

NOTICE OF INTENT

Office of the Governor  
Real Estate Commission

Documentation (LAC 46:LXVII.1.26)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to adopt LAC 46:LXVII.Chapter 26. The purpose of the proposed rule change is to create a new section where all existing rules related to residential property management can be found in one place. This includes the authorization required for licensees to engage in property management on behalf of another, the handling of the security deposit and rental trust funds, and the responsibility of licensees to retain property management records such as bank statements, deposit slips, lease agreements, and other documents pertaining to the property for five years.

Title 46  
PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 26: Residential Property Management

§2601. Definitions

- A. Property management shall mean the marketing, leasing, or overall management of real property for others for a fee, commission, compensation, or other valuable consideration.
- B. Property manager shall mean one who, for a fee, commission, or other valuable consideration, manages real estate, including the collection of rents, supervision of property maintenance, and accounting for fees received for another.
- C. Residential real property is real property consisting of one or not more than four residential dwelling units, which are buildings or structures each of which are occupied or intended for occupancy as single-family residences.

§2603. Management Authorization

- A. Licensees shall not engage in property management on behalf of another without written authorization from the property owner(s). Salespersons and Associate Brokers shall not conduct property management functions on behalf of another, except through their sponsoring broker.
- B. Written authorization to manage property must at minimum include the following:
  - 1. The duties and responsibilities of the property manager;
  - 2. The authority and powers given by the property owner to the property manager;
  - 3. The period of the agreement; and
  - 4. The management fees charged to the property owner

§2605. Trust Funds, Deposits, and Accounts for Property Management

- A. Licensees engaged in property management on behalf of another shall open and maintain accounts in accordance with Chapter 27 of the Rules and Regulations of the Commission.
- B. All Security Deposit and Rental Trust Funds shall not be withdrawn for any purpose except:
  - 1. upon the mutual written consent of all parties having an interest in the funds;
  - 2. upon court order;
  - 3. to deposit funds into the registry of the court in a concursus proceeding;

4. to disburse funds upon a reasonable interpretation of the contract that authorizes the broke to hold such funds, provided that the disbursement is not made until 10 daysafter the broker has notified all parties and licensees in writing;
  5. to cover the payment of service charges on security deposit and rental trust accounts;
  6. upon approval by the Commission in connection with the sale or acquisition of a licensed entity;
  7. to comply with the provision of 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.
- C. Deposits shall be disbursed within 30 days of an agreement between the principles in areal estate transaction.
- D. A licensee who receives funds on behalf of another for property management shall maintain a ledger for each property managed. This ledger must clearly document all funds received and disbursed to, and on behalf of, the property owner.
- E. A licensee who accepts cash payments on behalf of an owner must retain written receipts. These receipts must include at minimum the date, the amount, the property address, the reason for the payment, the tenants name, and the name and signature of the licensee or employee who received the funds on behalf of the brokerage.

#### §2607. Property Management Records

- A. Licensees engaged in property management shall retain all of the following records, readily available and properly indexed, for a period of five years:
1. Bank statements, deposit slips, management agreements, lease agreements, owner ledgers or statements, deposit slips, disbursement checks, invoices, cash receipts, and any other documents that pertain to the management of the property.
  2. Copies of all documents that pertain in any way to real estate transactions wherein the individual real estate broker or licensees sponsored by the individual real estate broker have appeared in a licensing capacity.
- B. The requirement regarding copies shall not be altered by the transfer of a broker to that of an associate broker, an unlicensed person, or an inactive licensee.

#### §2609. Exemptions

- A. The provisions of this section shall not apply to an unlicensed person, partnership, limited liability company, association or corporation, foreign or domestic, who performs acts of ownership regarding the property, either individually or through an employer or representative.

#### Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the December 20, 2018 *Louisiana Register*: The proposed rule has no known impact on family, formation, stability, or autonomy.

#### Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

#### Provider Statement

The proposed rule has no known impact on providers of services for individuals with developmental disabilities.

#### Public Comments

Interested parties may submit written comments on the proposed regulations to Ryan Shaw, Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809 or [rshaw@lrec.gov](mailto:rshaw@lrec.gov), through January 10, 2019 at 4:30 p.m.

#### Public Hearing

If it becomes a necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held on January 24, 2019 at 9:00 a.m. at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst  
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: LAC 46:LXVII.Part 1.Chapter 26

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL  
GOVERNMENTAL UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The purpose of the proposed rule change is to create a new section where all existing rules related to residential property management can be found in one place. This includes the authorization required for licensees to engage in property management on behalf of another, the handling of the security deposit and rental trust funds, and the responsibility of licensees to retain property management records such as bank statements, deposit slips, lease agreements, and other documents pertaining to the property for five years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL  
GOVERNMENTAL UNITS (Summary)

There is no anticipated impact to revenue collections to state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS  
OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs associated with the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Bruce Unangst  
Executive Director

Evan Brasseaux  
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