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United States • Virginia Real Estate Salesperson License Exam

Virginia

Study Guide

KNOWLEDGE POINTS	CHAPTERS	EDITION
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CHAPTER 1

Code of Virginia Title 54.1 Ch. 21 Art. 1 (a): definitions, salesperson defined, exemptions, Real Estate Board membership and powers, licenses required, qualifications and education for licensure (54.

1.1 Definition of Real Estate Broker

A real estate broker is any individual or business entity (partnership, association, corporation, or LLC) who, for compensation or valuable consideration, performs specified real estate acts. This includes selling/offering to sell, buying/offering to buy, negotiating purchases, sales, or exchanges of real estate (including condominium units, cooperative interests, and time-shares even if deemed securities), or leasing/renting real estate or improvements for others.

- ✓ A broker must act 'for compensation or valuable consideration' to fall under the definition
- ✓ A broker can be an individual OR a business entity (partnership, association, corporation, or LLC)
- ✓ Broker activities include sales, purchases, exchanges, leasing, and renting of real estate for others

1.2 Definition of Real Estate Salesperson

A real estate salesperson is any individual or business entity who, for compensation or valuable consideration, is employed directly or indirectly by, or affiliated as an independent contractor with, a real estate broker to sell, buy, negotiate, or lease real estate or improvements.

- ✓ A salesperson must be affiliated with a broker (as employee or independent contractor) to act
- ✓ A salesperson acts for compensation or valuable consideration
- ✓ Salesperson activities mirror broker activities but must be performed under a broker

1.3 Exemptions from the Real Estate Chapter

Certain persons and acts are exempt from licensing requirements, including owners/lessors managing their own property, attorneys-in-fact acting without compensation for final performance, attorneys-at-law performing their duties, court-appointed persons (receivers, trustees, executors), trustees under trust/deed/will, certain rental housing management corporations, existing tenants receiving referral fees, licensed auctioneers (with 48-hour bidding limit), and out-of-state licensees assisting with commercial real estate.

- ✓ Owners or lessors dealing with their own property are exempt from licensure
- ✓ Attorneys-at-law performing their legal duties are exempt
- ✓ Auctioneers selling real estate at public auction must keep bidding open no longer than 48 hours and cannot advertise they are authorized to sell real estate
- ✓ Out-of-state licensees may assist with commercial real estate transactions in Virginia and be compensated by a Virginia broker but may not otherwise act as a broker/salesperson

1.4 Real Estate Board Composition

The Real Estate Board is composed of nine members: seven who have been licensed real estate brokers or salespersons for at least five consecutive years before appointment, and two citizen members. Board members serve four-year terms. The Board elects a chairman from its membership and adopts a seal to authenticate proceedings.

- ✓ The Board has nine members: seven licensed professionals and two citizen members
- ✓ Professional members must have been licensed for at least five consecutive years before appointment
- ✓ Board member terms are four years
- ✓ The Board elects its own chairman from its membership

1.5 Education Requirements for Initial Salesperson License

Every applicant for an initial salesperson license must have at least a high school diploma or its equivalent and must complete a course in the principles of real estate carrying at least four semester hours (not less than 60 hours) of classroom, correspondence, or distance learning instruction from an accredited or approved institution.

- ✓ Salesperson applicants must have at minimum a high school diploma or equivalent
- ✓ Salesperson applicants must complete a principles of real estate course of at least 60 hours (4 semester hours)

1.6 Education Requirements for Initial Broker License

Every applicant for an initial broker license must have at least a high school diploma or its equivalent and must complete not less than 12 semester hours of classroom, correspondence, or distance learning instruction in real estate courses from an accredited or approved institution.

- ✓ Broker applicants must have at minimum a high school diploma or equivalent
- ✓ Broker applicants must complete at least 12 semester hours of real estate courses

1.7 Post-License Education for New Salespersons

The Board requires all salespersons to complete at least a 30-hour post-license educational curriculum within the first year of licensure. Failure to complete it within one year from the last day of the month the license was issued results in the license being placed on inactive status until completed. This post-licensure education is in lieu of continuing education for new licensees.

- ✓ New salespersons must complete a 30-hour post-license curriculum within one year of licensure
- ✓ Failure to complete places the license on inactive status until the curriculum is finished
- ✓ Post-licensure education replaces continuing education requirements for new licensees
- ✓ Curriculum covers topics like contract writing, deposits, listing/leasing, agency, flood hazard areas, association law, and landlord-tenant law

1.8 Definition of Real Estate Team

A real estate team is two or more individuals, at least one of whom is a licensed salesperson or broker, who work together as a unit within the same brokerage firm, represent themselves to the public as working together as one unit, and designate themselves by a fictitious name.

- ✓ A real estate team must include at least one licensed salesperson or broker
- ✓ All three conditions must be met: work as a unit in same firm, present as one unit publicly, and use a fictitious name
- ✓ Team members must all operate within the same brokerage firm

1.9 Definition of Supervising Broker

A supervising broker is a real estate broker designated by a principal broker to supervise the provision of real estate brokerage services by associate brokers and salespersons assigned to a branch office or a real estate team.

- ✓ A supervising broker is designated by the principal broker
- ✓ Supervision applies to associate brokers and salespersons at a branch office or real estate team

1.10 Preparation of Real Estate Contracts by Licensees

Any licensee may prepare written contracts for the sale, purchase, option, exchange, or rental of real estate, provided the preparation is incidental to a transaction in which the licensee is involved and the licensee does not charge a separate fee for preparing the contracts. Licensees may also assist parties in obtaining translation of documents but may not charge a fee for such assistance or referral.

- ✓ Contract preparation must be incidental to a transaction the licensee is involved in
- ✓ The licensee may not charge a separate fee for preparing contracts
- ✓ A licensee assisting with translation cannot charge a fee and is not liable for translation inaccuracies

1.11 Exempt Salaried Employees in Property Management

A salaried person employed by a licensed broker on behalf of an owner may perform limited leasing activities without a license if actions are limited to exhibiting residential units (if employed on-premises), providing factual leasing information, accepting applications, and accepting security deposits and rentals. Such employees may not negotiate deposit/rental amounts or leases.

- ✓ The salaried employee's activities are strictly limited to four permitted acts
- ✓ The employee may NOT negotiate security deposit or rental amounts or negotiate leases
- ✓ Deposits and rentals must be made payable to the owner or the broker employed by the owner

1.12 Licensee Compliance Despite Exemption

A licensee of the Board must comply with the Board's regulations even if the licensee would otherwise be exempt from licensure under subsection A. However, this does not require a person to be licensed if they are otherwise exempt.

- ✓ A licensee must follow Board regulations even when performing otherwise-exempt activities
- ✓ Being a licensee does not eliminate an available exemption from licensure

1.13 General Powers of the Real Estate Board

The Board may do all things necessary and convenient to carry out the chapter and may promulgate necessary regulations. It establishes minimum educational requirements, sets quality criteria for courses, may define permitted activities of unlicensed assistants, and may take disciplinary cases under advisement, defer findings, and dismiss actions on terms and conditions.

- ✓ The Board may promulgate regulations necessary to carry out the chapter
- ✓ The Board may establish criteria for permitted activities of unlicensed individuals
- ✓ The Board may defer a finding in a disciplinary case and dismiss it upon set terms and conditions

1.14 CE Timing and Distance Learning Verification

Every applicant for relicensure as an active salesperson or broker must complete CE requirements prior to each renewal or reinstatement; this also applies to inactive licensees applying for active status. Military personnel on active duty may complete CE within six months of release. For distance learning, the Board establishes testing procedures and requires a notarized affidavit, but may not require testing for classroom courses.

- ✓ CE must be completed prior to each renewal or reinstatement of an active license
- ✓ Military personnel on active duty may complete CE within six months of release from duty
- ✓ Distance learning courses require testing and a notarized affidavit; classroom courses cannot be required to have testing

1.15 Attorney Referral Compensation Restriction

An attorney-at-law who refers a client to a licensee is not entitled to receive compensation from a listing firm or offered by a common source information company to cooperating brokers, unless the attorney is also licensed as a real estate broker or salesperson.

- ✓ An attorney cannot receive cooperating broker compensation for a referral unless also licensed as a broker/salesperson
- ✓ Referral compensation from listing firms is restricted to licensees

1.16 Board Authority to Waive Education/Experience

The Board may waive education or experience requirements when equivalent education or experience is found. Persons licensed prior to July 1, 1975 and continuously licensed since are exempt from added educational requirements, but prior salesperson licensure does not exempt a person from broker educational requirements. Noncollegiate institutions cannot grant collegiate semester hours.

- ✓ The Board may waive requirements if equivalent education or experience is demonstrated
- ✓ A pre-July 1, 1975 continuously-licensed salesperson still must meet broker educational requirements to become a broker
- ✓ Noncollegiate institutions cannot grant collegiate semester hours for academic credit

1.17 Regulation of Real Estate Education Providers

The Board may regulate schools offering real estate courses (except those regulated by other state agencies), including instructor qualification, curriculum approval, and evidence of financial responsibility. Board regulations must include a procedure for processing continuing education applications, acknowledging receipt within 10 calendar days and providing approval/disapproval notice within 75 calendar days.

- ✓ The Board may regulate schools offering real estate courses, including instructor qualifications and curriculum approval
- ✓ Applications for CE courses must be acknowledged within 10 calendar days of receipt
- ✓ The Board must notify applicants of approval/disapproval within 75 calendar days

CHAPTER 2

Art. 1 (b): examinations, continuing education, license fees, protection of escrow funds, death or disability of a broker, resident broker place of business, duties of supervising broker, voluntary co

2.1 Reactivation education for inactive licensees

A salesperson or broker inactive more than three years must meet remedial educational requirements and the education requirements in effect at the time they become active. The Board may waive these requirements if, during inactivity, the holder was engaged in an occupation where real estate knowledge is retained, OR is a servicemember/spouse permanently assigned outside Virginia who remained current in the field. Proof of identity is required before taking the state exam.

- ✓ Inactive more than three years triggers remedial education requirements
- ✓ Reactivating applicant must meet education requirements in effect at time of reactivation
- ✓ Waiver available for real-estate-related occupation or military assignment outside Virginia with continued currency
- ✓ Proof of identity required before taking the state examination

2.2 Firm and business entity licensing requirements

No business entity (other than a sole proprietorship) may act as a real estate firm without a firm license, which may be granted in a fictitious name. Every actively participating managing member/officer/partner/associate must hold a broker's license, and every salesperson employee/contractor must be licensed. A broker may operate a sole proprietorship he owns without further licensure but not under a fictitious name. A non-broker-owned sole proprietorship must obtain a license.

- ✓ Business entities (except sole proprietorships) need a firm license, obtainable in a fictitious name
- ✓ Every actively participating owner/officer/partner must hold a broker's license
- ✓ A broker may operate a sole proprietorship he owns without further licensure but not in a fictitious name
- ✓ A non-broker-owned sole proprietorship must obtain a license

2.3 Broker, salesperson, and business entity salesperson licenses

No individual may act as a broker without a broker's license, and a broker may act as a salesperson for another broker. No individual may act as a salesperson without a salesperson's license. A business entity may act as a salesperson only with a separate business entity salesperson's license, requiring every actively participating owner/officer to hold a salesperson or broker license.

- ✓ Individuals need a broker's or salesperson's license to act in those capacities
- ✓ A licensed broker may act as a salesperson for another broker
- ✓ A business entity salesperson needs a separate license and all active owners/officers must be licensed

2.4 Real estate teams and branch offices

A group of brokers/salespersons acting as a real estate team must first obtain a business entity salesperson's license; the team may hire unlicensed assistants. If a principal broker maintains more than one place of business in Virginia, a branch office license is required for each, and a copy must be kept on the branch premises.

- ✓ Real estate teams must obtain a business entity salesperson's license before operating
- ✓ A branch office license is required for each additional place of business, with a copy kept on premises

2.5 Protection of escrow funds held by broker

No licensee or agent may divert or misuse funds held in escrow or for another. When the Board believes a licensee cannot adequately protect involved parties' interests, it may petition a court with equity jurisdiction, which may enjoin activity, protect and disburse funds, and appoint a receiver. Receiver expenses are paid by the licensee, or if unable, from the Transaction Recovery Fund or Board funds; if the licensee is found without fault, the Board pays.

- ✓ Licensees may not divert or misuse escrow or other funds held for another
- ✓ Board may petition an equity court to protect funds and appoint a receiver
- ✓ Receiver fees paid by the licensee, or by Board/Recovery Fund if licensee unable or found without fault

2.6 Deposit timing for rent, security, and application deposits

Rent paid to a licensee for a landlord client must be placed in escrow by the end of the fifth business banking day after receipt unless the principals agree otherwise in writing. Security deposits follow the same fifth-business-banking-day rule. Application deposits must be placed in escrow by the end of the fifth business banking day following landlord approval of the rental application. Funds remain in escrow until disbursed per the lease, management agreement, or statute.

- ✓ Rent and security deposits go to escrow by end of the fifth business banking day after receipt
- ✓ Application deposits go to escrow by end of the fifth business banking day after landlord approves the application
- ✓ Funds remain in escrow until properly disbursed

2.7 Earnest money escrow in purchase transactions

Upon contract ratification, an earnest money deposit received by the principal/supervising broker or their agent must be placed in escrow by the end of the fifth business banking day after ratification, unless the principals agree otherwise in writing, and must remain there until the transaction is consummated or terminated.

- ✓ Earnest money deposited into escrow by end of the fifth business banking day after ratification
- ✓ Funds remain in escrow until the transaction is consummated or terminated

2.8 Disbursement of disputed earnest money deposits

If a transaction is not consummated, the broker holds funds in escrow until: (i) all principals agree in writing; (ii) a court orders disbursement; (iii) funds are interpleaded into court; or (iv) the broker releases funds to the party entitled under the contract's clear and explicit terms. The broker may send written notice that funds will be released unless a written protest is received within 15 calendar days. A broker complying with this section is immune from liability to the parties.

- ✓ Broker holds disputed earnest money until written agreement, court order, interpleader, or release per clear contract terms
- ✓ Broker may release funds if no written protest is received within 15 calendar days of notice
- ✓ A complying broker is immune from liability to the parties

2.9 Duties of supervising broker

Each place of business, branch office, and real estate team must be supervised by a supervising broker who exercises reasonable and adequate supervision of brokerage services by assigned associate brokers and salespersons. The broker may designate another broker to assist but remains responsible. Reasonable and adequate supervision includes being available to review/approve documents, ensuring written policies on escrow, fair housing, advertising, contracts, unlicensed assistants, agency relationships, and disclosures, and maintaining required records for three years.

- ✓ Each office, branch, and team must have a supervising broker exercising reasonable and adequate supervision
- ✓ Delegation to another broker does not relieve the supervising broker of responsibility
- ✓ Supervising broker must ensure written policies on escrow, fair housing, advertising, contracts, and disclosures
- ✓ Required records must be maintained for three years and furnished to the Board on request

2.10 Continuing education carryover and waivers

The Board must establish procedures allowing licensees to carry over CE credits completed in the current license period to the next renewal period. The Board may also grant exemptions or waive/reduce required CE hours in cases of certified illness or demonstrated undue hardship.

- ✓ Board must establish CE carryover procedures from current period to next renewal
- ✓ Board may waive or reduce CE hours for certified illness or undue hardship

2.11 Residential property disclosure statement form

The Real Estate Board must develop and maintain on its website a residential property disclosure statement form under the Virginia Residential Property Disclosure Act, plus a one-page acknowledgment form signed by the parties confirming the purchaser was advised of the disclosures listed on the Board's website.

- ✓ Board maintains residential property disclosure statement form on its website
- ✓ Board maintains a one-page acknowledgment form signed by parties confirming buyer was advised of disclosures

2.12 Cease and desist orders for unlicensed activity

The Board may issue a cease and desist order against any unlicensed person acting as a broker or salesperson. The order is effective on entry and becomes final unless the person appeals under the Administrative Process Act within 21 days. Continued unlicensed activity may be referred for enforcement, and the Board may impose a civil penalty up to $1,000 per transaction (or the compensation received, whichever is greater), with penalties paid to the Literary Fund.

- ✓ Cease and desist order is effective upon entry; appeal within 21 days or it becomes final
- ✓ Civil penalty up to $1,000 per transaction or the compensation received, whichever is greater
- ✓ Collected penalties go to the Literary Fund after Board administrative costs

2.13 Certification of audit on firm/sole proprietorship renewal

When renewing a firm or sole proprietorship license, the principal or supervising broker must certify that the firm's operations, policies, and procedures have been audited for compliance with the chapter and Board regulations. The audit must be conducted at least once per licensure term, and the signed completed audit form must be kept on the premises and produced upon Board request.

- ✓ Principal/supervising broker must certify a compliance audit at each firm/sole proprietorship renewal
- ✓ Audit conducted at least once each term of licensure
- ✓ Signed audit form kept on premises and produced for Board inspection

2.14 One act constitutes broker or salesperson

A single act for compensation of buying, selling, exchanging, leasing, or renting real estate for another—unless excepted by 54.1-2103—makes the person or entity a real estate broker or salesperson subject to licensing.

- ✓ A single act for compensation on behalf of another triggers broker/salesperson status
- ✓ Exceptions in 54.1-2103 apply

2.15 Escrow funds and foreclosure of real property

If a broker holds escrow funds for an owner whose property is foreclosed, the broker may file an interpleader action under 16.1-77. On foreclosure of a single-family unit with a purchase contract, the foreclosure terminates the contract and the licensee may return the earnest money deposit to a non-defaulting purchaser without further consent or notice. A managing agent may continue to collect rent and must place it in escrow by the end of the fifth business banking day after receipt.

- ✓ Broker holding escrow funds on foreclosed property may file interpleader under 16.1-77
- ✓ Foreclosure terminates the purchase contract; earnest money may be returned to a non-defaulting purchaser without further consent
- ✓ Managing agent must deposit collected rent into escrow by end of the fifth business banking day

2.16 Foreclosure effect on tenants and property management

On foreclosure of a single-family unit occupied by a tenant, a successor buying it as a primary residence must give the tenant at least 90 days' written notice to vacate; a successor buying for another purpose takes subject to the lease. Foreclosure converts an existing written property management agreement into a month-to-month agreement between the successor landlord and managing agent, terminable by either party on 30 days' written notice.

- ✓ Successor occupying as primary residence must give tenant at least 90 days' written notice to vacate
- ✓ Successor buying for other purpose takes subject to the existing lease
- ✓ Foreclosure converts property management agreement to month-to-month, terminable on 30 days' written notice

2.17 Managing agent termination and immunity

Except in foreclosure, a managing agent terminating the property management agreement may transfer escrow funds to the landlord client without consent, provided written notice is given to each tenant. In foreclosure, the licensee may not transfer funds to the foreclosed landlord. A managing agent who complies with these provisions has immunity from liability absent gross negligence or intentional misconduct.

- ✓ Managing agent may transfer escrow to landlord on termination with written notice to each tenant, except in foreclosure
- ✓ No transfer of funds to a landlord client whose property has been foreclosed upon
- ✓ Compliant managing agent has immunity absent gross negligence or intentional misconduct

2.18 Death or disability of a broker

On the death or disability of a sole broker in a proprietorship or the only licensed broker in a firm, the Board grants approval to conclude the business for 180 days. Authority follows a priority order: (1) qualified personal representative, (2) agent under a power of attorney referencing this section, (3) executor nominated in the will, (4) adult family member, (5) employee/independent contractor. If none is suitable, the Board may appoint another suitable person to wind up within 180 days.

- ✓ Business may be concluded for 180 days after a sole broker's death or disability
- ✓ Authority follows the statutory priority: personal representative, POA agent, executor, family member, employee
- ✓ Board may appoint a suitable person if none is available

2.19 Supervising broker distance and renewal duties

A supervising broker residing more than 50 miles from a branch office with licensees regularly conducting business there must certify compliance quarterly on a Board form. As a condition of branch office license renewal, the supervising broker must provide the Board the name and license number of each licensee affiliated with the branch at renewal.

- ✓ Supervising broker more than 50 miles from a branch must certify compliance quarterly
- ✓ Branch office renewal requires providing names and license numbers of affiliated licensees

2.20 Resident broker place of business

Every resident real estate broker must maintain a place of business within the Commonwealth of Virginia.

- ✓ Resident brokers must maintain a Virginia place of business

2.21 Consent to suit and service of process by nonresidents

Every nonresident applicant must file an irrevocable consent that suits may be brought against them in the proper Virginia court where the cause of action arises or the plaintiff resides, with process served on the Director of DPOR, treated as valid as if personally served. The Director files the process and immediately forwards a copy by registered mail to the licensee's main office at the last known address.

- ✓ Nonresident applicants must file irrevocable consent to service of process on the DPOR Director
- ✓ Service on the Director is as binding as personal service in Virginia
- ✓ Director forwards process by registered mail to the licensee's last known main office address

CHAPTER 3

Art. 2: Real Estate Transaction Recovery Fund – assessments, recovery from fund, investigations, Board participation (54.1-2112–2120)

3.1 Transaction Recovery Act Key Definitions

The Virginia Real Estate Transaction Recovery Act uses specific defined terms. A 'Regulant' is any person or entity licensed by the Real Estate Board as a broker or salesperson. A 'Claimant' is a person with an unsatisfied judgment against a regulant who has filed a verified claim. 'Improper or dishonest conduct' is limited to wrongful/fraudulent taking or conversion of money, property, or value, or material misrepresentation or deceit. A 'Verified claim' is a completed Board application, notarized before a notary public, with required supporting documentation, properly received by the Department.

- ✓ 'Regulant' means a person, partnership, association, corporation, agency, firm or entity licensed by the Real Estate Board as a broker or salesperson
- ✓ 'Improper or dishonest conduct' includes ONLY wrongful/fraudulent taking or conversion of money/property, or material misrepresentation or deceit
- ✓ A verified claim must be attested to before a notary public with all required supporting documentation
- ✓ An order of dismissal is NOT considered a judgment for Fund purposes

3.2 Fund Assessments and Minimum Balance

Each initial regulant is assessed $20 at licensure, specifically assigned to the Fund. The minimum balance of the Fund is $400,000. If the balance falls below the minimum and interest earnings are insufficient, the Board assesses each regulant a sum to restore the minimum, but no regulant may be assessed more than $20 during any biennial license period. When the Fund exceeds $2 million at fiscal year-end, the excess is transferred to the Virginia Housing Trust Fund.

- ✓ Each initial regulant is assessed $20 at time of licensure, assigned to the Fund
- ✓ The minimum balance of the Fund is $400,000
- ✓ No regulant may be assessed more than $20 total during any biennial license period (expiring June 30 of even-numbered years)
- ✓ Fund balance exceeding $2 million at fiscal year close is transferred to the Virginia Housing Trust Fund
- ✓ No license shall be renewed or reinstated until outstanding assessments are paid

3.3 Eligibility to Recover from the Fund

A claimant may recover from the Fund after obtaining a final judgment against a regulant for improper or dishonest conduct that occurred while the person was a regulant acting in the capacity of a broker or salesperson (not as a principal or on his own account). Certain persons are excluded: the regulant, the regulant's personal representative, the spouse/child of the regulant against whom judgment was awarded (or their representative), and lending/financial institutions or persons in construction/development of real property.

- ✓ Recovery requires a final judgment for improper or dishonest conduct against a regulant
- ✓ The conduct must have occurred while the person was a regulant acting as broker/salesperson, not as a principal or on his own account
- ✓ A claimant cannot be the regulant, the regulant's personal representative, or the spouse/child of the regulant
- ✓ A claimant cannot be a lending/financial institution or a person in the construction/development of real property

3.4 Conditions and Filing Deadlines for Claims

Before filing, the claimant must serve a copy of the complaint on the Board by certified mail, provide subsequent pleadings to the Board, conduct (or reasonably attempt) debtor's interrogatories to find assets, and take all legally available actions to apply any disclosed assets. A verified claim must be filed with the Director no later than 12 months after entry of the final judgment from which no appeal exists. If the debtor filed bankruptcy, the claimant must first file with the bankruptcy court, and file with the Board within 12 months of the bankruptcy discharge or dismissal.

- ✓ A verified claim must be filed no later than 12 months after entry of the final non-appealable judgment
- ✓ The claimant must serve a copy of the complaint on the Board by certified mail (or equivalent)
- ✓ The claimant must conduct or attempt debtor's interrogatories and pursue available assets before filing
- ✓ If the debtor filed bankruptcy, the claim must be filed with the Board within 12 months of the bankruptcy discharge or dismissal

3.5 Recovery Limits from the Fund

Recovery from the Fund is subject to statutory caps. For a single transaction, the aggregate of all claims against one regulant is limited to $50,000, and any one claimant's maximum recovery for a single transaction is $20,000 (regardless of the unpaid judgment amount). Across multiple transactions during a biennial license period, aggregate claims against one regulant are limited to $100,000. Interest and punitive damages are excluded from the recoverable amount, but court costs and attorney fees may be included.

- ✓ Aggregate claims against one regulant for a single transaction are limited to $50,000
- ✓ Maximum claim of one claimant for a single transaction is limited to $20,000
- ✓ Aggregate claims against one regulant across multiple transactions in a biennial period are limited to $100,000
- ✓ Interest and punitive damages are excluded; court costs and attorney fees may be included
- ✓ Excess claims are prorated among claimants in proportion to unpaid judgments

3.6 Payment, Assignment, and License Revocation

Upon Board direction, the Director pays the claimant from the Fund after the claimant assigns to the Board his rights against the regulant to the extent satisfied. Upon payment, the Board immediately revokes the license of the regulant whose conduct caused the payment. That regulant cannot apply for a new broker/salesperson license until he repays the Fund in full plus interest at the judgment rate from the date of payment. Payment from the Fund does not waive or limit the Board's separate disciplinary authority.

- ✓ The claimant must assign rights against the regulant to the Board to the extent satisfied from the Fund
- ✓ The Board immediately revokes the license of the regulant whose conduct resulted in Fund payment
- ✓ The regulant cannot reapply for licensure until repaying the Fund in full plus interest at the judgment rate
- ✓ Payment from the Fund does not limit the Board's authority to take disciplinary action

3.7 License Suspension for Unpaid Assessment

If a regulant fails to remit a required assessment payment within 45 days of mailing, the Director sends a second notice by first-class mail to the latest address of record. If no payment is received within 30 days after the second notice, the license is automatically suspended and is restored only upon actual receipt by the Director of the delinquent assessment.

- ✓ Assessment payment is due within 45 days after mailing of notice
- ✓ A second notice is mailed if payment is not received within 45 days
- ✓ License is automatically suspended if no payment within 30 days after the second notice
- ✓ License is restored only upon actual receipt of the delinquent assessment

3.8 Board Processing and Silent Judgments

The Department promptly considers verified claims; if a prima facie case is made, the regulant receives notice offering an informal fact-finding conference under the Administrative Process Act. If the regulant does not request a conference within 30 days (plus 3 days if mailed), the claim is presented to the Board with a recommendation to pay. A claimant is not denied recovery merely because the judgment order lacks a specific finding of improper/dishonest conduct; the Board may determine such conduct by substantial evidence in the verified claim when the order is silent.

- ✓ The regulant has 30 days (plus 3 days if mailed) to request an informal fact-finding conference
- ✓ A claimant is not denied recovery solely because the judgment lacks a specific finding of improper/dishonest conduct
- ✓ Where the judgment is silent, the Board may determine improper/dishonest conduct by substantial evidence in the verified claim
- ✓ Board findings are a 'case decision' subject to judicial review under the Administrative Process Act

3.9 Insufficient Fund and Non-Bar Provisions

If the Fund is insufficient to pay claims, claimants are paid in the order their claims were filed once funds become sufficient. The Board may withhold payments up to one year when additional related claims are anticipated. A claimant's failure to comply with certain procedural provisions (complaint service, subsequent pleadings under 54.1-2114 B 1 and 2, and Board participation under 54.1-2117) does not bar recovery if the claimant is otherwise entitled.

- ✓ Claims are paid in the order filed when the Fund becomes sufficient
- ✓ The Board may withhold payment for up to one year if additional related claims are anticipated
- ✓ Failure to serve the complaint or provide pleadings does not bar recovery if the claimant is otherwise entitled

3.10 Board Investigation and Participation Rights

Upon receiving notice of proceedings against a regulant, the Department may conduct its own investigation under § 54.1-306. Upon service of the complaint, the Board, Director, or authorized representatives have the right to request leave of court to intervene in the action against the regulant.

- ✓ The Department may conduct its own investigation upon notice of proceedings against a regulant
- ✓ Upon service of the complaint, the Board may request leave of court to intervene in the proceedings

CHAPTER 4

Art. 3 (a): real estate brokerage relationships – definitions, licensees engaged by sellers, buyers, landlords and tenants, duties owed to customers (54.1-2130–2135)

4.1 Key Definitions in Brokerage Relationships

Section 54.1-2130 defines the core terms used throughout the brokerage relationship article. 'Agency' means every relationship where a licensee acts for or represents a person as an agent by express authority in a commercial or residential transaction. A 'client' is a person who has entered into a brokerage relationship, while a 'customer' is a person who has NOT entered into a brokerage relationship but for whom a licensee performs ministerial acts. There is a legal presumption that a person is a customer rather than a client unless a brokerage relationship is formed. A 'brokerage relationship' is the contractual relationship between a client and a licensee engaged to procure a seller, buyer, option, tenant or landlord.

- ✓ A 'client' has entered into a brokerage relationship; a 'customer' has not
- ✓ Unless a brokerage relationship is entered, a person is presumed to be a customer, not a client
- ✓ 'Ministerial acts' are routine acts not involving discretion or the licensee's own judgment
- ✓ A licensee in an agency relationship in a residential transaction must represent the client as either a standard agent or a limited service agent

4.2 Standard Agent vs. Limited Service Agent

A 'standard agent' acts for or represents a client in an agency relationship in a residential transaction and has all obligations provided in the article plus any additional obligations agreed to. A 'limited service agent' acts pursuant to a brokerage agreement that provides the agent will NOT perform one or more of the duties in subdivision A 2 of § § 54.1-2131 through 54.1-2134. A limited service agent still must provide required federal/state/local disclosures and must disclose in writing: (i) client rights under the Virginia Residential Property Disclosure Act; (ii) condominium resale certificate obligations if selling a condo; and (iii) POA disclosure packet obligations if selling property under the Property Owners' Association Act.

- ✓ A standard agent has all statutory duties plus any additional agreed obligations
- ✓ A limited service agent may omit one or more subdivision A 2 duties but must state this in the brokerage agreement
- ✓ A limited service agent must still deliver all required disclosures and disclose the client's rights under the Residential Property Disclosure Act, condo resale, and POA packet obligations in writing

4.3 Dual Agent/Representative and Designated Agent/Representative

A 'dual agent' or 'dual representative' has a brokerage relationship with both parties (both seller and buyer, or both landlord and tenant) in the same transaction. A dual agent has an agency relationship; a dual representative has an independent contractor relationship — and a dual representative shall only act as an independent contractor. A 'designated agent' or 'designated representative' is a licensee assigned by a principal or supervising broker to represent a client when a different client is also represented by the same broker in the same transaction; a designated representative shall only act as an independent contractor.

- ✓ A dual agent/representative represents both sides (buyer and seller, or landlord and tenant) in one transaction
- ✓ A dual representative and a designated representative shall only act as independent contractors
- ✓ A designated agent is assigned by the principal/supervising broker when the broker represents both clients in the same transaction

4.4 Duties Owed to Clients (Sellers, Buyers, Landlords, Tenants)

Sections 54.1-2131 through 54.1-2134 impose parallel statutory duties on licensees engaged by sellers, buyers, landlords and tenants. In each case the licensee must: (1) perform per the brokerage agreement; (2) promote the client's interests (marketing/seeking property, drafting and negotiating offers, timely presentation of all written offers and counteroffers even when a contract already exists, providing reasonable assistance to settlement); (3) maintain confidentiality of personal and financial information and any information the client requests be kept confidential; (4) exercise ordinary care; (5) account in a timely manner for all money and property; (6) disclose material facts related to the property or transaction of which the licensee has actual knowledge; and (7) comply with the article, fair housing laws, and other applicable statutes/regulations.

- ✓ All client duties: perform, promote interests, maintain confidentiality, exercise ordinary care, account for funds, disclose actual-knowledge material facts, and comply with law
- ✓ Licensees must present all written offers and counteroffers in a timely manner even when the property is already subject to a contract or lease
- ✓ Confidentiality of personal and financial information continues unless the law requires disclosure or the client consents in writing

4.5 Duties Owed to Customers and Honest Treatment

Under subsection B of each duty statute, licensees must treat all prospective buyers, sellers, tenants and landlords HONESTLY and shall not knowingly give them false information. A licensee engaged by a seller (or landlord) must disclose to prospective buyers/tenants all material adverse facts pertaining to the PHYSICAL CONDITION of the property that are actually known. 'Physical condition of the property' means the land and improvements only — it does NOT include matters outside the boundaries, adjacent properties, governmental land use regulations, or highways/public streets. Disclosures must be made in writing. No cause of action arises against a licensee for revealing information required by law.

- ✓ Licensees must treat all parties honestly and never knowingly give false information
- ✓ A seller's/landlord's agent must disclose in writing all actually known material adverse facts about the property's physical condition
- ✓ 'Physical condition' excludes off-site matters, adjacent properties, land-use regulations, and highways/public streets

4.6 Licensees Engaged to Manage Real Estate

Under § 54.1-2135, a property manager must: perform per the property management agreement; exercise ordinary care; timely disclose material facts of which the manager has actual knowledge; maintain confidentiality; and account timely for money and property. A manager does not breach duty by representing other owners. A manager may also represent the owner as seller or landlord if the brokerage relationship so provides. Residential property management agreements must be in writing and must have a definite termination date or duration (defaulting to 90 days after the agreement date if unspecified), state the management fees and how/when paid, state services rendered, and include other agreed terms. Section 54.1-2135 does NOT apply to commercial real estate transactions.

- ✓ Residential property management agreements must be in writing with a definite termination date/duration
- ✓ If no termination date is specified, the agreement terminates 90 days after its date
- ✓ The agreement must state management fees (amount and payment terms) and services rendered
- ✓ The property management duty provisions do not apply to commercial transactions

4.7 Independent Contractor Relationship

An 'independent contractor' is a licensee who enters a brokerage relationship based on a written agreement that specifically states the licensee acts as an independent contractor and NOT as an agent. Such a licensee has only the obligations agreed to in the brokerage agreement, plus a mandatory statutory minimum: compliance with subdivisions A 3 through 7 and subsections B and E of § § 54.1-2131 through 54.1-2134, and subdivisions A 2 through 6 and subsections C and D of § 54.1-2135. Otherwise the licensee has no obligations under § § 54.1-2131 through 54.1-2135. The brokerage agreement must state whether the licensee represents the client as an agent or an independent contractor.

- ✓ An independent contractor relationship must be specifically stated in writing in the brokerage agreement
- ✓ An independent contractor must still comply with A 3–7 and subsections B and E of the applicable duty statutes
- ✓ The brokerage agreement must state whether the licensee acts as an agent or an independent contractor

4.8 Commercial vs. Residential Real Estate Definitions

'Residential real estate' means real property containing one to four residential dwelling units and the sale of lots containing one to four residential dwelling units. 'Commercial real estate' means any real estate OTHER than real estate containing one to four residential units or real estate classified for assessment under § 58.1-3230. Commercial real estate does NOT include single family residential units (condos, townhouses, apartments, homes in a subdivision) when leased on a unit-by-unit basis, even if part of a larger building with more than four units.

- ✓ Residential real estate = 1 to 4 residential dwelling units
- ✓ Commercial real estate = anything other than 1–4 unit residential or § 58.1-3230 classified property
- ✓ Single-family units leased unit-by-unit are not commercial even if part of a larger building

4.9 Mandatory Disclosure of Defective Drywall and Lead

If a licensee has actual knowledge of defective drywall (as defined in § 36-156.1) in a residential property, the licensee must disclose it to the prospective buyer or tenant. For landlord/tenant lease transactions, if a licensee has actual knowledge of any pipe, plumbing fitting, fixture, solder or flux that does not meet the federal Safe Drinking Water Act 'lead free' definition (42 U.S.C. § 300g-6) in a residential property, the licensee must disclose it to the prospective tenant. These disclosures apply across seller, buyer, landlord and tenant representation.

- ✓ Actual knowledge of defective drywall in residential property must be disclosed to buyers/tenants
- ✓ In lease transactions, actual knowledge of non-'lead free' plumbing components must be disclosed to prospective tenants
- ✓ 'Defective drywall' is defined by reference to § 36-156.1

4.10 Buyer's Principal Residence Disclosure

In a residential transaction, a licensee engaged by a buyer must disclose to the seller whether or not the buyer intends to occupy the property as a principal residence. The buyer's expression of such intent in the contract of sale satisfies this requirement, and no cause of action arises against the licensee for the disclosure, any inaccuracy in it, or the buyer's nondisclosure.

- ✓ A buyer's agent must disclose to the seller whether the buyer intends to occupy the property as a principal residence
- ✓ The buyer's statement of intent in the contract of sale satisfies the disclosure requirement
- ✓ No cause of action arises against the licensee for inaccuracy or nondisclosure of this intent

4.11 Ministerial Acts and No Breach of Duty

A licensee engaged by one party may provide assistance to the opposing party by performing ministerial acts (unless prohibited by law or the brokerage agreement). Performing such acts, if not inconsistent with subsection A, does not violate the brokerage agreement and does not form a brokerage relationship with the other party. A licensee also does not breach any duty by showing alternative properties to prospects (as clients or customers) or representing other clients with other properties.

- ✓ Performing ministerial acts for the opposing party does not create a brokerage relationship with that party
- ✓ Ministerial acts do not violate the existing brokerage agreement unless expressly prohibited
- ✓ A licensee does not breach duty by showing alternative properties or representing other clients

4.12 Disclosure of Brokerage Relationships Required

Subsection E of each duty statute requires licensees in residential real estate transactions to disclose brokerage relationships pursuant to the provisions of the article. Additionally, licensees are not required to disclose whether settlement services will be provided by an attorney or non-attorney settlement agent. No written agreement between a licensee and a prospective buyer or tenant is required to be executed before the licensee shows properties.

- ✓ Licensees in residential transactions must disclose brokerage relationships as required by the article
- ✓ A written brokerage agreement is not required before showing properties to a prospective buyer or tenant
- ✓ Licensees are not required to disclose whether settlement services are provided by an attorney or non-attorney agent

CHAPTER 5

Art. 3 (b): dual and designated agency, brokerage relationship disclosure forms and timing, written brokerage agreements, termination, licensee liability, common law abrogated, record maintenance (54.

5.1 Required Terms in Written Brokerage Agreements

Every brokerage agreement must be in writing and contain specific mandatory terms. It must state the amount of brokerage fees and how/when they are paid, describe the services to be rendered by the licensee, include all other agreed terms, and—where dual representation is consented to—include the § 54.1-2139(A) disclosures.

- ✓ Brokerage agreement must state the amount of brokerage fees and how and when they are to be paid
- ✓ Must state the services to be rendered by the licensee and include other agreed terms
- ✓ Where dual representation is consented to, must include disclosures set out in § 54.1-2139(A)

5.2 Licensee Duties After Termination of Brokerage Agreement

After termination, expiration, or completion of a brokerage agreement, a licensee owes no further duties to the client except two: (i) to account for all moneys and property relating to the relationship, and (ii) to keep confidential all personal/financial information and any other information the client requested be kept confidential—unless the law requires disclosure or the client consents in writing.

- ✓ Post-termination, licensee must account for all moneys and property relating to the brokerage relationship
- ✓ Post-termination duty of confidentiality continues unless otherwise provided by law or client consents in writing
- ✓ These continuing duties apply except as otherwise agreed in writing

5.3 Disclosure of Brokerage Relationship in Residential Transactions

Upon having a substantive discussion about a specific property with an unrepresented actual/prospective buyer or seller who is not the licensee's client, the licensee must disclose any brokerage relationship with another party. Except under § § 54.1-2139 or 54.1-2139.1, disclosure must be in writing at the earliest practical time, no later than when specific real estate assistance is first provided. If combined with other disclosures, it must be conspicuous (bold, all caps, underlined, or in a separate box).

- ✓ Disclosure triggered by a substantive discussion about a specific property with an unrepresented non-client
- ✓ Written disclosure required at the earliest practical time, no later than when specific real estate assistance is first provided
- ✓ Disclosure must be conspicuous—bold lettering, all capitals, underlined, or within a separate box

5.4 Limited Service Agent Contract Disclosure

A licensee may act as a limited service agent in a residential transaction only under a written brokerage agreement that (i) discloses the licensee is a limited service agent, (ii) lists the specific services provided, and (iii) lists the specific standard-agent duties that will NOT be provided. This disclosure must be conspicuous (bold or all caps, and underlined or in a separate box). A limited service agent must also disclose dual agency per § 54.1-2139.

- ✓ Limited service agency requires a written brokerage agreement disclosing that status
- ✓ Agreement must list specific services provided AND specific standard-agent duties not provided
- ✓ Disclosure must be conspicuous and the limited service agent must still disclose dual agency per § 54.1-2139

5.5 Disclosed Dual Agency in Residential Transactions

A licensee may not act as a dual agent/representative in a residential transaction without first obtaining written consent of all parties after written disclosure of the consequences. A dual agent has an agency relationship; a dual representative has an independent contractor relationship. Disclosure must be in writing and given to both parties before dual agency/representation begins. Disclosures are invalid if not signed by the client or if given within a purchase agreement, lease, or other transaction document.

- ✓ Dual agency/representation requires prior written consent of all parties after written disclosure of consequences
- ✓ Disclosure must be given in writing to both parties before the dual relationship commences
- ✓ A disclosure is invalid if not signed by the client, or if given in a purchase agreement, lease, or other transaction document

5.6 Designated Agency and Representation Authorized

A principal/supervising broker may assign different affiliated licensees to represent different clients in the same residential transaction. This is not dual agency for the designated agents if each represents only one client, but the supervising broker IS considered a dual agent. Designated agents may not disclose client confidential information except to their broker. Use of designated agents must be disclosed conspicuously per the statutory form.

- ✓ Designated agents assigned by the supervising broker each represent one client and are not dual agents
- ✓ The principal/supervising broker overseeing the transaction is considered a dual agent
- ✓ Designated agents may disclose confidential client information only to their own broker; use must be disclosed

5.7 Brokerage Disclosure for Landlords and Tenants

A licensee must disclose in writing to an unrepresented actual/prospective landlord or tenant that the licensee has a brokerage relationship with another party. This disclosure must be included in all lease applications or in the lease itself, whichever comes first, and no later than the signing of the lease. It does not apply to lease terms of less than two months in single or multifamily residential units.

- ✓ Written disclosure required in all lease applications or the lease itself, whichever occurs first
- ✓ If not in the lease terms, disclosure must be made no later than the signing of the lease
- ✓ Exemption applies to residential leases of less than two months

5.8 Change in Relationship and Record Retention of Disclosures

If a licensee's relationship to a client or customer changes, the licensee must disclose that fact in writing to all clients and customers already involved in the contemplated transaction. Copies of disclosures relative to fully executed purchase contracts must be kept for three years as proof, whether or not acknowledged in writing by the recipient.

- ✓ A change in relationship to a client/customer requires written disclosure to all already involved in the transaction
- ✓ Disclosures relative to fully executed purchase contracts must be retained for three years
- ✓ Retention applies whether or not the disclosure was acknowledged in writing

5.9 Assisting the Other Party Without Creating Agency

A licensee engaged by one client who, without additional compensation, gives the other (unrepresented or limited-service-represented) party transaction information or assistance is not liable except for gross negligence or willful misconduct, and does not thereby create a brokerage relationship. A licensee may charge the other party a fee for services; such payment does not create a brokerage relationship but the licensee is held to the ordinary standard of care.

- ✓ Providing information/assistance to the other party does not create a brokerage relationship
- ✓ Liability for such uncompensated assistance arises only for gross negligence or willful misconduct
- ✓ Charging a fee for services to the other party does not create agency but imposes the ordinary standard of care

5.10 Duty to Disclose Ownership Interest in Property

If a licensee knows or should know that he, a family member, his firm or firm member, or an entity he has an ownership interest in is buying, selling, or leasing real property and the licensee is a party, he must disclose in writing that he is a licensee and that such ownership interest exists or will exist. Disclosure is made to the purchaser, seller, lessor, or lessee upon substantive discussions about specific real property.

- ✓ A licensee who is a party to a transaction must disclose in writing that he is a licensee
- ✓ Must disclose any ownership interest of himself, family, firm, firm members, or entities he owns
- ✓ Disclosure required upon having substantive discussions about specific real property

5.11 Dual Agency Withdrawal and No Cause of Action

No cause of action arises against a dual agent/representative for making required brokerage disclosures, and making them does not terminate any brokerage relationship. A licensee may withdraw without liability from representing a client who refuses to consent to disclosed dual agency, terminating that relationship without prejudicing the right to keep representing the other client or the refusing client in unrelated transactions.

- ✓ No cause of action arises against a dual agent for making the allowed/required disclosures
- ✓ A licensee may withdraw without liability if a client refuses to consent to dual agency
- ✓ Withdrawal does not prejudice continued representation of the other client or the refusing client in other transactions

5.12 Dual Agency Disclosure Form Content (Residential)

The residential dual agency disclosure form identifies the licensee, firm, the parties represented and capacity (standard agent, limited service agent, or independent contractor). It must include the confidentiality acknowledgment (no disclosing one client's confidential info to the other). For one existing plus one new client, it must warn that the licensee cannot advise on offer/counteroffer terms, property suitability/condition, repairs, or disputes, may lack knowledge of client needs, and that either party may hire another licensee at additional cost.

- ✓ Form must state the confidentiality limitation: dual agent may not disclose one client's confidential information to the other
- ✓ One-existing/one-new client form must warn licensee cannot advise on terms, suitability, condition, repairs, or disputes
- ✓ Form must state either party may engage another licensee at additional cost

5.13 Disclosed Dual Agency in Commercial Transactions

A licensee may act as a dual agent/representative in a commercial real estate transaction only with the written consent of all clients. A dual agent has an agency relationship; a dual representative has an independent contractor relationship. Written consent is presumed given against any client who signs the disclosure. The disclosure must be conspicuous if combined with other information, and must include the confidentiality acknowledgment.

- ✓ Commercial dual agency requires written consent of all clients
- ✓ Consent and disclosure are presumed given against any client who signs the disclosure
- ✓ Disclosure must be conspicuous when combined with other information and include the confidentiality limitation

5.14 Compensation Does Not Create Brokerage Relationship

The payment or promise of payment/compensation to a real estate broker does not by itself create a brokerage relationship between any broker, seller, landlord, buyer, or tenant. Likewise, a buyer's/tenant's licensee is not deemed to have a brokerage relationship with a seller, landlord, or other licensee solely by using a common source information company (e.g., an MLS).

- ✓ Payment or promise of compensation to a broker does not create a brokerage relationship
- ✓ Using a common source information company does not, by itself, create a brokerage relationship
- ✓ A common source information company may require licensees to disclose the nature of their brokerage relationship

5.15 Client and Broker Liability Limitations

A client is generally not liable for a licensee's misrepresentation unless the client knew/should have known and failed to correct it timely, nor for a licensee's negligence or intentional acts. A broker who engages another broker to assist is not liable for that broker's misrepresentation (unless known and uncorrected) or negligence. Clients and licensees possess actual knowledge only—knowledge is not imputed among them. These limits do not apply to unlawful discriminatory housing practices.

- ✓ A client is not liable for a licensee's misrepresentation unless the client knew/should have known and failed to correct it timely
- ✓ Knowledge and information are not imputed among or between clients and licensees—only actual knowledge counts
- ✓ Liability limitations do not apply to matters involving unlawful discriminatory housing practices

5.16 Licensee Not Liable for Certain False Information

A licensee is not liable for providing false information if it came from the client, a governmental entity, a nongovernmental source that got it from a government entity, or a licensed/certified/registered professional—provided the licensee did not have actual knowledge it was false and did not act in reckless disregard of the truth. This covers regulatory and civil actions.

- ✓ No liability for false information sourced from the client, government, or a licensed professional
- ✓ Protection applies only if the licensee lacked actual knowledge of falsity and did not act in reckless disregard of the truth
- ✓ Applies to both regulatory actions under the chapter and civil actions

5.17 Common Law Abrogated and Record Maintenance

The common law of agency relative to real estate brokerage relationships is expressly abrogated to the extent inconsistent with this article; the statutory framework controls. Virginia Real Estate Board regulations must be consistent with this article. Nothing limits federal or state antitrust laws. Any record a licensee must maintain may be kept as an electronic record under the Uniform Electronic Transactions Act.

- ✓ Common law of agency is abrogated to the extent inconsistent with the brokerage relationships article
- ✓ Real Estate Board regulations must be consistent with the article, and the article does not limit antitrust laws
- ✓ Required licensee records may be maintained electronically under the Uniform Electronic Transactions Act

CHAPTER 6

Part I General: definitions, general fee requirements, fee schedule (18VAC135-20-10 to -15)

6.1 Active vs. Inactive Licensee Status

An 'active' licensee is a broker or salesperson in good standing, under the supervision of a principal or supervising broker, and performing licensed real estate activities as defined in Va. Code 54.1-2100. An 'inactive status' licensee is not under a principal/supervising broker's supervision and is not performing any licensed activities. Understanding this distinction is essential because a licensee must be active to legally practice.

- ✓ 'Active' requires good standing, supervision by a principal/supervising broker, and performance of 54.1-2100 activities
- ✓ 'Inactive status' means no supervising/principal broker and no licensed activities being performed
- ✓ A licensee cannot conduct real estate business while on inactive status

6.2 Principal Broker and Supervising Broker

A 'principal broker' is the individual broker designated by each firm to ensure compliance with Chapter 21 of Title 54.1 and the regulations, and to receive board communications. In a sole proprietorship, the sole-proprietor broker is the principal broker. A 'supervising broker' is designated by the principal broker to supervise brokerage services provided by associate brokers and salespersons assigned to branch offices or real estate teams, or to supervise a designated agent.

- ✓ Each firm must designate one principal broker to ensure regulatory compliance
- ✓ In a sole proprietorship, the licensed sole-proprietor broker is the principal broker
- ✓ A supervising broker is designated by the principal broker to oversee branch offices, teams, or designated agents
- ✓ The principal broker receives all board communications and notices regarding compliance

6.3 Class Hour / Clock Hour Standard

A 'class hour or clock hour' equals 50 minutes of instruction. This is critical for calculating prelicense, post-license, and continuing education credit hours.

- ✓ One class hour or clock hour equals 50 minutes of instruction
- ✓ Education requirements are measured in these 50-minute hours

6.4 Actively Engaged Definition (40-Hour Standard)

'Actively engaged' means active licensure with a licensed real estate firm or sole proprietorship performing 54.1-2100 activities for an average of at least 40 hours per week. This standard is commonly tested in relation to broker experience requirements.

- ✓ 'Actively engaged' requires active licensure with a firm or sole proprietorship
- ✓ Must average at least 40 hours per week of licensed real estate activity

6.5 Standard Agent vs. Independent Contractor

A 'standard agent' is a licensee who acts for or represents a client in an agency relationship, with obligations under Article 3 of Chapter 21 of Title 54.1. An 'independent contractor' represents a client other than as a standard agent, with duties governed by a written contract between the licensee and the client.

- ✓ A standard agent has statutory agency obligations under Article 3, Chapter 21, Title 54.1
- ✓ An independent contractor's duties are governed by a written contract with the client
- ✓ An independent contractor represents the client in a capacity other than as a standard agent

6.6 Firm and Sole Proprietor Definitions

A 'firm' is any business entity or sole proprietorship (nonbroker owner) that transacts real estate business and is required by 18VAC135-20-20 B to obtain a separate brokerage firm license. A 'sole proprietor' is any individual trading under their own name or an assumed/fictitious name pursuant to Chapter 5 of Title 59.1.

- ✓ A firm must obtain a separate brokerage firm license under 18VAC135-20-20 B
- ✓ A sole proprietor trades under their own name or a registered fictitious name

6.7 Advertising and Contact Information

'Advertising' means all communication disseminated through any medium to consumers for any purpose related to licensed real estate activity. 'Contact information' means the telephone number, email address, or web address of the firm or branch office, or a digital link thereto when used in digital advertising.

- ✓ Advertising covers ALL communication through ANY medium related to licensed real estate activity
- ✓ Contact information includes telephone, email, or web address of the firm or branch office
- ✓ Digital advertising may use a digital link to contact information

6.8 Providers and Proprietary Schools

A 'provider' is an accredited university, college, or community college; a high school offering adult distributive education courses; or a proprietary school. A 'proprietary school' is a privately owned school, a real estate professional association, or a related entity not under the Department of Education but approved by the board to teach real estate courses.

- ✓ Providers include accredited colleges, qualifying high schools, and proprietary schools
- ✓ A proprietary school must be board-approved to teach real estate courses
- ✓ Proprietary schools are not under the authority of the Department of Education

6.9 General Fee Requirements

All fees are nonrefundable and will not be prorated. The date of receipt by the board or its agent determines whether a fee is on time. The examination fee is subject to contracted charges from an outside vendor negotiated under the Virginia Public Procurement Act and may be adjusted per those contracts.

- ✓ All board fees are nonrefundable and are not prorated
- ✓ Timeliness of a fee is based on the date of receipt by the board or its agent
- ✓ Examination fees may vary based on the board's outside-vendor contract

6.10 Salesperson License Fees

Under the 2026 fee schedule, salesperson by education/examination or by reciprocity costs $210 plus a $20 Recovery Fund assessment ($230 total). Salesperson renewal is $100, reinstatement is $155.

- ✓ Initial salesperson license (exam or reciprocity) = $210 + $20 Recovery Fund = $230
- ✓ Salesperson renewal = $100
- ✓ Salesperson reinstatement = $155

6.11 Broker License Fees

Broker by education/examination or reciprocity costs $265 plus a $20 Recovery Fund assessment ($285 total). Broker renewal is $120 and reinstatement is $180. A concurrent broker license is $195, concurrent broker renewal $80, and concurrent broker reinstatement $180.

- ✓ Initial broker license (exam or reciprocity) = $265 + $20 Recovery Fund = $285
- ✓ Broker renewal = $120; broker reinstatement = $180
- ✓ Concurrent broker license = $195; renewal = $80; reinstatement = $180

6.12 Associate Broker Definition

An 'associate broker' is any individual licensee of the board holding a broker's license other than one designated as the principal broker. This distinguishes brokers who hold broker licenses but do not serve as the firm's principal broker.

- ✓ An associate broker holds a broker's license but is not the principal broker
- ✓ Only individual licensees can be associate brokers

6.13 Firm and Branch Office License Fees

A firm license costs $350 plus a $20 Recovery Fund assessment ($370 total); firm renewal is $240 and reinstatement is $370. A branch office license is $265, branch office renewal $135, and branch office reinstatement $205.

- ✓ Initial firm license = $350 + $20 Recovery Fund = $370; renewal = $240; reinstatement = $370
- ✓ Branch office license = $265; renewal = $135; reinstatement = $205

6.14 Business Entity and Transaction Fees

A salesperson or broker license as a business entity costs $265 + $20 Recovery Fund ($285); renewal $135; reinstatement $205. Transfer and activation applications are each $90. Exchanging to a salesperson license or upgrading to a broker license each cost $120.

- ✓ Business entity license = $265 + $20 = $285; renewal = $135; reinstatement = $205
- ✓ Transfer application = $90; activation application = $90
- ✓ Exchange to salesperson = $120; upgrade to broker = $120

6.15 Education Provider and Instructor Fees

A proprietary school certificate is $265, renewal $135, reinstatement $205. A prelicense education instructor certificate is $265, renewal $115, reinstatement $170. The $20 Recovery Fund assessment applies only where indicated per Va. Code 54.1-2113.

- ✓ Proprietary school certificate = $265; renewal = $135; reinstatement = $205
- ✓ Prelicense education instructor certificate = $265; renewal = $115; reinstatement = $170
- ✓ Recovery Fund assessments apply in accordance with Va. Code 54.1-2113

CHAPTER 7

Part II Entry: firm license, qualifications for individual licensure, business entity licenses, concurrent licenses, exchange to salesperson, universal license recognition, activation or transfer (18V

7.1 Firm License Requirements

Every firm must secure a firm license before transacting real estate business, separate and distinct from individual licenses. Broker-owned sole proprietorships are NOT required to hold a firm license, but a nonbroker-owned sole proprietor, partnership, association, LLC, or corporation must obtain one. Applicants must disclose the name held out to the public, register trade/fictitious names with the State Corporation Commission, disclose the place of business address, and be organized under Virginia law or authorized to transact business in Virginia. Each firm must have a principal broker whose license is active.

- ✓ Broker-owned sole proprietorships do not need a firm license; nonbroker-owned entities do
- ✓ A firm license is separate and distinct from individual licenses of those in the brokerage
- ✓ Trade or fictitious names must be registered with the State Corporation Commission (Ch. 5, Title 59.1)
- ✓ Each firm must have a principal broker whose license is active

7.2 Qualifications for Individual Licensure

Every applicant for an individual salesperson or broker license must be at least 18 years old and have a high school diploma or equivalent. Applicants must report any disciplinary action by any board in any jurisdiction (suspension, revocation, surrender, monetary penalty, or remedial education). The board may deny licensure for prior actions, with a right to review under the Administrative Process Act. Applicants must submit to fingerprinting and disclose specific convictions and sign a statement confirming they read and understand the regulations and Chapter 21 of Title 54.1.

- ✓ Applicant must be at least 18 years of age and have a high school diploma or equivalent
- ✓ Applicant must report any disciplinary action against a professional/occupational license in any jurisdiction
- ✓ Applicant must submit to fingerprinting and disclose misdemeanor convictions (fraud/dishonesty, sexual offense, non-marijuana drug distribution, or battery) within 5 years, plus ALL felony convictions
- ✓ Applicant must sign a statement verifying they read and understand the chapter and Chapter 21 of Title 54.1

7.3 Broker License Experience Requirement

Applicants for licensure as a real estate broker must have been actively engaged as a real estate salesperson for 36 of the 48 months immediately preceding application. This experience must be verified by the principal or supervising broker for whom the applicant worked when obtaining the experience.

- ✓ Broker applicants must have been actively engaged as a salesperson for 36 of the 48 months immediately preceding application
- ✓ Experience must be verified by the principal or supervising broker

7.4 Branch Office License Requirements

If a principal broker maintains more than one place of business in the state, a branch office license must be secured for each additional place beyond the primary place of business noted on the firm application. The branch office license must be maintained at the branch location, and the application must disclose the firm name, the branch location, and the supervising broker for that branch.

- ✓ A branch office license is required for each additional place of business beyond the primary
- ✓ The application must disclose the firm name, branch location, and supervising broker
- ✓ The branch office license must be maintained at the branch office location

7.5 Additional Qualifications - Exam and Education

Applicants for initial licensure must pass all required courses before sitting for the licensing exam and must have passed a written board exam within 12 months prior to submitting a complete application. Failure to follow examination conduct procedures may be grounds for denial. The board may, at its discretion, waive education and experience requirements.

- ✓ Applicants must pass all required courses before sitting for the licensing exam
- ✓ Applicants must have passed the written exam within 12 months prior to submitting a complete application
- ✓ The board may waive education and experience requirements at its discretion

7.6 Reciprocity Licensure Requirements

Applicants for salesperson or broker licensure by reciprocity must have passed a written exam on Virginia real estate license law and regulations within 12 months prior to application. They must have received their out-of-state license by passing a substantially equivalent exam and must have met substantially equivalent educational requirements. Broker reciprocity applicants must additionally have been actively engaged for 36 of the preceding 48 months, verified by someone with direct knowledge of their activities.

- ✓ Reciprocity applicants must pass a Virginia law and regulations exam within 12 months of application
- ✓ Out-of-state license must have been obtained via a substantially equivalent exam and education
- ✓ Broker reciprocity applicants need 36 of 48 preceding months of active engagement, verified by someone with direct knowledge

7.7 Business Entity Salesperson or Broker License

In addition to individual qualification requirements, an applicant for a salesperson or broker license as a business entity must ensure every owner or officer who actively participates in the real estate business holds an individual salesperson or broker license. The business entity license does NOT replace the individual license. More than one licensee may participate. The entity must be organized under Virginia law and register trade/fictitious names with the State Corporation Commission.

- ✓ Every owner or officer who actively participates in the real estate business must hold an individual license
- ✓ The business entity license does not replace the individual license
- ✓ The business entity must be organized under Virginia law and register trade/fictitious names with the SCC

7.8 Concurrent Licenses

To be active as a broker in more than one firm at the same time, brokers must obtain concurrent licenses by submitting a concurrent license application, which must be approved by the principal broker of each firm. A fee is required for each concurrent license.

- ✓ A broker active in more than one firm must obtain concurrent licenses
- ✓ The concurrent license application must be approved by the principal broker of each firm
- ✓ A fee is required for each concurrent license

7.9 Universal License Recognition - Neighboring State

The board will issue a salesperson or broker license under universal license recognition to an individual licensed in a neighboring state who: holds a current, valid license with similar scope of practice; is in good standing with no pending complaints; met fingerprinting/disclosure requirements; has not been subject to discipline involving public harm or license probation/suspension/revocation; pays the reciprocity fee; and passes the Virginia Real Estate Exam.

- ✓ Neighboring-state applicants must hold a current, valid license in good standing with similar scope of practice
- ✓ Applicant must pay the reciprocity fee and pass the Virginia Real Estate Exam
- ✓ Applicant must not have been disciplined for public harm or had license probation/suspension/revocation

7.10 Universal License Recognition - Other State

For individuals licensed in another (non-neighboring) state, territory, or U.S. jurisdiction, the board will issue a license under universal license recognition if the individual has held a current valid license with similar scope for at least three years, was licensed after passing a state exam and meeting education/training/experience requirements, is in good standing with no pending complaints, met fingerprinting requirements, has no disqualifying discipline, pays the fee, and passes the Virginia Real Estate Exam.

- ✓ Applicant must have held a valid similar-scope license for at least three years
- ✓ Applicant must have originally passed a state exam and met education/training/experience requirements
- ✓ Applicant must pass the Virginia Real Estate Exam and pay the reciprocity fee

7.11 Activation of an Inactive License

An inactive licensee may activate their license with a licensed firm or sole proprietorship using a board activate form. The licensee must not conduct licensed activity until the license is issued by the board. Continuing education must be completed within two years prior to activation when the license has been inactive more than 30 days. A licensee inactive for more than three years must meet the existing prelicense education requirements.

- ✓ A licensee may not conduct licensed activity until the activated license is issued by the board
- ✓ CE must be completed within two years prior to activation if inactive more than 30 days
- ✓ A license inactive more than three years requires meeting current prelicense education requirements

7.12 Transfer of License Between Firms

A licensee may transfer from one licensed firm or sole proprietorship to another by submitting a transfer application with the required fee. The application must include the signature of the new principal or supervising broker responsible for the licensee's activities. The transfer is effective upon that broker's execution of the application. No fee is charged for transfers between branch offices within the same firm.

- ✓ A transfer application requires the signature of the new principal or supervising broker
- ✓ The transfer is effective upon the new broker's execution of the application
- ✓ No fee is charged for transfers between branch offices within the same firm or sole proprietorship

7.13 Locations Not Requiring Branch Office License

No branch office license is required for: a location not owned/leased/exclusively controlled by the broker (unless held out to public as a regular real estate activity site); a motor vehicle or watercraft; a place solely for general advertising like a trade show or expo; a residence (unless held out to public as a regular activity site); a post office box or mail drop; or a public location like a coffee shop or restaurant.

- ✓ No branch license for motor vehicles, watercraft, trade shows/expos, PO boxes, or public spaces like restaurants
- ✓ A residence or non-exclusive location requires a branch license only if held out to the public as a regular real estate activity site

7.14 Exchange of Broker License to Salesperson

A broker seeking to exchange a broker license for a salesperson license must submit a complete application with the appropriate fee. Upon exchanging, the licensee agrees any current broker licenses cease to exist. If the licensee later chooses to become a broker again, they must pass the current broker exam and meet the current education and experience requirements in effect at the time of that application.

- ✓ Exchanging to a salesperson license causes any current broker licenses to cease to exist
- ✓ To become a broker again, the licensee must pass the current broker exam and meet current education/experience requirements

7.15 Universal License Recognition - No-Licensure State

An individual with three years of experience in a state that does not require licensure is deemed to have met all experience, training, and education requirements. To be exam-eligible, the applicant must demonstrate at least three years of experience as a salesperson or broker in that state, meet fingerprinting requirements, have no disqualifying discipline, and pay the fee. Such individuals must still pass all exams required of initial applicants.

- ✓ Three years of experience in a non-licensure state satisfies experience, training, and education requirements
- ✓ The applicant must still pass all exams required of initial applicants under 18VAC135-20-35

CHAPTER 8

Parts III–IV Renewal and reinstatement: renewal period, salesperson post-license education, continuing education, renewal procedures, failure to renew, status before reinstatement, board discretion to

8.1 License renewal period and expiration

Licenses for salespersons, brokers, and firms expire two years from the last day of the month in which they were issued, as shown on the license. The only exception is concurrent broker licenses, which expire on the same date as the original broker license.

- ✓ Salesperson, broker, and firm licenses expire two years from the last day of the issuance month
- ✓ Concurrent broker licenses expire on the same date as the original broker license
- ✓ Expiration date is indicated on the license itself

8.2 Salesperson continuing education requirements at renewal

For subsequent renewals, active salespersons must complete at least 16 hours of continuing education each licensing term. Of these, 11 hours are mandatory: 2 hours fair housing laws, 3 hours ethics and standards of conduct, 2 hours real estate agency, 2 hours real estate contracts (contract principles, forms, escrow deposits/accounts), and 2 hours legal updates and emerging trends (including flood zone areas and the National Flood Insurance Program). The remaining 5 elective hours come from the subsection B list.

- ✓ Active salespersons must complete 16 CE hours per licensing term
- ✓ 11 hours are mandatory board-required subjects; 5 hours are electives
- ✓ Mandatory subjects include 2 hrs fair housing, 3 hrs ethics, 2 hrs agency, 2 hrs contracts, 2 hrs legal updates/emerging trends

8.3 Broker continuing education requirements at renewal

Active brokers must complete at least 24 hours of continuing education each licensing term. Of these, 19 hours are mandatory: 8 hours supervision and management of agents and brokerage firms (2 of which cover broker supervision requirements under this chapter and Chapter 21 of Title 54.1), 2 hours fair housing, 3 hours ethics and standards of conduct, 2 hours real estate agency, 2 hours real estate contracts, and 2 hours legal updates and emerging trends (flood zones/NFIP). The remaining 5 elective hours come from subsection B.

- ✓ Active brokers must complete 24 CE hours per licensing term
- ✓ 19 hours are mandatory; 5 hours are electives
- ✓ 8 mandatory hours cover supervision/management, with 2 of those on broker supervision requirements

8.4 Failure to renew and reinstatement requirements

All reinstatement applicants must meet the education requirements of 18VAC135-20-95 or -101; those wishing to activate must complete the education, while inactive-license reinstatement does not require CE. If renewal (including fee receipt) is not completed within 30 days of the expiration date, the reinstatement fee is required. A license may be reinstated up to one year after expiration by paying the reinstatement fee.

- ✓ Reinstatement fee applies if renewal is not completed within 30 days of expiration
- ✓ A license may be reinstated up to one year following expiration with the reinstatement fee
- ✓ Inactive-license reinstatement does not require CE; activating a license does require the education

8.5 Reinstatement window and expired-license consequences

A reinstated license keeps the same license number and is assigned an expiration date two years from the previous expiration date. After one year past expiration, a license cannot be reinstated under any circumstances, and the applicant must meet all current education and examination requirements and apply as a new applicant. No individual, entity, or firm may perform activities defined in § 54.1-2100 with an expired license; doing so may be unlicensed activity subject to prosecution.

- ✓ Reinstated license keeps the same number, expiring two years from the previous expiration date
- ✓ After one year past expiration, no reinstatement is possible and the person must reapply as a new applicant
- ✓ Practicing real estate with an expired license may constitute unlicensed activity subject to prosecution

8.6 Post-license education subject breakdown

The 30-hour post-license curriculum for first-year salespersons is divided into specific mandatory subject hours totaling 30: 2 hours fair housing/ADA/civil rights, 6 hours real estate law and regulations, 3 hours ethics and standards of conduct, 2 hours current industry issues and trends, 3 hours agency law, 6 hours contract writing, 3 hours risk management, 3 hours escrow requirements, and 2 hours real estate-related finance.

- ✓ Total is 30 hours split across nine mandatory subject areas
- ✓ Largest allocations are 6 hours each for real estate law/regulations and contract writing
- ✓ Includes 3 hours escrow requirements and 3 hours agency law

8.7 Inactive licensees and armed forces exemptions

Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal. Active licensees called to active duty or deployed in the U.S. Armed Forces may complete required courses within six months of release from active duty or deployment.

- ✓ Inactive brokers and salespersons are exempt from CE as a renewal condition
- ✓ Deployed active licensees have six months after release to complete required courses

8.8 Fair housing training substitution affidavit

A licensee who submits a notarized affidavit certifying that they do not and will not practice residential real estate brokerage, residential management, or residential leasing during the licensing term is not required to take fair housing training. Instead, that licensee must receive training in other applicable federal and state discrimination laws and regulations.

- ✓ Notarized affidavit certifying no residential practice waives the fair housing training requirement
- ✓ Licensee must instead train in other applicable federal/state discrimination laws

8.9 Multi-jurisdiction licensee CE requirements

Salespersons licensed in multiple jurisdictions must complete 16 CE hours, with the same 11 mandatory board-approved hours, but may substitute education completed in their other jurisdiction for the 5 remaining elective hours. Brokers licensed in multiple jurisdictions must complete 24 CE hours with the 19 mandatory hours, and may substitute other-jurisdiction education for the 5 elective hours.

- ✓ Multi-jurisdiction salespersons complete 16 hours; 11 mandatory, may substitute other-state education for 5 electives
- ✓ Multi-jurisdiction brokers complete 24 hours; 19 mandatory, may substitute other-state education for 5 electives
- ✓ Mandatory board-approved subjects cannot be substituted

8.10 CE documentation, instructor credit, and carryover

Licensees must retain proof of continuing education for three years and provide it to the board on request; failure may result in non-renewal or discipline. Instructors who are also board licensees may earn CE credit for teaching CE courses. Excess CE credits earned in the six months immediately before license expiration carry over into the next two-year renewal period.

- ✓ CE records must be retained for three years and produced on board request
- ✓ Licensee-instructors may earn CE credit for teaching CE courses
- ✓ Excess CE earned within six months before expiration carries over to the next renewal period

8.11 Procedures for renewal

Before the license expiration date, the board sends a renewal notice to the licensee, and each licensee wanting to renew must return the appropriate fee specified in 18VAC135-20-15 before the expiration date. Failure to receive the board's renewal notice does not relieve the licensee of the obligation to renew.

- ✓ Board sends a renewal notice before expiration, and licensee must submit the required fee before the expiration date
- ✓ Failure to receive a renewal notice does not excuse the obligation to renew

8.12 Status of licensee before reinstatement

A licensee who reinstates a license is regarded as having been continuously licensed without interruption, remains under the board's disciplinary authority during the entire lapsed period, and is held accountable for activities conducted during that period.

- ✓ A reinstated licensee is treated as continuously licensed without interruption
- ✓ The licensee remains under board disciplinary authority and accountable for activities during the lapse period

8.13 Board discretion to deny renewal or reinstatement

The board may deny renewal or reinstatement of a license for: (i) the same reasons it may refuse initial licensure or discipline a current licensee; (ii) failure to meet the terms of an agreement for licensure or other board order; or (iii) failure to fully pay monetary penalties and costs imposed by the board, plus any accrued interest.

- ✓ Renewal/reinstatement may be denied for the same reasons the board may refuse initial licensure or discipline a licensee
- ✓ Denial permitted for failing to meet a board agreement or order
- ✓ Denial permitted for unpaid board-imposed penalties, costs, and accrued interest

CHAPTER 9

Part V Standards of practice (a): grounds for disciplinary action, place of business, duties of supervising broker, maintenance of licenses, escrow account maintenance and management (18VAC135-20-155

9.1 Grounds for Disciplinary Action by the Board

The Real Estate Board has the power to impose monetary penalties and to suspend or revoke any license or certificate when a licensee or certificate holder has violated (or cooperated with others in violating) the applicable statutes and regulations. Disciplinary authority arises under Chapter 21 of Title 54.1, subdivision A 7 of § 54.1-201, § 54.1-202, and the Administrative Process Act.

- ✓ The Board may impose a monetary penalty and suspend or revoke a license or certificate for violations of Chapters 1, 2, 3, and 21 of Title 54.1, Chapter 10 of Title 55.1, or any Board regulation
- ✓ Cooperating with others in violating a provision is itself a disciplinable act
- ✓ A licensee may be charged with a violation regardless of whether the acts were done in a personal capacity or as a real estate licensee

9.2 Duties of the Supervising Broker

In addition to the statutory duties in § 54.1-2110.1, supervising brokers have specific regulatory duties to supervise brokerage services, ensure only licensees perform licensed activities, supervise unlicensed persons, and respond to cooperating brokers.

- ✓ Must provide supervision of brokerage services in a timely manner
- ✓ Must take reasonable steps to ensure only licensees undertake activities requiring a license (see 18VAC135-20-335 A)
- ✓ Must provide adequate supervision over all unlicensed individuals or entities associated with the firm or its licensees (see 18VAC135-20-335 B)
- ✓ Must act with reasonable diligence and promptness in responding to inquiries from cooperating brokers

9.3 General Escrow Account Maintenance Requirements

Firms and sole proprietorships holding money in escrow must maintain federally insured escrow accounts with specific naming, labeling, and responsibility requirements. The principal broker bears primary responsibility.

- ✓ If money is held in escrow, the firm or sole proprietorship must maintain one or more federally insured escrow accounts for all funds received in a real estate transaction
- ✓ The escrow account must be in the name by which the firm or sole proprietorship is licensed
- ✓ The principal broker is held responsible for these accounts and must have signatory authority; supervising brokers and other signatories may also be held responsible
- ✓ All such accounts, checks, and bank statements must be labeled 'escrow' and designated as escrow accounts with the financial institution
- ✓ The escrow account balance must at all times be sufficient to account for all funds designated to be held

9.4 Escrow Deposits and Licensee Funds

Specific funds must be deposited into escrow, and while a licensee's future earnings may reside temporarily in escrow, they must be separately identified and never paid directly to licensees.

- ✓ Down payments, earnest money deposits, settlement money, application deposits, rental payments, rental security deposits, and money advanced for closing expenses must be deposited into escrow unless all principals agree otherwise in writing
- ✓ Funds ultimately belonging to the licensee may be in escrow if separately identified, but must be paid to the firm (not directly to licensees) when due
- ✓ Money that may ultimately belong to the licensee does not constitute commingling if withdrawn at intervals of not more than six months and the licensee can always accurately identify total funds belonging to the licensee versus the firm

9.5 Handling and Disbursement of Escrow Funds

Escrow funds in purchase and lease transactions must be handled according to specific Code sections. Licensees have limited entitlement to funds and cannot disburse funds without sufficient deposits or deduct closing expenses improperly.

- ✓ Upon ratification, an earnest money deposit must be deposited, handled, and disbursed in accordance with § 54.1-2108.2
- ✓ A licensee is not entitled to any part of the earnest money deposit or commission until the transaction is consummated, unless all principals agree otherwise in writing
- ✓ Lease funds (application deposit, security deposit, rent) must be deposited in escrow per § 54.1-2108.1; security deposits and prepaid rent follow the Virginia Residential Landlord and Tenant Act (Chapter 12 of Title 55.1)
- ✓ A licensee must not disburse escrow moneys unless sufficient money is on deposit to the credit of the

individual client or property involved

- ✓ Unless all principals agree in writing, closing expenses (e.g., appraisal, insurance, credit report fees) must not be deducted from a deposit or down payment
- ✓ On interest-bearing accounts, written disclosure regarding disbursement of interest must be made in the contract at the time of writing

9.6 Improper Maintenance of Escrow Funds

The regulation defines specific acts that constitute improper escrow handling, including commingling and failing to properly deposit funds. These acts are grounds for discipline.

- ✓ Accepting any note, nonnegotiable instrument, or anything not readily negotiable as a deposit without acknowledging its acceptance in the agreement is improper
- ✓ Commingling occurs when a broker mixes clients' funds with the broker's own funds or those of the broker's corporation, firm, or association; using escrow funds to buy a CD and pledging/hypothecating it or removing the original from the broker's control constitutes commingling
- ✓ Failing to deposit escrow funds in an account designated to receive only such funds (per subdivision A 1) is improper

9.7 Place of Business Display Requirements

Every principal broker must keep certain licenses readily available to the public at the primary place of business, and each branch office has its own display requirements. This ensures the public can verify who is authorized to conduct business at a location.

- ✓ The primary place of business must have readily available to the public: the firm license, the principal broker license, and the license of every salesperson and broker active with the firm
- ✓ Each branch office must have readily available to the public the branch office license and a roster of every salesperson or broker assigned to that branch

9.8 Maintaining Current Name and Address with the Board

Licensees must keep the Board informed of their current name and address, report changes within set timeframes, and follow rules for professional names. The Board is not responsible for missed communications caused by a licensee's failure to update their address.

- ✓ Salespersons and individual brokers must keep the Board informed of their current name and home address, reporting changes in writing within 30 calendar days
- ✓ Principal brokers must keep the Board informed of current firm, branch office, and business entity names and addresses, reporting changes in writing within 30 calendar days; a physical address is required
- ✓ A professional name may only be used if filed with the Board prior to use, must include the first or last name, and must not include any titles
- ✓ A salesperson or broker is issued a license only to the place of business of the sole proprietorship or firm

with which they are active

9.9 Reporting Discharge or Termination of Active Status

When a licensee's active status ends, the firm or principal broker must notify the Board promptly. Different timeframes and responsible parties apply depending on whether it is a regular licensee or the principal broker.

- ✓ When a salesperson or broker is discharged or terminates active status, the sole proprietor or principal broker must notify the Board with the licensee's name, license number, and date of termination within 10 calendar days
- ✓ When a principal broker is discharged or terminates active status with a firm, the firm must notify the Board within 10 calendar days
- ✓ When a firm or business entity is no longer authorized to conduct business in the Commonwealth, the Board may terminate its license until it provides evidence it is again authorized

9.10 Escrow Handling in Foreclosure Situations

When property held with escrow funds is foreclosed upon, brokers must follow specific statutory provisions for both purchase and lease transactions, including handling of security deposits, rent collection, and continuation of property management agreements.

- ✓ In purchase transactions where a broker holds escrow funds and the property is foreclosed, the broker must comply with § 54.1-2108.1 A 1 and A 2
- ✓ If a single-family residential unit with a tenant is foreclosed and the landlord holds a security deposit, it must be handled per § 54.1-2108.1 A 3
- ✓ A property management agreement in place at the date of a foreclosure sale must continue in accordance with § 54.1-2108.1 A 5

CHAPTER 10

Part V Standards of practice (b): maintenance of records, advertising by licensees, disclosure of brokerage relationships, audits, provision of information to the board (18VAC135-20-185 to -240)

10.1 Financial records the principal broker must maintain

Under 18VAC135-20-185(A), the principal broker must maintain financial records for any real estate transaction conducted under the broker's license, and these records must be readily accessible from the broker's place of business. If the principal broker's office is located outside Virginia but the firm has a Virginia branch office, a copy of these records must be readily accessible in the Virginia office.

- ✓ Records must show: from whom money was received, date of receipt, place of deposit, date of deposit, final disposition of funds, and any other information required by the chapter
- ✓ Financial records must be readily accessible from the broker's place of business
- ✓ If the principal broker's office is outside Virginia and the firm has a Virginia branch, a copy of the records must be readily accessible in the Virginia office

10.2 Three-year retention of brokerage and transaction records

18VAC135-20-185(C) sets record retention periods that the principal broker or supervising broker must observe. Brokerage agreements and dual/designated agency disclosures/consents are kept three years from execution. Transaction documents (contracts of sale, releases, leases, property management agreements, settlement statements, unrepresented-party disclosures) are kept three years from closing, or from ratification if the deal fails to close. Records of receipts and disbursements of money held for others are kept three years from closing/termination of a sale, or from termination of a lease or conclusion of the licensee's involvement in a lease.

- ✓ Each brokerage agreement and each dual/designated agency disclosure and consent: retain 3 years from date of execution
- ✓ All transaction documents (contract of sale, release, lease, property management agreement, settlement statement, unrepresented-party disclosure): retain 3 years from closing, or from ratification if the transaction fails to close
- ✓ Records of receipts and disbursements of money received on behalf of others: retain 3 years from closing/termination of the sale, or termination of a lease or conclusion of the licensee's involvement in a lease

10.3 Advertising must be supervised and in firm's name

Under 18VAC135-20-190(A), all advertising must be under the direct supervision of the principal or supervising broker and in the name of the firm. When applicable, it must comply with the disclosure required by § 54.1-2138.1. The firm's licensed name must be clearly and legibly displayed on all advertising.

- ✓ All advertising must be under the direct supervision of the principal broker or supervising broker and in the firm's name
- ✓ The firm's licensed name must be clearly and legibly displayed on all advertising
- ✓ Advertising must comply with the § 54.1-2138.1 disclosure when applicable

10.4 Required advertising disclosure content

18VAC135-20-190(B) requires all advertising by a firm or affiliated licensee to contain a clear, legible, and conspicuous advertising disclosure that includes the firm's name and the office contact information. The office contact information and any additional required information are specified by the principal or supervising broker in the firm's written policies, and affiliated-licensee advertising must be done under those policies.

- ✓ Advertising disclosure must include (i) the firm's name and (ii) the office contact information, clearly, legibly, and conspicuously
- ✓ Office contact information and additional required info are set by the principal/supervising broker in the firm's written policies
- ✓ All advertising by an affiliated licensee must be done under the policies of a principal or supervising broker

10.5 Disclosure of brokerage relationships in purchase transactions

Under 18VAC135-20-220(A), a licensee must disclose whom the licensee represents to an actual or prospective buyer or seller who is not the licensee's client and is not represented by another licensee, once substantive discussions occur about a specific property (per § 54.1-2138 A). Disclosure must be in writing at the earliest practical time, but no later than when specific real estate assistance is first provided.

- ✓ Disclosure of who the licensee represents is required with an unrepresented buyer/seller once there are substantive discussions about a specific property
- ✓ Disclosure must be in writing at the earliest practical time, no later than when specific real estate assistance is first provided
- ✓ A disclosure complying with § 54.1-2138 A satisfies this requirement

10.6 Written consent for dual and designated agency

18VAC135-20-220(A)(3) requires a licensee acting as a dual or designated agent/representative to obtain written consent of all clients at the earliest practical time. Consent is presumed when a client signs a disclosure complying with § § 54.1-2139, 54.1-2139.01, and 54.1-2139.1. Disclosure must be given to and consent obtained from the buyer no later than when an offer to purchase is presented to the licensee who will present it, and from the seller no later than when the offer is presented to the seller.

- ✓ A dual or designated agent/representative must obtain written consent of all clients at the earliest practical time
- ✓ Buyer's consent must be obtained no later than when the offer is presented to the licensee who will present it to the listing agent/seller
- ✓ Seller's consent must be obtained no later than when the offer to purchase is presented to the seller

10.7 Timely provision of records and information to the board

18VAC135-20-240 requires a licensee to produce to the board or its agents, within 10 days of request, signature cards, bank records, or any document/book/record concerning a real estate transaction the licensee was involved in or is required to maintain, for inspection and copying (unless otherwise specified or per § 54.1-2108). The board may extend the 10-day period for extenuating circumstances. A licensee must respond to any other board inquiry within 21 days.

- ✓ Requested records (signature cards, bank records, transaction documents) must be produced to the board within 10 days, subject to board extension for extenuating circumstances
- ✓ A licensee must respond to any other board or board agent inquiry within 21 days

10.8 Bookkeeping system disclosing compliance

18VAC135-20-185(B) requires the principal broker to maintain a bookkeeping or recordkeeping system that accurately and clearly discloses full compliance with the recordkeeping requirements. Accounting records must be in sufficient detail to determine such compliance.

- ✓ A bookkeeping/recordkeeping system must accurately and clearly disclose full compliance
- ✓ Accounting records must be in sufficient detail to determine compliance

10.9 Accuracy and timely updating of advertising

18VAC135-20-190(B)(3)-(4) require that property information provided and controlled by the licensee in advertising be consistent with the property's condition and current contract status, and that advertising be updated in a timely manner whenever a material change occurs to listing status or property descriptions. If a licensee learns a third party controls the advertising, the licensee must make a timely written request for the needed changes.

- ✓ Property information in advertising must be consistent with the property condition and current contract status
- ✓ Advertising must be updated in a timely manner on any material change to listing status or property descriptions
- ✓ If a third party controls the advertising, the licensee must make a timely written request for changes

10.10 Conspicuous format for combined disclosures

18VAC135-20-220(A)(4) allows a required disclosure to be combined with other disclosures or information, but if combined it must be conspicuous—printed in bold lettering, all capitals, underlined, within a separate box, or as otherwise provided by § 54.1-2138.

- ✓ Required disclosures may be combined with other disclosures or information
- ✓ If combined, the disclosure must be conspicuous: bold lettering, all capitals, underlined, in a separate box, or as provided by § 54.1-2138

10.11 Disclosure of brokerage relationships in lease transactions

Under 18VAC135-20-220(B), unless previously disclosed, a licensee must disclose to an unrepresented actual or prospective landlord or tenant that the licensee has a brokerage relationship with another party. The disclosure must be in writing and included in the lease application or the lease itself, whichever occurs first; if the lease terms don't provide for it, disclosure must be in writing no later than lease signing. This requirement does not apply to residential lease terms of less than two months.

- ✓ Written disclosure of an existing brokerage relationship must be made to an unrepresented landlord/tenant, in the lease application or lease, whichever occurs first (no later than lease signing)
- ✓ The lease disclosure requirement does not apply to single or multi-family residential leases with terms of less than two months

10.12 Mandatory audit before firm license expiration

18VAC135-20-225(A) requires the principal or supervising broker (or a third party) to conduct an audit within 90 days prior to the expiration of the firm license, documented on a board-developed form. The audit must examine and document firm compliance across numerous areas.

- ✓ A mandatory audit must be conducted within 90 days prior to firm license expiration and documented on a board form
- ✓ The audit must examine escrow handling and financial records, fair housing compliance, advertising, contract/lease/agreement drafting, use of unlicensed individuals, agency/independent-contractor relationships, distribution of regulatory updates, and documentation of required disclosures
- ✓ If noncompliance is found, the broker may use the voluntary compliance procedures in subsection B

10.13 Broker immunity through voluntary compliance self-audit

18VAC135-20-225(B) grants a principal or supervising broker immunity from board discipline for self-reported matters when specific conditions are met under § 54.1-2111.1. The broker must conduct (or have conducted) an audit, sign the report, and notify the board in writing of noncompliance—within 30 days of concluding a self-audit or within 30 days of receiving a third-party audit report—submitting either a statement that it has been remediated or a plan to correct it within 90 days.

- ✓ The broker must conduct/have conducted an audit and sign the report to qualify for immunity
- ✓ The board must be notified in writing within 30 days of concluding a self-audit or receiving a third-party report, with a remediation statement or a 90-day correction plan
- ✓ Immunity does not apply where the noncompliance was intentional or the result of gross negligence (including an unlicensed employee negotiating a rental agreement per § 54.1-2103 C)
- ✓ Immunity extends only to the broker who conducts the audit and submits the plan, not to any other broker or salesperson; failure to complete the plan within 90 days forfeits immunity

CHAPTER 11

Part V Standards of practice (c): prohibited acts, conflict of interest, improper financial dealings, misrepresentation or omission, improper delivery of instruments, broker responsibility for license

11.1 Prohibited acts: fraud, convictions, and reporting

18VAC135-20-260 lists broad prohibited acts. Obtaining or maintaining a license by false or fraudulent representation is prohibited, as is holding more than one broker or salesperson license in Virginia except as allowed. Improperly signing (or unreasonably refusing to sign) an experience verification form is prohibited. Certain criminal convictions and disciplinary actions in other jurisdictions must be reported and can trigger discipline.

- ✓ Cannot obtain, renew, reinstate, or maintain a license by false or fraudulent representation
- ✓ Cannot hold more than one Virginia broker or salesperson license except as provided in the chapter
- ✓ Conviction of a misdemeanor involving fraud/dishonesty, sexual offense, non-marijuana drug distribution, or battery, or any felony is a prohibited act
- ✓ Must inform the board in writing within 30 days of any such conviction
- ✓ Must inform the board in writing within 30 days of any disciplinary action against another professional/occupational license

11.2 Prohibited acts: fair housing and board inquiries

A licensee found by a court or administrative body to have violated the Virginia Fair Housing Act or federal fair housing laws (Title VIII of the Civil Rights Act of 1968 or the Civil Rights Act of 1866) commits a prohibited act. Knowingly giving false, misleading, or incomplete information to a board inquiry is prohibited, as is violating or conspiring to violate Title 54.1 provisions or board regulations.

- ✓ A final adjudicated fair housing violation (state or federal) is a prohibited act
- ✓ Cannot knowingly provide false, misleading, or incomplete information to the board or its agents
- ✓ Cannot violate, induce, cooperate, or conspire with another to violate Title 54.1 or board regulations

11.3 Duty to safeguard the public interest

Subdivision 11 requires licensees to act so as to safeguard the public's interests. It enumerates broker supervision duties (ensuring accountability over financial dealings, escrow, and daily operations; proper escrow disbursement and documentation; ensuring supervised licensees hold active licenses; signatory authority on all accounts; accounting for others' funds) and licensee duties (timely submission of escrow money and documents to the broker; not practicing outside the firm; not operating unlicensed; not practicing with an inactive/expired license).

- ✓ Principal/supervising broker must ensure supervision and accountability over the firm's finances, escrow account, and daily operations
- ✓ Broker must have signatory authority on all firm accounts and account for/remit money belonging to others
- ✓ A licensee may not perform regulated activities outside the licensee's brokerage firm (except where the licensee owns an interest in the property)
- ✓ A licensee may not practice real estate with an inactive or expired license
- ✓ A licensee must timely submit all escrow money, contracts, and required documents to the broker

11.4 Improper, fraudulent, or dishonest conduct

Subdivision 12 defines improper, fraudulent, or dishonest conduct, including diverting commission from the firm, fabricating or altering documents to mislead, signing on a client's behalf without legal authority, mishandling escrow deposits, misrepresenting property ownership or who holds an escrow deposit, submitting duplicate earnest money checks with multiple offers, and taking a licensing exam for another or retaking one for a license already held.

- ✓ Cannot fabricate or alter any document with intent to mislead
- ✓ Cannot sign documents on a client's behalf without proper legal authorization
- ✓ Cannot make an escrow deposit payable to the licensee or negotiate the check without written authority
- ✓ Cannot submit copies of the same earnest money check with multiple offers
- ✓ Cannot misrepresent property ownership or who is holding an escrow deposit
- ✓ Cannot sit for an exam for a license already held or take an exam on behalf of another

11.5 Conflict of interest

18VAC135-20-270 defines conflict-of-interest actions. A licensee may not be active with a broker other than the licensee's principal broker without the principal broker's written consent. A licensee may not act for more than one client in a transaction governed by § § 54.1-2139, 54.1-2139.01, and 54.1-2139.1 without first obtaining all clients' written consent (i.e., dual representation requires written consent).

- ✓ Being active with another broker without the principal broker's written consent is a conflict of interest
- ✓ Acting for more than one client (dual representation) requires prior written consent of all clients

11.6 Improper financial transactions and dealings

18VAC135-20-280 prohibits paying valuable consideration to unlicensed persons for services requiring a license, and prohibits a salesperson/associate broker from accepting compensation from anyone other than the principal/supervising broker (absent prior written consent). It bars profiting from confidential transaction information without written consent, receiving benefit for work without written acknowledgment of the payor, and 'net' listings. Improper dealing includes offering property for sale/lease without the owner's knowledge and consent or without verifying identity, or on unauthorized terms.

- ✓ Cannot pay valuable consideration to an unlicensed person for services requiring a real estate license
- ✓ A salesperson/associate broker may only be paid by their principal or supervising broker unless the principal broker gives prior written consent
- ✓ 'Net' listings (leaving the licensee free to keep any excess over the seller's net price) are prohibited
- ✓ Cannot offer property for sale/lease without the owner's knowledge and consent or on terms other than those authorized

11.7 Misrepresentation or omission

18VAC135-20-300 defines misrepresentation/omission, including 'bait and switch' advertising, failing to disclose known material adverse physical facts, failing to promptly tender all written offers/counteroffers/rejections, failing to disclose material facts to a client, failing to give timely notice of material changes, breaching dual-agency confidentiality, omitting complete terms or identity of deposit holders, making false statements to lenders, and making false promises.

- ✓ 'Bait and switch' advertising is a prohibited misrepresentation
- ✓ A seller's/landlord's standard agent must timely disclose material adverse facts about the physical condition actually known to the licensee
- ✓ A licensee must promptly tender every written offer, counteroffer, and rejection to the client or unrepresented party
- ✓ A dual agent may not disclose one client's confidential transaction information to the other client
- ✓ Documents must identify all those holding any deposits

11.8 Licensed-only activities

18VAC135-20-335(A) lists activities only a licensed individual or entity may perform: showing property, holding open houses, answering questions on listings/title/financing/closing/contracts/agreements/legal documents, discussing/explaining/interpreting/negotiating contracts and agreements with anyone outside the firm, and negotiating or agreeing to any commission, split, management fee, or referral fee.

- ✓ Only a licensee may show property or hold an open house
- ✓ Only a licensee may negotiate a contract, listing, lease, or property management agreement with someone outside the firm
- ✓ Only a licensee may negotiate or agree to a commission, commission split, management fee, or referral fee

11.9 Permitted unlicensed assistant activities

18VAC135-20-335(B) lists tasks unlicensed assistants may perform: general clerical duties, submitting listings/changes to MLS, following up on loan commitments after ratification, having keys made, computing commission checks, placing signs, courier service, scheduling appointments, recording/depositing escrow funds, accepting security deposits and rent per a rental agreement, preparing forms for licensee/broker approval, signing broker-approved rental documents, preparing advertising for approval, assembling closing documents, obtaining public records, monitoring files, and ordering routine repairs as directed.

- ✓ Unlicensed assistants may perform clerical duties and provide only information shown on the listing
- ✓ Unlicensed assistants may record and deposit escrow funds and accept security deposits and rent as contracted in a rental agreement
- ✓ Unlicensed assistants may sign only broker-approved rental agreements and required disclosures, not negotiate them
- ✓ Materials and forms prepared by unlicensed assistants require licensee and supervising broker approval

11.10 Improper delivery of instruments

18VAC135-20-310 requires prompt delivery to each principal of copies of required disclosures, listings, leases, offers, counteroffers, addenda, and ratified agreements. At closing, licensees must deliver a signed, certified statement of receipts and disbursements to seller and buyer (unless a separate settlement agent's statement discloses the disbursements). Licensees must surrender documents to the rightful owner upon demand without just cause to refuse.

- ✓ Must promptly deliver complete, legible copies of required disclosures and transaction documents to each principal
- ✓ Must provide seller and buyer a signed, certified statement of receipts and disbursements at closing (waived if a settlement statement discloses the disbursements)
- ✓ Cannot refuse or fail without just cause to surrender a document to its rightful owner upon demand

11.11 Broker responsibility for acts of licensees

18VAC135-20-330 provides that a principal or supervising broker is not automatically liable for unlawful acts of salespersons, employees, partners, or affiliates. Discipline against the broker requires the board to be satisfied that the broker knew or should have known of the violation and failed to take reasonable action to remedy it.

- ✓ A broker is not disciplined for a subordinate's violation unless the broker knew or should have known of it
- ✓ Broker liability also requires that the broker failed to take reasonable action to remedy the situation

11.12 Effect of disciplinary action on subordinate licensees

18VAC135-20-340 provides that revocation, suspension, or denial of renewal of a principal broker's or sole proprietor's license automatically orders the return to the board of the licenses of all individuals active with the affected firm, until reissued upon the sole proprietor's or principal broker's written request under 18VAC135-20-170 B.

- ✓ Discipline against a principal broker or sole proprietor automatically requires return of all affiliated licensees' licenses
- ✓ Returned licenses are reissued only upon written request pursuant to 18VAC135-20-170 B

11.13 Effect of discipline on concurrent licenses and certificates

18VAC135-20-345 provides that when the board suspends, revokes, or denies renewal of one broker's license held by an individual, it will do the same to that individual's other concurrent broker licenses. Likewise, discipline against an individual's license triggers suspension, revocation, or denial of renewal of that individual's instructor certificates and instructor approval.

- ✓ Discipline of one broker license held by an individual carries over to that person's concurrent broker licenses
- ✓ Discipline of an individual's license carries over to that person's instructor certificates and instructor approval

CHAPTER 12

Part VI Schools: certification of proprietary schools and instructors, approval and withdrawal of courses, principles and practices course content, broker courses (18VAC135-20-360 to -410)

12.1 Principles and practices course content and length

The real estate principles and practices course must be a four-semester-hour or six-quarter-hour course of at least 60 class hours. It must cover 25 required topic areas including economy/social impact of real estate, market and analysis, property rights, contracts, deeds, mortgages and deeds of trust, types of mortgages, leases, liens, home ownership, real property and title insurance, investment, taxes, real estate financing, brokerage agreements and agency contract responsibilities, marketing, property management, title search/examination/registration, title closing, appraisal, subdivision/condominium planning, regulatory statutes, housing legislation, fair housing statutes, and Real Estate Board regulations.

- ✓ The principles and practices course must be at least 60 class hours (four semester hours or six quarter hours)
- ✓ Required content includes fair housing statutes, housing legislation, and Real Estate Board regulations
- ✓ Required content includes brokerage agreements and agency contract responsibilities, contracts, deeds, and financing topics

12.2 Broker course requirements

Brokerage must be a required specific course of three semester hours or six quarter hours, but at least 45 class hours, constituting a complete course. 'Related subjects' referenced in § 54.1-2105 must be real estate related, including property management, land planning and land use, business law, real estate economics, and real estate investments. No more than 45 class hours of broker-related courses will be accepted in lieu of the specific broker courses set forth in § 54.1-2105.

- ✓ Brokerage must be a required specific course of at least 45 class hours (three semester hours or six quarter hours)
- ✓ 'Related subjects' must be real estate related, including property management, land planning/use, business law, real estate economics, and investments
- ✓ No more than 45 class hours of broker-related courses may be accepted in lieu of specific broker courses

12.3 Certification of proprietary schools

Every applicant for a proprietary school certificate must meet the standards in subsection A of § 54.1-2105.02 of the Code of Virginia. The applicant demonstrates financial responsibility by submitting a CPA-certified letter attesting to net worth, or a balance sheet or financial statement. A minimum net worth must be shown.

- ✓ Applicant must submit either a CPA-certified letter attesting to net worth, OR a CPA-certified balance sheet or financial statement
- ✓ Applicant must show a minimum net worth of $2,000
- ✓ Must meet the standards in subsection A of § 54.1-2105.02 of the Code of Virginia

12.4 Instructor qualifications for prelicense education

An applicant for certification as a prelicense instructor must meet two of seven listed qualifications combining prerequisite credential, education, and experience. Options include an active broker license with a baccalaureate degree plus two consecutive years of active real estate experience; an active broker license plus five consecutive years of active experience; a board-approved professional designation; DREI designation from the Real Estate Educators Association; a valid Virginia (or equivalent) teaching credential; at least five years teaching experience in real estate or at an accredited institution; or being an attorney member of the Virginia State Bar engaged in real estate-related law. The board may waive these requirements upon proof of substantially equivalent qualifications.

- ✓ Prelicense instructor applicants must meet TWO of the seven qualifications in subdivisions 1 through 7
- ✓ Active broker license plus baccalaureate degree requires two consecutive years of active real estate experience immediately prior to application
- ✓ Active broker license without a degree requires five consecutive years of active real estate experience
- ✓ The board may waive the requirements upon review of proof of substantially equivalent qualifications

12.5 Instructor qualifications for CE and post-license education

An applicant for certification as an instructor for continuing education and post-license education must have expertise in a specific field of real estate, with at least three years of active experience in that field within the five years immediately preceding application, and may teach only in the area of expertise. Proof of expertise must be furnished and may include educational transcripts, professional certificates, no more than three letters of reference, a resume, or other documentation verifying experience. The board has discretion to deny an applicant who has been the subject of a disciplinary action.

- ✓ Must have at least three years of active experience in the specific field within the five years immediately preceding application
- ✓ Instructor may teach only in the area of the applicant's expertise
- ✓ Proof of expertise may include no more than three letters of reference
- ✓ Board has discretion to deny an applicant subject to disciplinary action

12.6 Approval of prelicense courses

Prelicense courses must be acceptable to the board, taught by a certified prelicense instructor, and include a monitored, final written assessment. Courses must include a mechanism to reasonably ensure licensees are actively engaged each class hour. Schools must electronically submit an application on a board form, gain board approval before initially offering the course, and supply required information: course syllabus (Principles and Practices courses must include topics in 18VAC135-20-400; broker courses need an acceptable syllabus), name of course text and research materials, description of research assignments, copies of assessments/tests/quizzes, and recordkeeping information.

- ✓ Prelicense courses require a monitored, final written assessment
- ✓ Prelicense courses must be taught by a certified prelicense instructor
- ✓ Board approval must be obtained before initially offering the course
- ✓ Principles and Practices of Real Estate courses must include the topic areas specified in 18VAC135-20-400

12.7 Approval of CE and post-license courses

Schools must electronically apply on a board form and gain approval before offering continuing education or post-license courses. Each course must include a mechanism to reasonably ensure active engagement per class hour. Correspondence and distance learning courses must include appropriate testing procedures to verify completion, including requiring licensees to file a notarized affidavit certifying compliance with the education provider or in their own records. The board approves courses and hours based on relevance to the duties in § 54.1-2100, and content must be specific to current Virginia laws and regulations where applicable.

- ✓ Board approval must be obtained before initially offering CE or post-license courses
- ✓ Distance learning courses require a notarized affidavit certifying compliance with course requirements
- ✓ Course hours are approved based on relevance to duties set forth in § 54.1-2100 of the Code of Virginia
- ✓ Course content must be specific to current Virginia laws and regulations where applicable

12.8 Course and instructor approval expiration

Approval of prelicense, continuing education, and post-license education courses, as well as post-license and continuing education instructors, expires three years from the last day of the month in which the board granted approval.

- ✓ Course and instructor approvals expire three years from the last day of the month in which approval was granted
- ✓ Applies to prelicense, CE, and post-license courses and to post-license and CE instructors

12.9 School student recordkeeping requirements

All schools must establish and maintain a record for each student containing the student's name and address, course name and clock hours attended, course syllabus or outline, instructor's name, date of successful completion, and the board's course code. Records must be available for inspection during normal business hours by authorized board representatives, and all student and class records must be retained for a minimum of five years.

- ✓ Student records must include name/address, course name and clock hours, syllabus/outline, instructor name, completion date, and board course code
- ✓ Records must be available for inspection during normal business hours by authorized board representatives
- ✓ All student and class records must be maintained for a minimum of five years

12.10 Course completion documentation and reporting

Schools must provide each student with a certificate of course completion or other proof documentation containing the student's name, school name, course name, course approval number, course completion date, hours of credit completed, and a statement that the course is 'Approved by the Real Estate Board.' All providers must electronically transmit course completion data to the board in an approved format and method within five business days of the completion of each course. Schools must update materials to reflect changes in applicable law or regulation when those changes take effect, without separate approval.

- ✓ Completion documentation must contain student name, school name, course name, approval number, completion date, hours completed, and 'Approved by the Real Estate Board' statement
- ✓ Course completion data must be electronically transmitted to the board within five business days of course completion
- ✓ Schools must update course materials to reflect legal/regulatory changes when they take effect, without separate approval

12.11 Withdrawal of school, course, or instructor approval

The board may withdraw approval of any school, course, or instructor for enumerated reasons: no longer meeting board standards; soliciting information to discover past or future exam questions; distributing or communicating exam questions without prior written approval of the copyright owner; advertising the school's services in a fraudulent, deceptive, or misrepresentative manner; school officials/instructors/designees sitting for a real estate licensing exam for any purpose other than to obtain a broker or salesperson license; or failing to ensure timely and accurate electronic transmission of course completion data.

- ✓ Approval may be withdrawn for soliciting or distributing/communicating examination questions
- ✓ Approval may be withdrawn for fraudulent, deceptive, or misrepresentative advertising of school services
- ✓ School officials/instructors/designees may not sit for the licensing exam except to obtain a broker or salesperson license
- ✓ Approval may be withdrawn for failure to ensure timely and accurate electronic transmission of course completion data

CHAPTER 13

Supplement: Property Condition Disclosures

13.1 Virginia Residential Property Disclosure Act – Buyer Beware Statement and Termination Rights

Virginia is a buyer-beware state. Under the Residential Property Disclosure Act, the owner of residential real property (1-4 dwelling units) must furnish the purchaser the Real Estate Board's Residential Property Disclosure Statement, which does not disclose defects but advises the buyer to exercise due diligence on matters such as condition, zoning, flood risk, sea level rise, historic districts, and covenants. Exempt transfers include court-ordered transfers, foreclosures and deeds in lieu, transfers between co-owners or spouses, fiduciary transfers, and certain new-construction sales. If the statement is delivered after the contract is ratified, the purchaser may terminate the contract by written notice within 3 days after delivery in person or electronically, within 5 days after the postmark if mailed, or at any time before settlement if it is never delivered; the right ends at settlement or when the buyer occupies or applies for a loan. Licensees must inform sellers of the obligation and buyers of their rights, and are not liable for the owner's failure to disclose. Source: Va. Code § 55.1-700 through § 55.1-714

- ✓ Owner of 1-4 unit residential property must give the buyer the Real Estate Board's Residential Property Disclosure Statement (buyer beware form).
- ✓ Buyer may terminate within 3 days after in-hand or electronic delivery, 5 days after postmark if mailed, or any time before settlement if not delivered.
- ✓ Termination right is lost at settlement, upon occupancy, or upon applying for a mortgage.
- ✓ Exempt: foreclosure, court-ordered, co-owner and spousal transfers, fiduciary transfers, and most new construction (new-home builder gives a limited disclosure instead).
- ✓ Licensee must inform seller of the duty and buyer of the rights but is not liable for seller's failure to disclose.

13.2 Stigmatized Property, Sex Offender Registry, and Special Mandatory Disclosures

Virginia law provides that an owner and a licensee have no duty to disclose that a property was the site of a homicide, felony, or suicide, or that an occupant had HIV or any other non-transmissible disease; the buyer is instead advised on the disclosure statement to check the Virginia State Police sex offender registry. Separately, the Residential Property Disclosure Act does impose affirmative disclosure duties for certain items: an owner with actual knowledge must disclose defective (Chinese) drywall, pending building code or zoning enforcement actions, and that the property was previously used to manufacture methamphetamine and not remediated. Certain septic system operating-permit waivers and tourism activity zone locations must also be disclosed. Failure to make an affirmative disclosure gives the purchaser termination rights before settlement and possible damages. Source: Va. Code § 55.1-713; § 55.1-708 through § 55.1-708.2

- ✓ No duty to disclose homicide, felony, suicide, or HIV/other non-transmissible disease affecting the property (stigmatized property).
- ✓ Buyer is directed to the Virginia State Police sex offender registry rather than being told of offenders by the licensee.
- ✓ Owner must affirmatively disclose known defective drywall, pending building code violations, and unremediated methamphetamine manufacturing.
- ✓ Septic operating-permit waivers and tourism activity zone location must be disclosed under the Act.

CHAPTER 14

Supplement: Landlord-Tenant Law

14.1 VRLTA – Security Deposits, Move-In Inspection, and Landlord Entry

The Virginia Residential Landlord and Tenant Act governs nearly all residential tenancies in the Commonwealth. A landlord may not demand a security deposit exceeding two months' periodic rent, and must return the deposit, with an itemized list of deductions, within 45 days after termination of the tenancy and delivery of possession; deductions taken during the tenancy require written itemization to the tenant within 30 days. Within 5 days after move-in the landlord must give the tenant a written report of the unit's condition, which the tenant may dispute within 5 days. The landlord must also give every tenant the Statement of Tenant Rights and Responsibilities and written disclosures on mold, lead, defective drywall, and military air installation zones. The landlord may enter only with the tenant's consent or after reasonable notice, at least 72 hours for routine maintenance not requested by the tenant, except in emergencies. Source: Va. Code § 55.1-1200 et seq. (§ 55.1-1204, § 55.1-1214, § 55.1-1226, § 55.1-1229)

- ✓ Security deposit maximum is 2 months' periodic rent.
- ✓ Deposit plus itemized deductions must be returned within 45 days after termination and delivery of possession.
- ✓ Move-in inspection report must be given to the tenant within 5 days of occupancy.
- ✓ Routine maintenance entry requires at least 72 hours' notice; no notice needed in emergencies.
- ✓ Landlord must provide the Statement of Tenant Rights and Responsibilities and mold/drywall/military-zone disclosures.

14.2 VRLTA – Notices, Termination, Eviction, and Tenant Remedies

Under the VRLTA, a month-to-month tenancy is terminated by written notice of at least 30 days from either party, and a rental agreement may not be terminated by self-help; the landlord must obtain an unlawful detainer judgment in General District Court and use the sheriff. For a remediable material noncompliance the landlord serves a 21/30 notice (30 days to vacate unless cured within 21 days); a non-remediable breach permits a 30-day termination notice. For nonpayment of rent the landlord must serve a written 14-day pay-or-quit notice (made permanent by 2020 HB 1333, Va. Code § 55.1-1245(F)) before filing for unlawful detainer. The landlord must maintain the premises in a fit and habitable condition and comply with building codes; the tenant may assert violations through rent escrow with the court after written notice and may not be retaliated against for complaints. Service members may terminate on permanent change of station orders. Source: Va. Code § 55.1-1220, § 55.1-1244, § 55.1-1245, § 55.1-1253, § 55.1-1258

- ✓ Month-to-month tenancy ends on at least 30 days' written notice by either party.
- ✓ Remediable breach: 30-day termination notice giving 21 days to cure (21/30 notice); non-remediable breach: 30-day notice.
- ✓ Nonpayment of rent: written 14-day pay-or-quit notice before filing unlawful detainer (Va. Code § 55.1-1245(F)).

✓

Self-help eviction is prohibited; eviction requires General District Court judgment and sheriff execution.

✓ Tenant may pay rent into court escrow for uncorrected habitability violations; retaliation is prohibited.

CHAPTER 15

Supplement: Fair Housing

15.1 Virginia Fair Housing Law – Protected Classes and Enforcement

The Virginia Fair Housing Law prohibits discrimination in the sale or rental of dwellings on the basis of race, color, religion, national origin, sex, elderliness, familial status, disability, source of funds, sexual orientation, gender identity, and military status. Elderliness (age 55 or older), source of funds, sexual orientation, gender identity (added July 1, 2020), and military status (added July 1, 2021) go beyond the federal classes. The law is administered by the Fair Housing Office within DPOR; complaints against licensees are heard by the Real Estate Board and against non-licensees by the Fair Housing Board, and a complaint must be filed within one year of the alleged discriminatory act. Exemptions include a single-family home sold or rented by an owner of no more than three such homes without a licensee, owner-occupied dwellings of four or fewer units, and religious organizations and private clubs, but discriminatory advertising is never exempt. A licensee found in violation faces license discipline in addition to civil remedies, and Virginia requires fair housing hours as part of continuing education. Source: Va. Code § 36-96.1 through § 36-96.23

- ✓ Virginia adds elderliness (55+), source of funds, sexual orientation, gender identity, and military status to the federal protected classes.
- ✓ Fair housing complaints must be filed within 1 year of the discriminatory act.
- ✓ Real Estate Board handles complaints against licensees; Fair Housing Board handles non-licensees.
- ✓ Owner exemptions (no more than 3 single-family homes without agent; owner-occupied 4 units or fewer) never cover discriminatory advertising.

CHAPTER 16

Supplement: Transfer Taxes and Recording

16.1 Recordation Tax and Grantor's Tax on Deeds and Deeds of Trust

Virginia imposes a state recordation tax on deeds of $0.25 per $100 (or fraction) of the consideration or actual value, whichever is greater, and localities may add a local recordation tax of up to one-third of the state tax; by custom the grantee (buyer) pays these. The seller pays the grantor's tax of $0.50 per $500 of consideration (equivalent to $1.00 per $1,000), which is stated on the face of the deed. Deeds of trust are taxed at $0.25 per $100 of the amount secured, with reduced rates on the portion above certain thresholds; refinances with the same lender receive reduced treatment. Additional regional transportation fees on the grantor apply in Northern Virginia and Hampton Roads localities (verify current per-$100 rates). Deeds are recorded with the clerk of the circuit court of the city or county where the land lies. Source: Va. Code § 58.1-801, § 58.1-802, § 58.1-802.3, § 58.1-802.4, § 58.1-803, § 58.1-3800

- ✓ State recordation tax on deeds: $0.25 per $100 of consideration or value, whichever is greater; customarily paid by the buyer.
- ✓ Local recordation tax may be up to one-third of the state tax.
- ✓ Grantor's tax: $0.50 per $500 ($1 per $1,000) of consideration, paid by the seller.
- ✓ Deed of trust recordation tax: $0.25 per $100 of the amount secured (reduced rates on large loans).
- ✓ Regional transportation fees are added in Northern Virginia and Hampton Roads (verify rates).

CHAPTER 17

Supplement: Condominium and HOA Law

17.1 Resale Disclosure Act – Association Resale Certificates and Buyer Cancellation

Effective July 1, 2023, the Resale Disclosure Act consolidated the resale disclosure requirements formerly found in the Condominium Act and Property Owners' Association Act. When a lot or unit in a condominium, property owners' association, or cooperative is resold, the seller must obtain from the association and deliver to the purchaser a resale certificate containing the declaration, bylaws, rules, budget, assessments, reserves, pending litigation, and any approved capital expenditures; the association must furnish it within 14 days of request, and the Common Interest Community Board caps the fees that may be charged. The purchaser may cancel the contract without penalty within 3 days after receiving the certificate in hand or electronically, within 6 days after the postmark if it is mailed, or at any time before settlement if the certificate is never delivered; the right to cancel is waived if not exercised in time. Licensees should make the sale contingent on delivery and review of the certificate. Source: Va. Code § 55.1-2307 through § 55.1-2316

- ✓ Association must deliver the resale certificate within 14 days after the seller's request.
- ✓ Buyer may cancel within 3 days of in-hand or electronic delivery, 6 days after postmark if mailed, or any time before settlement if never delivered.
- ✓ Cancellation right is waived if not exercised within the period.
- ✓ Applies to condominiums, POA subdivisions, and cooperatives; fees are capped by CIC Board regulation.

17.2 Condominium Act Public Offering Statement and Time-Share Rescission Rights

Condominiums and time-shares are regulated by the Common Interest Community Board within DPOR. A declarant selling a new condominium unit must register the condominium and deliver a public offering statement to each purchaser, who may cancel the contract within 10 days after execution or after receipt of the POS, whichever is later; purchaser deposits must be held in escrow until closing. When an apartment building is converted to condominiums, tenants must receive advance notice of the conversion and the right to purchase their units (a 120-day notice period applies; verify). Under the Virginia Real Estate Time-Share Act, a purchaser may cancel a time-share contract within 7 calendar days after execution, and the developer must deliver a time-share public offering statement. Source: Va. Code § 55.1-1900 et seq. (Condominium Act); § 55.1-2200 et seq. (Time-Share Act)

- ✓ New condominium purchaser may cancel within 10 days after contract or receipt of the public offering statement.
- ✓ Declarant must hold purchaser deposits in escrow until settlement.
- ✓ Time-share purchaser has a 7-day right to cancel after signing.
- ✓ Condominium conversions require advance notice to existing tenants with a purchase right (120 days; verify).
- ✓ The Common Interest Community Board, not the Real Estate Board, registers condominiums and time-

shares.

CHAPTER 18

Supplement: Closing Practice

18.1 CRESPA Settlement Agents and the Wet Settlement Act

Virginia does not require an attorney to conduct a closing. Under the Consumer Real Estate Settlement Protection Act (CRESPA), settlement on residential property of 1-4 units may be conducted only by a registered settlement agent, which may be a licensed attorney, a licensed title insurance company or agent, a real estate broker, or a financial institution; non-attorney (lay) settlement agents register with the State Corporation Commission's Bureau of Insurance and must carry errors and omissions coverage, a fidelity bond, and a surety bond (verify current amounts), and may not give legal advice. The purchaser has the right to select the settlement agent, and every purchase contract must contain a written notice of that right. Under the Wet Settlement Act, a lender must disburse loan funds to the settlement agent at or before settlement, and the settlement agent must record the deed and deed of trust and disburse settlement proceeds within 2 business days after settlement; funds must be in cleared form before disbursement. Source: Va. Code § 55.1-1000 through § 55.1-1017 (CRESPA); § 55.1-900 through § 55.1-905 (Wet Settlement Act)

- ✓ Attorneys are not required; CRESPA permits attorneys, title agents/companies, brokers, and financial institutions to act as registered settlement agents.
- ✓ Buyer chooses the settlement agent and the contract must disclose that right.
- ✓ Lay settlement agents cannot give legal advice and must maintain E&O, fidelity, and surety coverage.
- ✓ Wet Settlement Act: recording and disbursement must occur within 2 business days after settlement.

CHAPTER 19

Supplement: Foreclosure

19.1 Deed of Trust Foreclosure – Trustee Sale, Notice, and No Post-Sale Redemption

Virginia is a deed-of-trust state with nonjudicial foreclosure: the borrower (grantor) conveys the property to a trustee who holds a power of sale for the benefit of the lender (beneficiary). Before a trustee's sale, written notice of the time, date, and place must be sent to the present owner at the last known address at least 14 days before the sale (longer notice may apply to owner-occupied residential property under recent amendments; verify). The sale must be advertised in a newspaper as the deed of trust provides (at least 3 times), or if the deed is silent, once a week for 4 consecutive weeks, with the sale held no earlier than 8 days after the first advertisement and no later than 30 days after the last. The borrower's equitable right of redemption exists until the sale, but Virginia provides no statutory right of redemption after the trustee's sale, and the lender may seek a deficiency judgment for any shortfall. Source: Va. Code § 55.1-320 through § 55.1-324

- ✓ Foreclosure is nonjudicial through the trustee's power of sale in the deed of trust.
- ✓ Owner must receive written notice of sale at least 14 days before the sale (verify for owner-occupied residential).
- ✓ If the deed of trust is silent, advertise once a week for 4 consecutive weeks; sale between 8 days after first ad and 30 days after last.
- ✓ No statutory redemption after the trustee's sale; deficiency judgments are permitted.

CHAPTER 20

Supplement: Property Tax

20.1 Local Real Property Tax – Assessment, Reassessment, and Relief Programs

There is no state real property tax in Virginia; real property is taxed by cities, counties, and towns. The Constitution requires assessment at 100 percent of fair market value, and the tax is computed by applying the locally set rate per $100 of assessed value. Cities must conduct a general reassessment at least every 2 years and counties at least every 4 years (every 6 years for counties under 50,000 population), with the tax lien attaching to the land on January 1 and taking priority over other liens. Localities may adopt land-use (use-value) assessment for agricultural, horticultural, forest, and open-space land, with rollback taxes when the use changes, and may grant tax relief or deferral to owners age 65 or older or permanently disabled who meet income and net-worth limits; veterans with 100 percent service-connected permanent disability (and surviving spouses) receive a full exemption on their principal residence. Source: Va. Const. Art. X § § 1, 2, 6-A; Va. Code § 58.1-3201, § 58.1-3210, § 58.1-3219.5, § 58.1-3230, § 58.1-3250 et seq.

- ✓ Real property is assessed at 100 percent of fair market value; rate is stated per $100 of assessed value.
- ✓ Cities reassess at least every 2 years; counties every 4 years (6 years if under 50,000 population).
- ✓ Local tax lien has priority over other liens on the property.
- ✓ Land-use assessment triggers rollback taxes on change of use; relief is available for owners 65+ or disabled and a full exemption for 100 percent disabled veterans.

CHAPTER 21

Supplement: New Construction

21.1 Statutory New Dwelling Warranty

In every contract for the sale of a new dwelling, the vendor is deemed to warrant that the dwelling and its fixtures are free from structural defects, constructed in a workmanlike manner, and fit for habitation, and a vendor that is also the builder further warrants the same as to the foundation. The general warranty runs for one year from transfer of title or the purchaser's taking possession, whichever is first, while the foundation warranty of a new dwelling runs for 5 years. The warranty may be waived or modified only by conspicuous written language in the contract that is separately signed or initialed, and any action for breach must be brought within 2 years after the breach. Source: Va. Code § 55.1-357

- ✓ Implied statutory warranty on new dwellings: free from structural defects, workmanlike, fit for habitation, for 1 year.
- ✓ Foundation warranty by a builder-vendor lasts 5 years.
- ✓ Waiver or modification requires conspicuous, separately initialed contract language.
- ✓ Suit for breach must be filed within 2 years after the breach.