundamentals and Real Estate Practice from accredited colleges or approved providers, completed within 10 years before passing the exam.

- ✓ Must be 18 years of age or older
- ✓ Must complete 4 credits (60 hours) of basic real estate courses
- ✓ Qualifying degrees exempt specific coursework
- ✓ Courses must be completed within 10 years prior to passing the exam

3.8 Reciprocal License Conversion Exam Exemptions

A reciprocal licensee converting to a standard Pennsylvania license is generally exempt from the education and experience requirements and needs only to pass the state portion of the examination. This exemption applies across broker, salesperson, cemetery broker, and builder-owner salesperson license conversions.

- ✓ Reciprocal licensees converting to a standard broker license are exempt from § 35.271(a) and take only the state portion of the exam
- ✓ Reciprocal salesperson, cemetery broker, and builder-owner conversions likewise require only the state portion of the exam

3.9 Reciprocal License Renewal, Reactivation, and Conversion

A reciprocal license requires ongoing good standing in the state of the licensee's principal place of business. On renewal, the licensee must certify the home-state license is current and in good standing. A lapsed reciprocal license may be reactivated without reexamination if the licensee holds an equivalent current standard license in their home state. If the licensee designates Pennsylvania as their principal place of business or loses their home-state standard license, they must notify the Commission within 30 days and obtain a standard Pennsylvania license, then meet standard requirements including continuing education.

- ✓ Renewal requires certification that the home-state license is current and in good standing
- ✓ A lapsed reciprocal license may be reactivated without reexamination if an equivalent current standard home-state license is held
- ✓ A licensee designating PA as principal place of business or losing home-state standard licensure must notify the Commission within 30 days
- ✓ Conversion to a standard license requires meeting standard requirements including continuing education

3.10 Substitution of Broker Due to Illness or Injury

If a sole-proprietorship broker or broker of record cannot act due to illness or injury, a designated representative (attorney/power of attorney holder, corporate officer, or partner) must notify the Commission within 15 days that an interim licensed broker has been appointed to act until the original broker can resume responsibilities.

- ✓ Notification to the Commission must occur within 15 days of appointing an interim broker
- ✓ An interim licensed broker may be appointed by the broker's attorney/POA holder, a corporate officer, or a partner
- ✓ The interim broker serves until the original broker/broker of record can resume responsibilities

CHAPTER 4

Subch. E: Standards of conduct and practice – agency relationships, consumer notice, agreements, escrow, advertising, records, prohibited conduct

4.1 Written agreements required for compensation

All contracts, commitments and agreements between a broker (or licensee employed by the broker) and a principal/consumer who must pay a fee, commission or other valuable consideration must be in writing and contain the information required by § 35.331. A licensee may perform services before an agreement is signed, but cannot recover a fee/commission without a signed agreement.

- ✓ Compensation agreements must be in writing and contain § 35.331 information
- ✓ Open listing agreements or nonexclusive buyer agency agreements may be oral if the party is given a written memorandum of terms
- ✓ Transaction licensees/subagents cooperating with listing brokers need not obtain a written agreement from the seller/landlord
- ✓ No fee, commission or consideration is recoverable absent a signed agreement

4.2 Disclosure of interest and conflicts

A licensee must disclose in writing any ownership interest in property involved in a transaction to all parties before participating, and may not represent more than one party without written consent of all parties. A broker managing rental property may not accept commissions/rebates/profits on expenditures for the lessor without written consent. Licensees may not require consumers to use their ancillary services (financial, title, insurance, construction, repair, inspection) and must disclose financial interest in such services when recommended.

- ✓ Must disclose ownership interest in writing to all parties before participating
- ✓ May not represent more than one party without written consent of all parties
- ✓ Broker managing rentals cannot accept commission/rebate/profit on lessor expenditures without written consent
- ✓ May not require a consumer to use the licensee's ancillary services; must disclose financial interest (e.g. referral fees) in those services
- ✓ Continuing duty to disclose conflicts of interest within a reasonably practicable time

4.3 Timing of business relationship disclosure (Consumer Notice)

A licensee must provide the Consumer Notice disclosure summary (§ 35.336) to buyers/sellers at the initial interview if it occurs in person. If the initial interview is not in person, the licensee gives the oral disclosure (§ 35.339) at the initial interview and the written notice no later than the earlier of the first in-person meeting or the time a property is first shown. Licensees working for tenants use § 35.336; those working for owners use § 35.337; time-share sellers get § 35.338.

- ✓ Provide § 35.336 Consumer Notice at initial interview if in person
- ✓ If not in person, give oral disclosure (§ 35.339) at initial interview and written notice by earlier of first in-person meeting or first property showing
- ✓ Licensee for tenant uses § 35.336; licensee for owner uses § 35.337; time-share uses § 35.338
- ✓ Provide copy of signed disclosure and note any refusal on the acknowledgment

4.4 Seller property disclosure duties under Seller Disclosure Law

A licensee/transaction licensee for the seller must advise sellers of their duty to disclose known material defects, provide a property disclosure statement meeting § 35.335a, and deliver the completed (or 'refused') statement to the buyer side before execution of an agreement of sale. A licensee for buyers must advise buyers of the seller's duty and assure the statement was delivered before execution. All must disclose known material defects not otherwise disclosed; none must conduct independent investigation.

- ✓ Seller's licensee must advise seller of duty to disclose material defects and provide a compliant disclosure statement
- ✓ Completed or 'refused' disclosure statement must be delivered to the buyer before execution of an agreement of sale
- ✓ Licensees must disclose in writing all material defects of which they have actual knowledge
- ✓ Licensees need not independently investigate to confirm seller's disclosures

4.5 Duties owed to all consumers (non-waivable)

All licensees owe every consumer non-waivable duties: reasonable professional skill and care; honesty and good faith; timely presentation of all offers/communications in writing (waivable in writing when property is under contract); compliance with the Seller Disclosure Law; proper escrow accounting; providing § 608 information at the initial interview; timely disclosure of conflicts/financial interests; advising to seek expert advice; competent service; keeping the consumer informed; document preparation assistance; and advising on legal compliance without giving legal advice. A licensee need not independently inspect the property or verify consumer representations reasonably believed accurate.

- ✓ Exercise reasonable professional skill and care; deal honestly and in good faith
- ✓ Present all offers/communications in writing in a reasonably practicable time (waivable in writing only when under contract)
- ✓ Account for escrow/deposit funds and comply with the Seller Disclosure Law
- ✓ Provide § 608 information at the initial interview and disclose conflicts of interest timely
- ✓ Licensee is not required to independently inspect or verify consumer representations reasonably believed accurate

4.6 Permitted agency relationships – general rules

A licensee and consumer may enter agency relationships specified in the act. A broker may not extend or delegate the agency relationship without the principal's written consent. Compensation paid by one broker to another does not by itself create an agency relationship. Confidential information may not be revealed during or after an agency except in limited circumstances (consent, disclosure to another licensee acting for the principal, subpoena/court order, to prevent a crime, or to defend against wrongdoing).

- ✓ Broker may not extend/delegate agency without the principal's written consent
- ✓ Compensation between brokers does not create an agency relationship with the consumer
- ✓ Confidential information may only be revealed with consent, under subpoena/court order, to prevent a crime, or to defend against an accusation of wrongdoing

4.7 Duties of seller's agent

Beyond § 35.292 duties, a seller's agent owes loyalty to the seller/landlord, confidentiality (except must reveal known material defects), continuous good-faith effort to find a buyer (unless under contract), and disclosure to others of being the seller's agent. Showing alternative or competing properties is not a breach. A seller's agent may compensate subagents (who share the same duties) and may also compensate buyer's agents and transaction licensees (who do not). Upon a written agreement, each licensee acts as a seller's agent unless designated agency applies.

- ✓ Seller's agent owes loyalty, confidentiality (except known material defects), continuous good-faith effort, and disclosure of role
- ✓ Subagents share the seller agent's duties; buyer agents/transaction licensees compensated by the seller do not
- ✓ Absent designated agency, all licensees of the broker act as seller's agents under a written seller agreement

4.8 Duties of buyer's agent

Beyond § 35.292 duties, a buyer's agent owes loyalty to the buyer/tenant, confidentiality, continuous good-faith effort to find property (unless under contract), and disclosure of being the buyer's agent. A buyer's agent represents the buyer's interests even if paid by the seller/landlord. Showing a property to other buyers is not a breach. Upon a written buyer agreement, each licensee acts as a buyer's agent unless designated agency applies.

- ✓ Buyer's agent owes loyalty, confidentiality, continuous good-faith effort, and disclosure of role
- ✓ A buyer's agent represents the buyer even if compensated by the seller/landlord

4.9 Duties of dual agent

A licensee may act as a dual agent only with the written consent of both parties. A dual agent must take no action adverse or detrimental to either party, make continuous good-faith effort for both (unless agreed otherwise or a party is under contract), and keep confidentiality except must disclose known material defects. Showing competing or other properties is not a breach.

- ✓ Dual agency requires written consent of both parties
- ✓ Dual agent may take no action adverse or detrimental to either party but must disclose known material defects

4.10 Duties of designated agent

With the principal's written consent, a broker may designate licensees to act exclusively for the seller/landlord and others for the buyer/tenant in the same transaction; the broker automatically becomes a dual agent. Designation can occur any time but later designation requires written consent and, when applicable, renouncement of previous agency. Non-designated licensees have no agency with either party. Designated agents owe loyalty, good-faith effort, disclosure that the other party has a designated agent from the same broker, and confirmation of the broker's dual agency; the broker must protect confidential information and supervise without acting adverse to either party.

- ✓ Designated agency requires the principal's written consent; the broker automatically becomes a dual agent
- ✓ Non-designated licensees of the broker have no agency relationship with either party
- ✓ Broker/designated agents must use reasonable care to protect confidential information

4.11 Duties of transaction licensee

A transaction licensee provides services without an agency relationship and must advise the consumer that the licensee is not an agent/advocate and should not receive confidential information. The transaction licensee owes limited confidentiality: may not disclose that the seller/landlord will accept less than asking price, that the buyer/tenant will pay more than the written offer, or that either will accept financing terms other than those offered. Like all licensees, must disclose known material defects.

- ✓ Transaction licensee is not an agent/advocate and should not receive confidential information
- ✓ May not disclose seller's willingness to take less, buyer's willingness to pay more, or acceptance of other financing terms
- ✓ Must still disclose known material defects

4.12 Duty to deposit escrow money

A broker must deposit money belonging to another into an escrow account at a Federally or State-insured bank/depository, held pending consummation or a non-disputed prior termination, then pay it to the entitled party. Rents received as a property manager go into a separate rental management account, not escrow. Security deposits are paid over when the tenancy ends; on a sale/management change the deposit may be transferred to the lessor's/lessor's broker's escrow with written notice to each tenant. For partnerships/corporations, the broker of record ensures the escrow duty is performed.

- ✓ Money belonging to another must be deposited into an insured escrow account and paid to the entitled party at consummation or non-disputed termination
- ✓ Rents received as property manager go into a separate rental management account, not escrow
- ✓ Broker of record is responsible for escrow duty in an entity brokerage

4.13 Deadline for depositing escrow money

A broker must deposit money belonging to another into escrow by the end of the next business day after receipt at the office maintaining escrow records. If a check is tendered under an offer, with written permission of both parties the broker may hold it pending acceptance, then must deposit within 1 business day of the seller's/lessor's acceptance.

- ✓ Deposit escrow money by end of the next business day after receipt
- ✓ With written permission of both parties, a check may be held pending acceptance, then deposited within 1 business day of acceptance

4.14 Escrow account requirements

An escrow account must be at a Federally or State-insured bank/depository, designate the broker as trustee, allow withdrawal without prior notice, and be used exclusively for escrow. If money is held over 6 months, the broker is encouraged to use an interest-bearing account; interest is held/disbursed pro rata like principal unless parties agree otherwise, and the broker may not claim the interest (except a lessor under the Landlord and Tenant Act). The broker must provide the Commission a bank authorization letter upon request or inspection.

- ✓ Escrow account must be insured, designate the broker as trustee, permit withdrawal without prior notice, and be used exclusively for escrow
- ✓ Interest on escrow is disbursed pro rata like principal; the broker may not claim it (except a lessor under the Landlord and Tenant Act)

4.15 Prohibition against commingling or misappropriation

A broker may not commingle escrow money or interest with business, personal or other funds, except to deposit business/personal funds to cover bank service charges or maintain a required minimum balance. A broker may not misappropriate escrow money or interest for business, personal or other purposes.

- ✓ No commingling of escrow funds except to cover service charges or maintain a required minimum balance
- ✓ No misappropriation of escrow money or interest for any purpose

4.16 Required contents of written agreements (§ 35.331)

A written broker-consumer agreement committing the consumer to pay must include: Real Estate Recovery Fund notice; notice that payments are held in escrow; notice that commission and duration were negotiated; a description of services and fees; notice of possible multiple-party representation and duties/fees; the continuing duty to disclose conflicts; and role-specific disclosures for seller agreements (subagent/buyer-agent cooperation, dual agency potential) and buyer agreements (compensation basis, cooperation policy, dual agency potential). Information in the disclosure summaries may be incorporated by reference.

- ✓ Written agreements must include Recovery Fund notice, escrow notice, negotiated-commission notice, services/fees, multiple-representation notice, and continuing conflict-disclosure notice
- ✓ Seller and buyer agreements must disclose cooperation terms and any potential for dual agency
- ✓ Disclosure summary information may be incorporated by reference

4.17 Exclusive listing agreement requirements and prohibitions

An exclusive listing may be an exclusive agency or exclusive right-to-sell/lease. Beyond § 35.331, it must state the sale/lease price, commission, duration, and (for exclusive right-to-sell/lease) a bold-face statement that the broker earns a commission during the listing period by whomever the sale/lease is made, including the owner. It may NOT contain: a listing period over 1 year; an automatic renewal clause; a cancellation-notice requirement to end at the listing period's end; authority to execute a sale/lease for the owner; a broker option to purchase the property; or authority to confess judgment against the owner.

- ✓ Exclusive right-to-sell/lease must include a bold statement that commission is earned by any sale/lease during the listing, including by the owner
- ✓ May not exceed a 1-year listing period or contain an automatic renewal clause
- ✓ May not grant a broker option to purchase, authority to execute agreements, or authority to confess judgment

4.18 Required contents of agreements of sale

An agreement of sale (non-cemetery) must contain: date; names of buyer and seller; property description and interest conveyed; sale price; dates for payment and conveyance; zoning classification (except single-family, with a voidability statement); statement of the broker's capacity/services to others; escrow provision; the Real Estate Recovery Fund statement; a statement that public road access may require a PennDOT highway occupancy permit; and, for time-share/campground purchases, a conspicuous 5-day cancellation notice. Mortgage-contingent agreements must state mortgage type, principal, maximum interest rate, minimum term, deadline and broker assistance. Certain seller-protective and builder-spec provisions must be in bold face. Cemetery agreements need only items (a)(1)-(5) and (9).

- ✓ Agreement of sale must include date, parties, property description, price, payment/conveyance dates, zoning classification, escrow provision and Recovery Fund statement
- ✓ Time-share/campground purchases require a conspicuous 5-day right-of-cancellation notice in bold face
- ✓ Mortgage-contingent agreements must state type, principal, maximum interest rate, minimum term, deadline and broker assistance

4.19 Consumer Notice content and agency descriptions (§ 35.336)

Licensees must give the Consumer Notice (titled 'Consumer Notice,' 'THIS IS NOT A CONTRACT') at the initial interview and retain the signed/refused acknowledgment 6 months. It describes seller agent, buyer agent, dual agent, designated agent and transaction licensee relationships, lists the duties owed to all consumers, states negotiable contract terms (duration, fees, scope, cooperation), notes the zoning-classification requirement, describes the Recovery Fund, and warns that no business relationship is presumed until a written agreement is signed.

- ✓ The Consumer Notice must be provided at the initial interview and acknowledgment retained 6 months
- ✓ It must describe all agency options and warn that a business relationship is NOT presumed until a written agreement is signed
- ✓ Negotiable terms (duration, fees, scope of activities, broker cooperation) must be addressed in an agreement/disclosure statement

4.20 Misleading advice and false representations prohibited

A licensee may not give assurances or advice about a real estate transaction that the licensee knows or reasonably should know is incorrect, inaccurate or improbable, and may not knowingly be party to a material false or inaccurate written representation while acting in a representative capacity.

- ✓ No advice/assurances known or reasonably expected to be incorrect, inaccurate or improbable
- ✓ No knowingly being a party to a material false or inaccurate representation in writing

4.21 Retention and production of records

A broker or cemetery broker must retain records pertaining to a transaction for at least 3 years after consummation, except certain acknowledgment portions of consumer notices and the subagent/transaction licensee written disclosure statement which are retained 6 months. Records must be produced for the Commission upon written request or office inspection.

- ✓ Transaction records retained at least 3 years following consummation
- ✓ Certain acknowledgment/disclosure items retained only 6 months
- ✓ Records must be produced upon written request or office inspection under § 35.246

4.22 Salesperson property management limits

A salesperson may assist in property management only if supervised and controlled by the employing broker, and may not independently negotiate lease terms or execute a lease on behalf of the lessor.

- ✓ Property management assistance must be supervised and controlled by the employing broker
- ✓ Salesperson may not independently negotiate lease terms or execute a lease for the lessor

4.23 Duties when selling or leasing own real estate

A broker or salesperson selling or leasing their own real estate must comply with the act and this chapter and must disclose licensed status to a prospective buyer/lessee before they enter an agreement of sale or lease.

- ✓ Licensee selling/leasing own property must comply with the act and chapter
- ✓ Must disclose licensed status before the buyer/lessee enters into an agreement of sale or lease

4.24 Reporting crimes and disciplinary actions

A licensee must notify the Commission within 30 days of being convicted of or pleading guilty/nolo to a felony or misdemeanor, and within 30 days of disciplinary action taken by another jurisdiction's real estate licensing authority.

- ✓ Notify Commission of felony/misdemeanor conviction or plea within 30 days
- ✓ Notify Commission of out-of-state disciplinary action within 30 days of receiving notice

4.25 Unauthorized advertising and solicitation

A licensee may not advertise the sale/lease of real estate or solicit buyers/tenants without authority of the seller/lessor or their agent. A rental listing referral agent may not publish information about a property if the lessor/property manager expressly states it should not be listed.

- ✓ No advertising or soliciting without authority of the seller/lessor or their agent
- ✓ Rental listing referral agent may not publish a property the lessor/manager expressly excluded

4.26 Harassment and panic selling prohibited

A licensee may not solicit the sale or disposition of real estate so frequently as to amount to clear harassment. Attempting to bring about panic selling to profit is bad faith under the act; panic selling is frequent efforts to sell in a neighborhood based on fear of declining values not tied to intrinsic value. Systematic solicitation of listings may be evidence of an attempt to cause panic selling.

- ✓ Solicitation may not amount to clear harassment of the owner/controller
- ✓ Attempting to bring about panic selling for profit is bad faith under § 604(a)(20)
- ✓ Panic selling is frequent sale efforts based on fear of declining values unrelated to intrinsic value
- ✓ Systematic solicitation of listings is evidence (not conclusive) of an attempt to cause panic selling

4.27 Disclosure of licensure in own-property advertising

A licensee who sells or leases their own real estate must disclose in advertisements that they are a real estate licensee; this does not apply if the property is listed with a real estate company.

- ✓ Must disclose licensee status in advertisements for one's own property
- ✓ Requirement does not apply if the property is listed with a real estate company

4.28 Business name and employing broker on advertisements

Brokerage companies (including sole proprietorships), cemetery companies and rental listing referral agencies must advertise only under the business name on their license. Advertisements by associate brokers/salespersons must contain the employing broker's business name and telephone number, in equal size. Licensees using a nickname must include it on licensure or renewal applications.

- ✓ Advertise only under the business name designated on the license
- ✓ Salesperson/associate broker ads must show the employing broker's name and phone number in equal size
- ✓ Nicknames must be included on licensure or biennial renewal applications

4.29 Nonwaiver of escrow duty

A broker's escrow duty may not be waived or altered by any agreement among the parties, between the broker and parties, or between brokers. (Case law: no escrow duty arises where a deposit was never entrusted to the agent and the buyer knowingly pays the builder directly.)

- ✓ The escrow duty cannot be waived or altered by any agreement
- ✓ Escrow duty applies only to money actually entrusted to the broker

4.30 Escrow responsibility in cobrokerage transactions

If a buyer tenders the deposit to the listing broker, the listing broker assumes the escrow duty. If tendered to the selling broker with prior notice that it will go to the listing broker, the listing broker assumes it (the buyer must acknowledge in writing the required notice items). If tendered to the selling broker without that prior notice, the selling broker assumes the escrow duty.

- ✓ Deposit to the listing broker means the listing broker holds escrow
- ✓ Deposit to the selling broker with proper prior notice means the listing broker holds escrow (with written buyer acknowledgment)
- ✓ Deposit to the selling broker without prior notice means the selling broker holds escrow

4.31 Procedure for disputed escrow money

If the parties dispute entitlement to escrowed money, the broker must retain it in escrow until resolved. If resolution appears remote without legal action, the broker may, after 30 days' notice to the parties, petition the county court to interplead the rival claimants.

- ✓ Retain disputed escrow money until the dispute is resolved
- ✓ After 30 days' notice the broker may petition the court to interplead the claimants

4.32 Escrow record-keeping requirements

A broker must keep records of escrowed money and produce them for the Commission on written request or inspection. Records must show the party from whom money was received, the party to whom it belongs, the party for whose account it is deposited, and the dates money was received, deposited and withdrawn.

- ✓ Escrow records must identify payer, owner, and account party
- ✓ Records must show dates money was received, deposited into and withdrawn from escrow

4.33 Statements of estimated cost and return

Before an agreement of sale is executed, brokers must give each party a written estimate of reasonably foreseeable expenses (broker's commission, mortgage payments/financing costs, taxes/assessments, settlement expenses). Estimates must be as accurate as reasonably expected of an experienced real estate professional. Sample buyer and seller settlement statements are provided as examples.

- ✓ Provide each party a written estimate of foreseeable expenses before executing an agreement of sale
- ✓ Estimates must be as accurate as reasonably expected of a knowledgeable, experienced professional

4.34 Seller property disclosure statement contents

The seller's property disclosure statement (§ 35.335a) must at minimum cover: seller expertise, occupancy, roof, basements/crawl spaces, termites/pests, structural items, additions/remodeling, water and sewage, plumbing, heating/AC, electrical, equipment/appliances, land (soils, drainage, boundaries, sinkholes), hazardous substances, condominium/HOA, storm water facilities, and miscellaneous items (legal actions, code violations, liens, title defects, other material defects). A material defect is a problem with significant adverse impact on value or unreasonable risk to people; near/end-of-life status alone is not a defect. Seller signs representing accuracy; buyer signs acknowledging receipt and that it is not a warranty.

- ✓ The disclosure statement must cover all listed system/condition categories at a minimum
- ✓ A material defect is a problem with significant adverse impact on value or unreasonable risk to people; end-of-useful-life alone is not a defect
- ✓ Seller certifies accuracy and must update the buyer in writing of changes; buyer acknowledges receipt and that it is not a warranty

4.35 Oral disclosure requirement

When discussing real estate before the written Consumer Notice is provided, the licensee must read the § 35.339 oral disclosure verbatim, advising the consumer that any information given is not confidential unless and until a business relationship is entered, and that a written Consumer Notice explaining relationships and duties will be provided at the first meeting.

- ✓ The oral disclosure must be read verbatim when discussing real estate before the written notice
- ✓ It must advise that information given is not confidential until a business relationship is entered

4.36 Comparative market analysis disclaimer

A comparative market analysis must contain a conspicuous statement on the first page that it was not performed under the Uniform Standards of Professional Appraisal Practice, is not an appraisal, and may not be used as one for any purpose.

- ✓ A CMA must include the required USPAP/appraisal disclaimer conspicuously on the first page
- ✓ A CMA is not an appraisal and may not be used as one

4.37 Valid list of rentals verification

A rental listing referral agent's list must meet the specifications in the rental listing agreement, and the agent must verify availability of rental units no more than 4 days before collecting a fee from the prospective tenant.

- ✓ Rental list must meet the tenant's specifications in the rental listing agreement
- ✓ Availability must be verified no more than 4 days before collecting a fee

4.38 Posting of suspension notice

A broker or cemetery broker whose license is suspended must return the license to the Commission and post the Commission-provided suspension notice prominently at the public entrance of the main and branch offices; failure to post is grounds for further discipline.

- ✓ Suspended broker must return license and post the Commission's notice at each office entrance
- ✓ Failure to post constitutes grounds for further disciplinary action

4.39 Advertising prizes, contests and lotteries

Ads employing lotteries/contests or offering prizes, certificates, gifts or lots must disclose each item's description, prerequisites, quantity limits, fair market value, and odds of winning (with print-medium type/size requirements). The licensee must keep records of items awarded and recipients. Failure to comply, non-disclosure of possible non-distribution, advertising unavailable prizes, or misleading descriptions are deceptive conduct under § 604(a)(18).

- ✓ Prize/contest ads must disclose description, prerequisites, quantity limits, fair market value and odds
- ✓ Print ads must show fair market value and odds in same-size type, odds adjacent to the description
- ✓ Failure to comply or misleading prize practices constitute deceptive conduct under § 604(a)(18)

4.40 Advertising sales volume, market position and offices

An ad about 'sales volume' or 'production' must refer only to closed transactions (a listing sold or a sale after delivery of a fully executed deed). Ads about 'market' position must identify the municipality comprising the market. Ads about number of offices must refer only to offices with branch office licenses.

- ✓ Sales volume/production ads must refer only to closed transactions
- ✓ Market position ads must identify the municipality comprising the market
- ✓ Office-count ads must refer only to Commission-licensed branch offices

4.41 Rental listing referral agreement contents

An agreement between a rental listing referral agent and a prospective tenant must contain the tenant's rental specifications (such as location and rent) and a bold-print statement that the agent is a referral service only, not acting as salespersons/brokers, does not guarantee a satisfactory rental, and only furnishes lists of available rentals.

- ✓ Must state the tenant's rental specifications such as location and rent
- ✓ Must include the required bold-print 'referral service only / no guarantee' statement

CHAPTER 5

Subch. H: Continuing education

5.1 Continuing Education Requirement for License Renewal

A broker or salesperson holding a standard license who wishes to renew a current license must complete 14 hours of Commission-approved continuing education during the preceding license period as a condition precedent to renewal. This must be completed by the May 31 renewal deadline. The requirement is tied to the biennial license period.

- ✓ 14 hours of Commission-approved CE required during the preceding license period to renew a current standard license
- ✓ CE must be completed by the May 31 renewal deadline
- ✓ Completion of CE is a condition precedent to renewal
- ✓ Applies to brokers and salespersons holding standard licenses

5.2 CE Requirement for Reactivating Noncurrent Licenses

A broker or salesperson holding a standard license who wishes to reactivate and renew a noncurrent license must complete 14 hours of Commission-approved CE during the 2-year period preceding the date the reactivation application is submitted. The same coursework cannot be used to satisfy both the reactivation requirement and the current-license renewal requirement.

- ✓ 14 hours of CE required during the 2-year period preceding submission of the reactivation application
- ✓ CE is a condition precedent to reactivation and renewal of a noncurrent license
- ✓ Same CE coursework may not be used to satisfy both reactivation and current-renewal requirements

5.3 Exceptions to the CE Requirement

The continuing education requirement does not apply to certain license categories. Reciprocal license holders and specified specialty license holders are exempt even when they hold standard licenses.

- ✓ Reciprocal license holders are exempt from the CE requirement
- ✓ Cemetery brokers, cemetery salespersons, builder-owner salespersons, timeshare salespersons, campground membership salespersons, and rental listing referral agents holding standard licenses are exempt
- ✓ A licensee must provide the Commission with information necessary to establish compliance with the CE subchapter

5.4 Waiver of Continuing Education Requirement

The Commission may waive all or part of the CE requirement upon proof that the standard license holder cannot fulfill it due to illness, emergency, or hardship. Specific hardship situations qualify for full or partial waivers, and waiver requests have a filing deadline.

- ✓ Waivers may be granted for illness, emergency, or hardship
- ✓ A license initially issued within 6 months of the biennial period gets a full hardship waiver
- ✓ A license reactivated from noncurrent status within 6 months of the biennial period gets a full hardship waiver
- ✓ A qualified CE instructor gets 1 hour waived per hour of actual classroom instruction (no duplicate hours in the same topic during the same period)
- ✓ Waiver requests must be filed on or before March 31 of the renewal year unless the applicant proves it was impracticable to do so

5.5 Qualifying Courses and Format Requirements

A licensee must complete the 14 CE hours in acceptable courses taken in a minimum of 2-hour increments. The Commission may require specific topics for a given biennial period with adequate notice, and new licensees must take the Commission-developed 14-hour required course during their first biennial CE period.

- ✓ The 14 hours must be completed in acceptable courses in a minimum of 2-hour increments
- ✓ The Commission may require all or part of the 14 hours be completed in required topics for a given biennial period with adequate notice
- ✓ During the first biennial period CE is required, a new licensee must complete the Commission-developed 14-hour required course for new licensees

5.6 Acceptable and Unacceptable CE Course Topics

The regulation lists 25 acceptable course subject areas covering substantive real estate practice, law, finance, and ethics. It also defines unacceptable courses as mechanical office and business skills that do not bear on the public interest.

- ✓ Acceptable topics include real estate ethics, laws affecting real estate, financing and mathematics, valuation, property management, land use and zoning, agency relationships, landlord-tenant laws, environmental and antitrust issues, and consumer protection and disclosures
- ✓ Broker courses encompassing supervisory duties and standards of conduct under Subchapter E are acceptable
- ✓ Unacceptable courses include mechanical office/business skills such as typing, speed writing, advertising copy preparation, word processing, calculator/computer operation, and office management that do not bear on the public interest

CHAPTER 6

Subch. J: Broker price opinions

6.1 Required BPO Disclaimer Statement

Every broker price opinion (BPO) must contain a specific disclaimer statement displayed conspicuously and without any change. The statement clarifies that the analysis was not prepared under the Uniform Standards of Professional Appraisal Practice (USPAP), is not an appraisal, and may not be used as one for any purpose. This distinguishes a BPO from a formal appraisal.

- ✓ A BPO must display the prescribed USPAP disclaimer statement conspicuously and without change
- ✓ The statement must declare the BPO is not to be construed as an appraisal and may not be used as such for any purpose

6.2 Required Content of a Broker Price Opinion

A BPO must be signed manually or electronically by the person who prepared it and must contain nine specific pieces of information, including identification of intended users/uses, descriptions of the subject property and property interest, the basis for the price conclusion, assumptions/limiting conditions, existing/contemplated interests of the preparer, effective date, signing date, and license numbers.

- ✓ A BPO must be signed (manually or electronically) by the person who prepared it
- ✓ A BPO must identify intended users/uses, describe the subject property and property interest, and state the basis for the price conclusion (market data, cost data, or capitalization)
- ✓ A BPO must disclose each assumption/limiting condition, each interest of the licensee preparing it, the effective date, the signing date, and the real estate license number(s) of the preparer and any reviewing broker

6.3 Salesperson Restrictions on Preparing BPOs

A salesperson may not prepare a broker price opinion unless they have held an active license for the 3 years immediately preceding the effective date of the BPO and have satisfied the education requirements of § 35.503. Additionally, a salesperson's BPO must be signed by the salesperson and then reviewed and signed by the employing broker or a designated associate broker.

- ✓ A salesperson must have held an active license for the 3 years immediately preceding the BPO's effective date to prepare a BPO
- ✓ A salesperson must satisfy the § 35.503 education requirements before preparing a BPO
- ✓ A salesperson-prepared BPO must be reviewed and signed by the employing broker or a designated associate broker

6.4 Permitted Uses of a BPO

A broker, associate broker, or salesperson may prepare a BPO only for use in connection with specific permitted situations: a lender-owned property after an unsuccessful foreclosure auction sale, a modification of a first/junior mortgage or equity line of credit, a short sale of a property, or the evaluation or monitoring of a portfolio of properties.

- ✓ A BPO may only be prepared for use with: lender-owned (REO) property after failed foreclosure auction, mortgage/equity line modifications, short sales, or portfolio evaluation/monitoring
- ✓ BPOs are limited to these enumerated permitted uses

6.5 Prohibited Uses of a BPO

A BPO may not be prepared as the basis to determine the value of real property for a mortgage loan origination (first/junior mortgage, refinancing, or equity line of credit). It also may not be prepared for eminent domain, Federal/State/local tax appeals, bankruptcy or insolvency proceedings, divorce or equitable distribution matters, any action before a court of record, or the distribution of a decedent's estate.

- ✓ A BPO may not be used as the basis to value property for a mortgage loan origination, refinancing, or equity line of credit
- ✓ A BPO may not be used in eminent domain, tax appeals, bankruptcy/insolvency, divorce/equitable distribution, court of record proceedings, or decedent's estate distribution

6.6 BPO Initial Education Requirement

A broker, associate broker, or salesperson may not prepare a BPO unless they have completed a Commission-approved initial education course in BPO preparation. Likewise, a broker or associate broker may not sign a salesperson-prepared BPO without completing the same approved initial education course.

- ✓ Completion of a Commission-approved initial BPO education course is required before preparing a BPO
- ✓ A broker/associate broker must complete the approved initial course before signing a salesperson's BPO

6.7 BPO Continuing Education Requirement

A licensee may not prepare a BPO unless they have completed at least 3 hours of Commission-approved continuing education in BPO topics during the current or immediately preceding 2-year license period. Licensees must retain the transcript or certificate for all required BPO courses and provide a copy to the Commission upon request.

- ✓ At least 3 hours of Commission-approved BPO continuing education must be completed during the current or immediately preceding 2-year license period
- ✓ Licensees must retain transcripts/certificates of BPO courses and provide copies to the Commission upon request

6.8 BPO Fees Paid to Employing Broker

Any fee or valuable consideration for a broker price opinion must be paid directly to the employing broker, not to the salesperson or associate broker individually. This reflects the general rule that licensees are compensated through their employing broker.

- ✓ A fee or valuable consideration for a BPO, if any, must be paid directly to the employing broker

6.9 Approved BPO Courses and Required Topics

The Commission has approved four prelicensure courses to satisfy the initial BPO education requirement: valuation of residential property, valuation of income-producing property, basic appraisal principles, and basic appraisal procedures. Other 3+ hour courses may satisfy the initial or continuing education requirement if they cover valuation definitions (BPO, CMA, AVM), permitted/non-permitted uses, qualifications/limitations, and the basics of BPO preparation.

- ✓ Approved initial courses include valuation of residential property, valuation of income-producing property, basic appraisal principles, and basic appraisal procedures
- ✓ Alternative courses must be 3+ hours and cover valuation definitions (BPO, CMA, AVM), applicability/permitted uses, qualifications/limitations, and basics of BPO preparation

CHAPTER 7

Supplement: License law – recovery fund

7.1 Real Estate Recovery Fund

The Real Estate Recovery Fund (RELRA § § 801-803) compensates consumers who obtain a final civil judgment against a licensee for fraud, misrepresentation or deceit in a real estate transaction and cannot collect it. Each new licensee pays $10 into the fund at initial licensure; if the fund balance falls below $300,000 the Commission may assess every licensee up to $10 at renewal. The claimant must apply to the Commission within one year after the judgment becomes final, and recovery is capped at $20,000 per transaction regardless of the number of claimants. When the fund pays a claim, the licensee's license is automatically suspended and may not be reinstated until the fund is repaid in full plus interest at 10 percent per year. Source: RELRA § § 801-803, 63 P.S. § § 455.801-455.803

- ✓ Maximum recovery from the fund is $20,000 per transaction.
- ✓ Claimant must first obtain a final judgment against the licensee and apply within 1 year after the judgment is final.
- ✓ New licensees pay $10 into the fund; licensees may be assessed up to $10 at renewal if the fund drops below $300,000.
- ✓ A licensee whose conduct causes a payout is automatically suspended until the fund is repaid with 10% interest.

CHAPTER 8

Supplement: License law – discipline

8.1 Grounds for Discipline, Civil and Criminal Penalties

RELRA § 604(a) lists the grounds on which the Commission may suspend, revoke or refuse to renew a license, including misrepresentation, fraud, undisclosed dual agency, commingling, failure to deliver copies of agreements, paying fees to unlicensed persons, felony conviction, discrimination and violation of Commission regulations. Under RELRA § 305 the Commission may impose a civil penalty of up to $1,000 per violation against licensees and against unlicensed persons who practice without a license. Under RELRA § 303 practicing without a license is a summary offense for a first violation (fine of $500 to $2,000 or imprisonment up to 3 months, or both) and a misdemeanor of the third degree for subsequent violations (fine of $2,000 to $5,000 or imprisonment of 1 to 2 years, or both). Licensees are entitled to notice and a hearing before discipline and may appeal to Commonwealth Court. Source: RELRA § § 303, 305, 604; 63 P.S. § § 455.303, 455.305, 455.604

- ✓ The Commission may impose a civil penalty of up to $1,000 per violation.
- ✓ First-offense unlicensed practice: summary offense, $500 to $2,000 fine and/or up to 3 months jail.
- ✓ Subsequent unlicensed practice: third-degree misdemeanor, $2,000 to $5,000 fine and/or 1 to 2 years jail.
- ✓ Discipline requires notice and an opportunity for a formal hearing; appeals go to Commonwealth Court.

CHAPTER 9

Supplement: Fair housing – state law

9.1 Pennsylvania Human Relations Act – Protected Classes and Exemptions

The Pennsylvania Human Relations Act (43 P.S. § § 951-963) prohibits discrimination in the sale, rental, financing and advertising of housing and commercial property based on race, color, religious creed, ancestry, age, sex, national origin, familial status, handicap or disability, the use or handling of guide or support animals, and association with a person with a disability. PHRC regulations effective in 2023 interpret sex to include sexual orientation and gender identity, and the Act covers age, ancestry and support-animal use, which go beyond the federal Fair Housing Act. The Act exempts the rental of a unit in an owner-occupied two-family dwelling and certain housing for older persons; licensees, however, are never exempt when acting for others. Complaints are filed with the Pennsylvania Human Relations Commission within 180 days of the alleged act, and a discrimination violation is also grounds for license discipline under RELRA § 604(a). Source: 43 P.S. § § 951-963; 16 Pa. Code ch. 41

- ✓ State protected classes beyond federal law include age, ancestry, use of guide/support animals, and (by 2023 regulation) sexual orientation and gender identity as part of sex.
- ✓ Complaints go to the PA Human Relations Commission within 180 days.
- ✓ Owner-occupied two-family dwellings are exempt from the rental provisions when no licensee is used.
- ✓ Discriminating in violation of the PHRA is also a ground for license suspension or revocation.

CHAPTER 10

Supplement: Landlord-tenant law

10.1 Security Deposits under the Landlord and Tenant Act

The Landlord and Tenant Act of 1951 (68 P.S. § § 250.511a-250.512) limits residential security deposits to two months' rent during the first year of a lease and one month's rent in the second and later years, and after the fifth year the deposit may not be increased even if rent rises. Deposits over $100 must be held in an escrow account at a state- or federally-regulated institution (or secured by a bond), and after the second year the tenant is entitled to interest on the deposit, less a 1 percent annual administrative fee the landlord may retain. Within 30 days after the tenant vacates and provides a written forwarding address, the landlord must return the deposit with an itemized list of damages deducted. A landlord who fails to do so forfeits the right to keep any of the deposit and is liable for double the amount wrongfully withheld; a tenant who fails to give a forwarding address loses the right to double damages. Source: 68 P.S. § § 250.511a-250.512

- ✓ Maximum deposit: 2 months' rent in year one, 1 month's rent thereafter; no increase after year five.
- ✓ Deposits over $100 must be escrowed; interest is owed to the tenant beginning in the third year (landlord may keep 1%).
- ✓ Landlord must return the deposit with an itemized list within 30 days after the tenant leaves and gives a forwarding address.
- ✓ Wrongful retention makes the landlord liable for double the amount withheld.

10.2 Notice to Quit and Eviction Procedure

Under the Landlord and Tenant Act (68 P.S. § 250.501) a landlord must give written notice to quit before filing for possession: 10 days for nonpayment of rent, 15 days at expiration of the term or for breach where the lease is for one year or less or an indeterminate term, and 30 days where the lease is for more than one year. The tenant may waive the notice requirement in the written lease. Eviction is by court action before a magisterial district judge followed by an order for possession; self-help evictions such as lockouts and utility shutoffs are not permitted. After a tenant vacates, personal property left behind is handled under 68 P.S. § 250.505a, which gives the tenant 10 days to respond to the landlord's notice and 30 days to retrieve the property. Source: 68 P.S. § § 250.501, 250.505a

- ✓ Notice to quit: 10 days for nonpayment, 15 days for leases of one year or less, 30 days for leases over one year.
- ✓ Notice to quit may be waived in the lease.
- ✓ Landlords must evict through the magisterial district judge; self-help eviction is prohibited.
- ✓ Abandoned tenant property: tenant has 10 days to respond and 30 days to retrieve after notice.

CHAPTER 11

Supplement: Taxes and closing

11.1 Pennsylvania Realty Transfer Tax

Pennsylvania imposes a state realty transfer tax of 1 percent of the value (consideration) on documents conveying real estate, collected when the deed is recorded (72 P.S. § 8101-C et seq.). Local governments (municipality and school district) typically impose an additional 1 percent, for a customary total of 2 percent, but some places charge more, notably Philadelphia (local 3.278 percent, total 4.278 percent) and Pittsburgh (verify current local rate). Buyer and seller are jointly liable, and by custom the tax is split equally between them unless the agreement of sale provides otherwise. Exempt transfers include those between spouses, parent and child, siblings, grandparent and grandchild, transfers by will or intestacy, transfers to governmental bodies, and corrective or confirmatory deeds; a Statement of Value must be filed when the deed does not state full consideration or claims an exemption. Source: 72 P.S. § § 8101-C to 8113-C; 61 Pa. Code ch. 91

- ✓ State transfer tax is 1% of value; local tax is usually another 1%, for a typical 2% total.
- ✓ Philadelphia total transfer tax is 4.278% (1% state + 3.278% local).
- ✓ Buyer and seller are jointly and severally liable; the customary split is 50/50.
- ✓ Transfers between spouses, parent and child, siblings, and by will or intestacy are exempt.

11.2 Property Tax Assessment, Homestead Exclusion, and Clean and Green

Real property in Pennsylvania is assessed by the county, and taxes are levied by the county, municipality and school district by applying millage rates to assessed value; the State Tax Equalization Board publishes a Common Level Ratio for each county used to convert market value to assessed value and in assessment appeals. The Taxpayer Relief Act (Act 1 of 2006, 53 Pa.C.S. § 8581 et seq.) lets school districts and other taxing bodies grant a homestead and farmstead exclusion of up to 50 percent of the median assessed value of homesteads to owner-occupied primary residences; owners apply to the county assessor, generally by March 1. The Clean and Green program (Act 319, 72 P.S. § 5490.1 et seq.) gives preferential use-value assessment to agricultural, agricultural-reserve and forest land of at least 10 acres (or producing at least $2,000 in annual farm income); if the land is converted to an ineligible use, rollback taxes for up to 7 years plus 6 percent interest are due. Unpaid property taxes are a lien on the property and can lead to upset and judicial tax sales under the Real Estate Tax Sale Law. Source: 53 Pa.C.S. § 8581 et seq.; 72 P.S. § 5490.1 et seq.; 72 P.S. § 5860.101 et seq.

- ✓ Counties assess property; the Common Level Ratio relates assessed value to market value.
- ✓ The homestead/farmstead exclusion applies only to owner-occupied primary residences and requires an application to the county assessor.
- ✓ Clean and Green requires at least 10 acres or $2,000 annual farm income; conversion triggers up to 7 years of rollback taxes plus 6% interest.
- ✓ Delinquent property taxes are a lien and can result in a tax sale.

CHAPTER 12

Supplement: Condominium/HOA law

12.1 Condominium and Planned Community Resale Certificates

Under the Uniform Condominium Act (68 Pa.C.S. § 3407) and the Uniform Planned Community Act (68 Pa.C.S. § 5407), a unit owner reselling a unit must furnish the buyer, before conveyance, a copy of the declaration, bylaws and rules and a resale certificate from the association showing current assessments, unpaid fees, capital expenditures, reserves, pending litigation, insurance coverage and other required items. The association must furnish the certificate within 10 days of the owner's request and may charge a reasonable fee; the seller is not liable for errors in the information supplied by the association. The buyer may cancel the agreement of sale within 5 days after receiving the certificate or until conveyance, whichever occurs first. A buyer purchasing a new unit from the declarant must receive a public offering statement and may cancel within 7 days after receiving it. Source: 68 Pa.C.S. § § 3402-3407, 5402-5407

- ✓ Buyer may cancel within 5 days after receiving the resale certificate (or before conveyance, whichever is first).
- ✓ Association must provide the resale certificate within 10 days of request.
- ✓ Seller is not liable for errors in the information provided by the association.
- ✓ Buyers from a declarant get a public offering statement with a 7-day cancellation right.

CHAPTER 13

Supplement: State disclosures

13.1 Statutory Notices Required in Agreements of Sale (Coal, Sewage, Highway Access)

Several Pennsylvania statutes require specific notices in agreements of sale and deeds beyond the Commission's own rules. The Coal Notice law (Act of July 17, 1957, P.L. 984; 52 P.S. § 1551 et seq.) requires agreements and deeds for land where the coal or right of surface support may have been severed to carry a conspicuous notice that the document may not include or insure the right of protection against subsidence, and the buyer must sign a separate acknowledgment. The Sewage Facilities Act (35 P.S. § 750.7a) requires every agreement of sale for a lot without an available community sewage system to state that fact and that the buyer must obtain a permit for an individual on-lot system, or disclose that no permit or site testing has been completed. The State Highway Law (36 P.S. § 670-420) requires an agreement of sale for property abutting a state highway to notify the buyer that access requires a Highway Occupancy Permit from PennDOT. Source: 52 P.S. § 1551 et seq.; 35 P.S. § 750.7a; 36 P.S. § 670-420

- ✓ Coal notice must appear in agreements and deeds where surface support may be severed, with a buyer-signed acknowledgment.
- ✓ Agreements for lots lacking community sewage must state that an on-lot sewage permit is required (Act 537).
- ✓ Property abutting a state highway requires a Highway Occupancy Permit notice in the agreement of sale.
- ✓ Failure to include a required notice can give the buyer grounds to void the agreement.

CHAPTER 14

Supplement: License law – commission

14.1 State Real Estate Commission – Composition and Powers

The State Real Estate Commission, created by RELRA § 201-202 within the Bureau of Professional and Occupational Affairs of the Department of State, has 11 members: the Commissioner of Professional and Occupational Affairs, the Director of the Bureau of Consumer Protection (or designee), three public members, five members who have been licensed and actively engaged as real estate brokers for at least 10 years, and one licensed cemetery broker (verify composition). Members are appointed by the Governor with Senate consent for 5-year terms. The Commission administers the Act, promulgates regulations (49 Pa. Code ch. 35), approves education, issues and renews licenses, investigates complaints, holds hearings, and imposes discipline and civil penalties, and it may issue advisory opinions. Source: RELRA § § 201-202, 404; 63 P.S. § § 455.201-455.202

- ✓ The Commission has 11 members appointed by the Governor with Senate consent for 5-year terms.
- ✓ Broker members must have at least 10 years of active licensed experience.
- ✓ The Commission operates within the Department of State's Bureau of Professional and Occupational Affairs.
- ✓ Its powers include rulemaking, licensing, investigation, hearings, discipline and civil penalties.

CHAPTER 15

Supplement: Financing and foreclosure

15.1 Mortgage Foreclosure, Act 6/Act 91 Notices, and No Post-Sale Redemption

Pennsylvania is a lien-theory state and mortgages are foreclosed judicially by an action in the Court of Common Pleas followed by a sheriff's sale. Under the Loan Interest and Protection Law (Act 6, 41 P.S. § 403) a lender must give a residential mortgage debtor at least 30 days' written notice of intention to foreclose, and the debtor may cure the default by paying all arrears and costs at any time up to one hour before the sheriff's sale (41 P.S. § 404); Act 6 applies to residential mortgages at or below an indexed base figure (verify current amount). The Homeowners' Emergency Mortgage Assistance Program (Act 91, 35 P.S. § 1680.402c) requires a further notice giving the owner 33 days to meet with a consumer credit counseling agency and apply for state assistance. There is no statutory right of redemption after a mortgage foreclosure sheriff's sale; deficiency judgments are governed by the Deficiency Judgment Act, which requires the lender to petition for a fair-value determination within 6 months. Source: 41 P.S. § § 403-404; 35 P.S. § 1680.402c; 42 Pa.C.S. § 8103

- ✓ Foreclosure is judicial, ending in a sheriff's sale; Pennsylvania is a lien-theory state.
- ✓ Act 6 requires a 30-day notice of intention to foreclose on residential mortgages and allows cure up to 1 hour before the sale.
- ✓ Act 91 notice gives the homeowner 33 days to seek HEMAP assistance.
- ✓ No statutory redemption exists after the sheriff's sale; deficiency claims must be filed within 6 months.

CHAPTER 16

Supplement: License law – compensation

16.1 Compensation Flows Only Through the Employing Broker; No Fees to Unlicensed Persons

Under RELRA § 604(a) it is a ground for discipline for a broker to pay or a licensee to accept any commission, fee or other valuable consideration from anyone other than the licensee's employing broker, and for a licensee to pay a commission or referral fee to any person not licensed under the Act. A salesperson or associate broker may be compensated only by the broker of record with whom he or she is licensed, and may not receive compensation directly from a buyer, seller, lender, title company or another broker. A Pennsylvania broker may pay a referral fee or share a commission with a broker licensed in another state for a transaction in which that broker participated. Finder's fees or gifts to unlicensed persons for referring buyers, sellers or tenants are prohibited, and a licensee may not sue for or collect compensation without a written agreement (see existing point on written agreements). Source: RELRA § 604(a); 63 P.S. § 455.604(a) (verify subsection numbering)

- ✓ A salesperson may accept compensation only from his or her employing broker of record.
- ✓ Paying a commission or referral fee to an unlicensed person is a ground for discipline.
- ✓ Brokers may share commissions with out-of-state brokers licensed in their own jurisdiction.
- ✓ Direct payment from a client, lender or another broker to a salesperson is prohibited.