

LOUISIANA REAL ESTATE LICENSE LAW

(As amended through the 2019 Regular Session)

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§1430. Short title

This Chapter shall be known and may be cited as the “Louisiana Real Estate License Law.”

Added by Acts 1983, No. 268, §1.

§1431. Definitions

As used in this Chapter the following words have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

- (1) “Active licensee” means any currently licensed person whose license has not been transferred to inactive status and who is authorized to act in the capacity of a real estate broker or salesperson as provided for in this Chapter.
- (2) “Agent” means a licensee acting under the provisions of this Chapter in a real estate transaction.
- (3) “Associate broker” means a person who holds a broker’s license and who is exclusively affiliated with and sponsored by another licensed real estate broker to participate in any activity described in this Section.
- (4) “Broker” or “real estate broker” means a licensed real estate broker performing activities as an individual real estate broker, a sponsoring broker or designated qualifying broker, or a corporation, partnership, or limited liability company which has been granted a real estate license through a designated qualifying broker.
- (5) “Buyer” means the transferee in a real estate transaction, and includes a person who executes an offer to purchase or lease real estate from a seller, whether alone or through an agent, or who seeks the services of an agent with the object of entering into a real estate transaction. “Buyer” includes a lessee.

(6) "Buyer's agent" means a licensee who is employed by and represents only the buyer in a real estate transaction, regardless of whether such agent's compensation is paid by the buyer directly or by the seller through a commission split with the listing agent.

(7) "Client" means one who engages the professional advice and services of a licensee as his agent and whose interests are protected by the specific duties and loyalties imposed by that relationship.

(8) "Commingling" means putting personal funds and funds belonging to other persons in one mass or mixing the funds together so they cannot be identified or differentiated.

(9) "Commission" means the Louisiana Real Estate Commission.

(10) "Dealing in options" means a person, firm, partnership, limited liability company, association, or corporation directly or indirectly taking, obtaining, or using an option to purchase, exchange, rent, or lease real property or any interest therein with the intent or for the purpose of buying, selling, exchanging, renting, or leasing said real property or interests therein to another or others, whether or not said option is in his name and whether or not title to said property passes through the name of said person, firm, partnership, limited liability company, association, or corporation in connection with the purchase, sale, exchange, rental, or lease of such real property in interest.

(11) "Franchise agreement" means an agreement whereby one party, the franchisor, authorizes a real estate broker, the franchisee, to use registered trademarks or other advertising tools to create a common identity among several brokers nationally or regionally for marketing purposes.

(12) "Inactive licensee" means any currently licensed person whose license has been transferred to inactive status and who is not authorized to act in the capacity of a real estate broker or salesperson as provided for in this Chapter.

(13) "Individual real estate broker" means an individual person licensed as a real estate broker and does not mean a licensed corporation, limited liability company, or partnership licensed as a real estate broker.

(14) "Licensee" means any person who has been issued a license by the commission to participate in any activity described in this Section.

(15) "Listing agent" means a licensee who has obtained a listing of real estate to act as an agent for compensation.

(16) "Listing agreement" means a written document signed by all owners of real estate or their authorized attorney in fact authorizing a broker to offer or advertise real estate described in such document for sale or lease on specified terms for a defined period of time. A listing agreement shall only be valid if signed by all owners or their authorized attorney in fact.

(17) "Mold" means any form of multicellular fungi that live on plant or animal matter and in indoor or outdoor environments. Types of mold often found in water-damaged building materials include but are not limited to cladosporium, penicillium, alternaria, aspergillus, fuarium, trichoderma, memnoniella, mucor, and strachybotrys chartarum.

(18) "Net listing agreement" means a listing agreement that authorizes a broker to take as his commission the difference between the higher sale price at which the real estate property is sold and the stipulated net price agreed upon to be received by the seller.

(19) Repealed by Acts 1995, No. 1207, §2.

(20) "Property management" means the marketing, leasing, or overall management of real property for others for a fee, commission, compensation, or other valuable consideration.

(21) "Property manager" means 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.

(22) "Qualifying broker" means the sponsoring broker for a licensed corporation, limited liability company, or partnership and is the individual real estate broker designated by a licensed corporation, limited liability company, or partnership, by resolution, as its representative in all matters relating to its real estate business activities in Louisiana and in administrative and regulatory matters before the commission.

(23) "Real estate" shall mean and include condominiums and leaseholds, as well as any other interest in land, with the exceptions of oil, gas and other minerals and whether the real estate is situated in this state or elsewhere.

(24) "Real estate activity" means any activity relating to any portion of a real estate transaction performed for another by any person, partnership, limited liability company, association, or corporation, foreign or domestic, whether pursuant to a power of attorney or otherwise, who for a fee, commission, or other valuable consideration or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(a) Sells, exchanges, purchases, manages, rents, or leases or negotiates the sale, exchange, purchase, rental, or leasing of real estate.

(b) Offers or attempts or agrees to negotiate the sale, exchange, purchase, management, rental, or leasing of real estate.

(c) Lists or offers or attempts or agrees to list for sale or lease any real estate or the improvement thereon.

(d) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate or the improvements thereon.

(e) Advertises or holds himself, itself, or themselves out as engaged in the business of selling, exchanging, purchasing, managing, renting, or leasing real estate.

(f) Assists or directs in the procuring of prospects or the negotiation or closing of any transaction, other than mortgage financing, which results or is calculated to result in the sale, exchange, managing, leasing, or renting of any real estate, other than a provider of information, ideas, and materials to guide homeowners in the sale of their own property.

(g) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both.

(h)(i) Sells or attempts to sell or offers or attempts to negotiate the sale of any business whose assets include real estate or leases of real estate.

(ii) Lists or offers or attempts or agrees to list for sale any business whose assets include real estate or leases of real estate.

(25) "Real estate continuing education vendor" means any school, place, individual, or institution certified by the Louisiana Real Estate Commission which offers courses or seminars in real estate and related subjects to fulfill continuing education requirements for license or certificate renewal purposes.

(26) "Real estate salesperson" means a person, other than an associate broker, sponsored by a licensed real estate broker to participate in any activity described in this Section.

(27) "Real estate school" includes any place or institution certified by the commission which is open to the public for the instruction or training of individuals to engage in the selling of real estate.

(28) "Real estate transaction" means the selling, offering for sale, buying, offering to buy, soliciting for prospective purchasers, managing, offering to manage, leasing, offering to lease, renting, or offering to rent any real estate or improvements thereon, or any business or other entity whose assets include real estate or leases of real estate.

(29) "Seller" means the transferor in a real estate transaction, and includes an owner who lists real estate with an agent, whether or not a transfer results, or who receives an offer to purchase or lease real estate property of which he is the owner from an agent on behalf of another. "Seller" includes a lessor.

(30) "Sponsoring broker" means any individual real estate broker who sponsors associate brokers or real estate salespersons who participate in any activity described in this Section.

(31) "Subagent" means a licensee, other than a listing agent or a buyer's agent, who acts in cooperation with a listing agent in a real estate transaction.

(32) "Timeshare developer" means an individual, partnership, limited liability company, corporation, or other legal entity, or the successor or assignee thereof, who creates a timeshare plan or who is in the business of making sales of timeshare interests which it owns or purports to own.

(33) "Timeshare interest salesperson" means a person who directly sells or offers to sell any timeshare interest.

(34) "Timeshare registrant" means timeshare interest salespersons or timeshare developers registered by the commission.

Acts 1978, No. 514, §1; Acts 1979, No. 404, §1; Acts 1981, No. 309, §1; Acts 1983, No. 381, §1; Acts 1983, No. 380, §1; Acts 1983, No. 270, §1; Acts 1983, No. 552, §2; Acts 1986, No. 841, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1990, No. 893, §1; Acts 1991, No. 354, §1, eff. Jan. 1, 1992; Acts 1995, No. 1207, §§1, 2; Acts 1997, No. 845, §1; Acts 2003, No. 1123, §1, eff. July 2, 2003; Acts 2006, No. 351, §1; Acts 2015, No. 81, §1.

§1432. Louisiana Real Estate Commission; qualifications; terms of office

A. The Louisiana Real Estate Commission is hereby created within the office of the governor. The commission shall consist of eleven members appointed by the governor. One member shall be appointed from each of the seven supreme court districts. Two members shall be appointed at large. Two members shall be appointed from the following districts: one appointee from either the Fourth Congressional District or the Fifth Congressional District and one appointee from either the First, Second, Third, or Sixth Congressional District. Each appointment by the governor shall be submitted to the Senate for confirmation.

B. Each appointment to the commission shall be for a six-year term. No commissioner shall serve more than one six-year term.

C. Members of the commission shall be citizens and qualified electors of this state. Each member shall have actively engaged in the real estate business as a broker for at least five years next preceding the date of appointment.

D. A vacancy caused by any reason except the expiration of the term shall be filled by appointment by the governor for the remainder of the unexpired term.

E. The governor may remove any member of the commission for cause.

Acts 1978, No. 514, §1. Amended by Acts 1980, No. 730, §1, eff. July 29, 1980; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1991, No. 436, §1; Acts 2001, No. 8, §12, eff. July 1, 2001; Acts 2005, No. 78, §1; Acts 2009, No. 104, §1; Acts 2012, No. 803, §9.

§1433. Officers; quorum; meetings; compensation

A. The commission shall elect from its members a chairman and a secretary and shall select a vice chairman to serve in the absence of the chairman.

B.(1) Six members of the commission shall constitute a quorum for all business. The commission shall meet quarterly or more often if necessary.

(2) The commission shall be limited to two regularly scheduled meetings per month. Additional meetings may be called upon application of three members.

C. Members of the commission shall be compensated at a rate of not more than fifty dollars a day for each meeting or for attending to commission business, however, a member attending two meetings on the same day shall not be compensated for more than one meeting on that day. Members shall also be reimbursed for their actual expenses covering travel, meals, lodging and other incidental expenses incurred while attending commission meetings or attending to commission business.

Acts 1978, No. 514, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 2016, No. 533, §1.

§1434. Domicile

The domicile of the commission shall be in the city of Baton Rouge.

Acts 1978, No. 514, §1.

§1435. Powers of the commission

A. The commission shall have the full power and authority to:

(1) Regulate the issuance of real estate licenses, registrations, and certificates.

(2) Censure licensees, registrants, and certificate holders.

(3) Suspend or revoke licenses, registrations, and certificates.

(4) Impose additional continuing education requirements on licensees, registrants, or certificate holders.

(5) Purchase, acquire, develop, expand, sell, lease, maintain, mortgage, borrow funds, or otherwise contract with respect to immovable property and improvements thereon as it may deem necessary or appropriate to accomplish the provisions of this Chapter. Additionally, the commission shall have the authority to borrow funds with the approval of the State Bond Commission and to expend funds of the commission for the acquisition of immovable property and improvements thereon. In the event that the commission sells immovable property and improvements thereon, the revenue derived from the sale shall be retained by the commission and shall not be subject to reversion to the state general fund.

B. The commission shall adopt a seal by which it shall authenticate its proceedings.

C. The commission may:

(1) Adopt all necessary rules and bylaws for the administration and enforcement of this Chapter.

(2) Require any satisfactory proof it may desire as to the honesty, truthfulness, reputation, and knowledge of any applicant or of any of the officers or members of such applicant, if applicable, to any of the following:

(a) Real estate broker license.

(b) Real estate salesperson license.

(c) Real estate school or vendor certification.

(d) Timeshare interest salesperson registration.

(e) Real estate instructor approval or certification.

(3) Repealed by Acts 2016, No. 533, §2.

D. In addition to its general powers, as provided by way of extension and not of limitation, the commission may require all licensees, registrants, and certificate holders to keep records, as specified in this Chapter. The commission is authorized to inspect such records at the offices of the licensees, registrants, and certificate holders, by its duly authorized representatives between the hours of 9:00 a.m. and 4:00 p.m., with Saturdays, Sundays, and legal holidays excluded, and to subpoena any of the records.

E. The commission shall have the right to subpoena any licensee, registrant, certificate holder, or witness for the purpose of holding any hearing or in furtherance of an authorized investigation. Failure by a licensee or registrant to comply with a subpoena or subpoena duces tecum shall be punishable by the commission as pursuant to R.S. 37:1455.

F. The commission shall have the right to require all real estate licensees and registered timeshare developers to deposit all monies or things of value received on behalf of clients in a separate banking account or accounts in a legally chartered financial institution. The monies so received are not to be commingled with the personal funds of such licensees or registrants.

G. The commission shall appoint an executive director, who shall have such powers, authority, and responsibilities as the commission shall delegate. The commission shall establish the salary of the executive director, and may remove the executive director for cause.

H. The commission may adopt rules, regulations, and procedures in accordance with the Administrative Procedure Act, by which a determination may be made as to whom a disputed escrow deposit shall be released.

Acts 1978, No. 514, §1. Amended by Acts 1980, No. 387, §1; Acts 1983, No. 552, §2; Acts 1984, No. 943, §2, eff. July 20, 1984; Acts 1986, No. 837, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1991, No. 642, §1; Acts 1995, No. 1207, §1; Acts 1999, No. 628, §1; Acts 2005, No. 78, §1; Acts 2016, No. 533, §§1, 2.

§1436. Licensing and registration required

A. Licenses issued by the commission shall be classed as active and inactive.

B. It shall be unlawful for any person, partnership, limited liability company, association, or corporation, foreign or domestic, whether pursuant to a power of attorney or otherwise, for a fee, commission, or other valuable consideration, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, commission or other valuable consideration, to engage in any real estate activity relating to any portion of a real estate transaction performed for another, unless exempted, as specified herein.

C. It shall be unlawful for any individual, partnership, limited liability company, corporation, or other legal entity, or the successor or assignee thereof, to create a timeshare plan, or to make sales of timeshare interests, which it owns or purports to own or for another, without first obtaining a registration, as provided in this Chapter, unless exempted, as specified therein.

D. Any person, corporation, partnership, limited liability company, or other legal entity that, directly or indirectly for another, with the intention or upon the promise of receiving any valuable consideration, offers, attempts, or agrees to perform, or performs any single act described herein, whether as a part of a transaction, or as an entire transaction, shall be deemed a licensee or registrant within the meaning of this Chapter. The commission of a single act by such a person or entity required to be licensed or registered under this Chapter and not so licensed or registered shall constitute a violation of the provisions of this Chapter.

E. Whoever violates the provisions of this Section shall be guilty of a misdemeanor and fined not more than five hundred dollars per day of violation, beginning from five calendar days from service by certified mail of the cease-and-desist letter issued by the commission, or imprisoned for not more than three months, or both.

F. The district attorney in whose jurisdiction the violation occurs shall have sole authority to prosecute criminal actions pursuant to this Section.

Acts 1978, No. 514, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1997, No. 845, §1; Acts 2016, No. 533, §1; Acts 2017, No. 50, §1.

§1437. Application for license

A. Any person, partnership, limited liability company, association, or corporation, or other legal entity desiring to conduct real estate activity in this state, shall file an application for a license with the commission. The application shall be in such form and detail as the commission shall prescribe, setting forth the following:

(1) The name and address of the applicant and the name under which the applicant intends to conduct business.

(2) The place or places, including the city or village with the street and street number, if any, where the business is to be conducted.

(3) Such other information as the commission shall require.

B. Licenses shall be granted only to persons, partnerships, limited liability companies, associations, corporations, or other legal entities that bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the real estate activities defined in this Chapter, in such a manner as to safeguard the interest of the public, and only after satisfactory proof of such qualifications has been presented to the commission.

(1) When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction, such untrustworthiness of the applicant, and the conviction, may in itself be sufficient grounds for refusal of a license.

(2) When an applicant has made a false statement of material fact on his application, such false statement may in itself be sufficient grounds for refusal of a license.

(3) Grounds for suspension or revocation of a real estate license in Louisiana or any other jurisdiction, or the previous suspension or revocation, of a real estate license in Louisiana or any other jurisdiction shall also be grounds for refusal to grant a license.

C. No individual real estate broker or salesperson's license shall be issued to any person who has not attained the age of eighteen years. No individual real estate broker or salesperson's license shall be issued to any person who is not a high school graduate or the holder of a certificate of high school equivalency.

(1)(a) All applicants for an initial individual real estate broker license shall have first been licensed for four years, with two of the four years occurring immediately preceding submission of a broker license application, and shall show evidence satisfactory to the commission that they have satisfactorily completed at least one hundred fifty hours of instruction, or its equivalent, in real estate courses approved by the commission. Satisfactory completion includes passage of an examination on course contents.

(b) At least thirty hours of the broker educational requirement shall be obtained in coursework emphasizing broker responsibilities.

(c) Each person obtaining an initial real estate broker's license shall complete forty-five post-license education hours within one hundred eighty days after the initial license date. Such hours shall be in subjects required by the commission including but not limited to laws, rules and regulations changes, finance, and the handling of funds. Post-license education hours may be used in the year completed to satisfy eight hours of the twelve-hour annual continuing education requirement; however, post-license education hours shall not satisfy the mandatory continuing education topic specified by the commission.

(2) The commission may accept real estate-related credit hours from an accredited college or university as partial substitution of the broker licensing educational requirement.

(3) The commission shall have the authority to accept experience in the real estate business or related fields as credit toward fulfillment of the education requirements set forth herein.

(4)(a) All applicants for a salesperson's license shall show evidence satisfactory to the commission that they have completed ninety hours or its equivalent of instruction in real estate coursework

approved by the commission prior to licensure. Satisfactory completion includes passage of an examination on course contents.

(b) Each person obtaining an initial salesperson's license shall complete forty-five post-license education hours within one hundred eighty days after the initial license date. Such hours shall be in subjects required by the commission including but not limited to laws, rules and regulations changes, finance, and the handling of funds. Post-license education hours may be used in the year completed to satisfy eight hours of the twelve-hour annual continuing education requirement; however, post-license education hours shall not satisfy the four-hour mandatory continuing education topics specified by the commission.

(5)(a) In addition to all other education requirements set forth in this Chapter, regardless of initial license date, the license of an individual real estate broker or salesperson shall not be renewed unless the broker or salesperson shall furnish proof of completion of twelve hours per year of continuing education pertaining to matters, including but not limited to laws, rules, and regulations relative to licensing, appraisal, finance, taxes, zoning, environmental quality, and the United States Department of Housing and Urban Development. A minimum of four of the required annual continuing education hours shall be in subjects specified by the commission. Post-license education hours may be used to satisfy eight hours of the twelve-hour annual continuing education requirement; however, post-license education hours shall not satisfy the mandatory continuing education topics specified by the commission.

(b) The commission shall promulgate rules and regulations necessary to implement the continuing education and post-license education requirement and may mandate the completion of courses in specific real estate-related subjects. Such rules and regulations may require passage of an examination in order to satisfy the continuing education and post-license education requirement.

D. Every applicant for a license shall submit a sworn statement attesting that he has knowledge of and understands the provisions of the Fair Housing Act of 1968 and the Louisiana Equal Housing Opportunity Act, and any amendments thereto or any successor legislation subsequently following, and that the applicant shall not induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into an area, subdivision, or neighborhood of a person or persons of a particular race, color, religion, or national origin.

E. A nonresident may obtain a broker or salesperson license and engage in the real estate business in this state under conditions prescribed by the commission.

Acts 1978, No. 514, §1. Amended by Acts 1978, No. 658, §1; Acts 1979, No. 404, §1; Acts 1980, No. 492, §1; Acts 1981, No. 309, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1991, No. 642, §1; Acts 1993, No. 886, §1; Acts 1995, No. 1207, §§1, 2; Acts 1997, No. 220, §1; Acts 1997, No. 845, §1; Acts 1997, No. 1141, §2; Acts 1999, No. 452, §3; Acts 1999, No. 629, §1, eff. Jan. 1, 2000; Acts 2001, No. 924, §1; Acts 2008, No. 254, §1, eff. Jan. 1, 2009; Acts 2016, No. 533, §1.

§1437.1. Timeshare registration

A. Any person or entity desiring to engage directly in the business of selling timeshare interests must register with the commission.

B. The application for registration shall be in such form as may be required by the commission and in accordance with R.S. 9:1131.9 so that only persons who have a good reputation for honesty, trustworthiness, and integrity may be so registered.

(1) The commission shall approve or deny such applications for registration within forty-five days from receipt of the application by the commission.

(2) When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction, such untrustworthiness of the applicant, and the conviction, may in itself be sufficient grounds for refusal of a timeshare interest sales registration.

(3) When an applicant has made a false statement of material fact on his application, such false statement may in itself be sufficient grounds for refusal of a timeshare interest sales registration.

(4) Grounds for suspension or revocation of a registration, or real estate license, or the previous revocation of a real estate license or registration in Louisiana or any other jurisdiction, shall be grounds for refusal to grant a timeshare interest sales registration.

(5) A timeshare registration shall not be issued to any person who has not attained the age of eighteen years. A timeshare interest sales registration shall not be issued to any person who is not a high school graduate or the holder of a certificate of high school equivalency.

C. The provisions of this Section shall not apply to a licensed real estate broker or salesperson or to employees of a timeshare developer registered under this Section.

D. Notwithstanding any other provisions of law, a timeshare developer may not avoid liability to timeshare purchasers for the acts of timeshare interest salespersons or real estate licensees on the basis that the timeshare interest salesperson or real estate licensee is merely an independent contractor.

E. Every nondeveloper timeshare sales registrant shall file and maintain with the Louisiana Real Estate Commission a bond issued by a surety company authorized to do business in this state in the amount of ten thousand dollars. This bond shall be in favor of the state for the use, benefit, and indemnity of any person who suffers any damage or loss as a result of the sale registrant's unfair or deceptive practice or other violation of law in connection with the sale offer or solicitation to sell of a timeshare interest.

F. Except for the provisions contained in R.S. 9:1131.12, the changes and additions effected by Act No. 999 of the 1985 Regular Session of the Legislature shall not apply to any timeshare project approved to operate by the Louisiana Real Estate Commission on or before June 1, 1985, if all of the following conditions have been met:

(1) Protection under the federal bankruptcy law has not been filed.

(2) The developer has not been suspended by the Louisiana Real Estate Commission.

(3) The project has been actively and consistently marketed as a timeshare project, if approved prior to July 20, 1984.

G. Any timeshare interest salesperson or seller of a timeshare interest shall comply with the provisions of the Louisiana Real Estate License Law and the rules adopted pursuant thereto, including licensure, unless otherwise exempt.

(1) The Louisiana Real Estate License Law shall not apply to a timeshare developer registered under this Section, acting as sole owner or sole lessor of real estate solely owned or solely leased by the developer, a registered affiliated entity, or a registered wholly-owned subsidiary of the developer.

(2) The Louisiana Real Estate License Law shall not apply to an existing timeshare owner who refers prospective purchasers, for compensation, provided that the existing timeshare owner adheres to all of the following:

(a) Refers no more than twenty prospective purchasers in any calendar year.

(b) Limits such activities to referring prospective purchasers of timeshare interests to the developer or the developer's employees or agents.

(c) Does not show, discuss terms or conditions, or otherwise participate in negotiation with regard to timeshare interests.

Added by Acts 1983, No. 552, §2; Acts 1984, No. 943, §2, eff. July 20, 1984; Acts 1985, No. 999, §§2,4; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 2003, No. 978, §1; Acts 2016, No. 533, §1.

{{NOTE: SEE ACTS 1985, NO. 999, §5.}}

§1437.2. Corporations; limited liability companies; partnerships; broker licenses

A. Any corporation, limited liability company, or partnership formed under the laws of this state or any foreign corporation, limited liability company, or partnership that has been granted a certificate of authority to do business in this state may be granted a real estate broker's license by the commission upon application and compliance with the requirements of this Chapter.

B. Every application for a real estate broker license issued to a corporation, limited liability company, or partnership shall be submitted by a licensed individual real estate broker who has been chosen by the corporation, limited liability company, or partnership as its qualifying broker.

(1) An individual real estate broker may serve as a qualifying broker for more than one corporation, limited liability company, or partnership.

(2) A corporation, limited liability company, or partnership may designate a new qualifying broker at any time, as provided in R.S. 37:1441(C).

C. A corporation, limited liability company, or partnership shall notify the commission within five calendar days of its dissolution, accompanied by notice of the termination of the broker license, as provided in R.S. 37:1441, for each sponsored licensee, at which time the commission shall cancel the real estate broker license of the corporation, limited liability company, or partnership, thereby prohibiting such entity from performing any act for which a real estate broker license is required.

D. A corporation, limited liability company, or partnership shall notify the commission within five calendar days following the effective date of a merger or consolidation with another corporation, limited liability company, or partnership.

F.-I. Repealed by Acts 1999, No. 452, §3.

Added by Acts 1983, No. 380, §1. Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 1999, No. 452, §3; Acts 2016, No. 533, §1.

§1437.3. Inactive license

A. An inactive license status shall be established.

B. Any licensee in good standing with the commission may elect to place his license in an inactive license status by submitting the appropriate transfer application and remitting the applicable fees as set forth in this Chapter. Within the three-month delinquency period immediately following the expiration of the last active license and upon payment of appropriate renewal and inactive license transfer fees, former licensees may transfer their license to the inactive status.

C. During the period the license is in the inactive status, the licensee shall be prohibited from engaging in any activity requiring a real estate license. The licensee shall be required to renew the inactive license on an annual basis by filing the required renewal application and paying the inactive renewal fees as specified in this Chapter.

D. The licensee may request transfer from inactive status to active status at any time, provided the inactive license is current at the time the request is received at the commission.

E. An inactive licensee will not be required to fulfill the continuing education requirement established for active licensees on an annual basis; however, upon application to return to active license status the licensee shall have completed the continuing education specified as follows:

(1) Licensees remaining in the active status for less than one year shall have completed the twelve-hour continuing education requirement for the previous year.

(2) Licensees remaining in the inactive status from one to five years shall complete the number of continuing education hours specified herein for the following periods of inactivity:

(a) One to less than three years in the inactive status – twenty hours of continuing education.

(b) Three to less than five years in the inactive status – forty hours of continuing education.

(3) If the licensee remains in the inactive status for two to five renewal periods, the licensee shall complete a four-hour course covering Louisiana real estate license law or commission rules and regulations as part of the hours specified in Paragraph (2) of this Subsection to be eligible to return to active license status. The required four-hour course shall be completed within one year prior to the date of the license transfer to the active status.

(4)(a) The licensee may remain in the inactive license status indefinitely, provided the licensee complies with the annual inactive renewal procedures. Licensees remaining in the inactive status for five or more years shall be required to complete a maximum of eighty hours of approved continuing education within the five-year period immediately preceding the request to return to active license status.

(b) Such continuing education shall include a four-hour Louisiana real estate license law or commission rules and regulations course. The course shall be completed within one year prior to the date of the license transfer to the active status.

(c) Any licensee that has continued to obtain annual continuing education in the required areas during the period that the licensee is in the inactive status may cumulate those hours and be eligible to transfer to the active status at any time.

(5) Any request by an inactive licensee to transfer to active status shall be accompanied by payment of the prescribed fees and proof of completion of the applicable continuing education hours.

Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 1999, No. 629, §1, eff. Jan. 1, 200; Acts 2016, No. 533, §1.

§1438. Applicability

A. The provisions of this Chapter shall not apply to:

(1) Any unlicensed person, partnership, limited liability company, association, or corporation, foreign or domestic, provided that the following requirements are met:

(a) The unlicensed person, partnership, limited liability company, association, or corporation, foreign or domestic, is the owner or lessor of the property.

(b) The unlicensed person, partnership, limited liability company, association, or corporation, foreign or domestic, performs acts of ownership regarding the property, either individually or through an employee or representative.

(c) The provisions of this Section shall not include any unlicensed person, partnership, limited liability company, association, corporation, foreign or domestic, in the business of selling or managing timeshare interests.

(2) The service rendered by an attorney at law on behalf of a client that may be required in the normal course of other legal representation.

(3) A receiver, trustee in bankruptcy, administrator, executor, tutor, or civil sheriff for any parish of this state.

(4) A trustee selling under a deed of trust or a mortgage.

(5) Any individual, corporation, partnership, trust, limited liability company, joint venture, or other entity that sells, exchanges, leases, or manages its own property, except persons, corporations, partnerships, trusts, limited liability companies, joint ventures, and other entities that are in the business of selling timeshare interests.

(6) Any salaried person employed by a licensed real estate broker for and on behalf of the owner of any real estate that the licensed broker has contracted to manage for the owner, if the salaried employee is limited in his employment to the following:

(a) Delivering a lease application, a lease, or any amendment thereof to any person.

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment for delivery to and made payable to a property manager or owner.

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker, including the execution of leases or rental agreements, provided the broker is responsible for the actions of his employees.

(d) Providing information about a rental unit, a lease, an application for lease, or the status of a security deposit or the payment of rent to any person.

(e) Assisting in the performance of property management functions by carrying out administrative, clerical, or maintenance tasks.

(7) Any person employed by a housing authority to manage its property or otherwise managing property of the Department of Housing and Urban Development, but only with respect to the management of such property.

(8) Any person managing agricultural property.

B, C. Repealed by Acts 1995, No. 1207, §2.

Acts 1990, No. 893, §1; Acts 1995, No. 1207, §§1, 2; Acts 2016, No. 533, §1.

§1439. Issuance of license, certificate, or registration

A. Upon compliance with the provisions of this Chapter and with the rules and regulations of the commission, the commission shall issue the appropriate license, certificate, or registration and shall prescribe the form of such license, certificate, or registration.

B. A broker license issued to an individual, partnership, limited liability company, association, corporation, or other legal entity, shall include the business name, the street address of the business, and the mailing address of the business, if it is different from the street address.

C. Each sales or associate broker license shall include the following information:

(1) The name of the licensee.

(2) The name of the sponsoring individual real estate broker, or the name of the partnership, limited liability company, association, corporation, or other legal entity, under which the license is issued.

(3) The license of each associate broker or salesperson shall be delivered to the individual real estate broker or the partnership, limited liability company, association, corporation, or other legal entity, under which the license is issued in the manner and mode determined by the commission.

D. Each timeshare developer registration shall include the name and street address of the developer and, the mailing address of the developer, if it is different from the street address.

E. Each timeshare sales registration shall include all of the following information:

(1) The name of the sales registrant.

(2) The residential address of the sales registrant, and the mailing address of the sales registrant, if it is different from the residential address.

(3) The name of the developer who employs the sales registrant.

F. The timeshare sales registration shall be delivered to the developer in the manner and mode determined by the commission and shall be kept in the custody and control of that developer.

G.(1) Associate brokers, salespersons, and timeshare interest salespersons shall not conduct any activities requiring a license or registration until such license or registration has been issued and is in the custody of the sponsoring broker or employing timeshare developer.

(2) This provision shall not apply if the sponsoring broker or employing timeshare developer has received written authorization from the commission authorizing such activity pending the issuance of the license or timeshare registration by the commission.

Acts 1978, No. 514, §1. Acts 1986, No. 670, §1; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 1999, No. 452, §2; Acts 2016, No. 533, §1.

§1440. Examination

A. Professional competency as referred to in this Chapter shall be established by an examination prepared by or under the supervision of the commission. The examination shall be of a scope sufficient in the judgment of the commission to determine that a person is professionally competent to act as a real estate broker or salesperson. The commission shall make all necessary rules and regulations governing the time, place, and method of conducting such examinations.

B. The examination shall consist of such technical and professional subjects relating to the real estate business as the commission shall prescribe or believe applicable in order to determine the professional competency of the applicant and to protect the interests of the public.

C. Examinations shall be conducted, administered, and scored by either the Department of State Civil Service or by a national testing service.

Acts 1978, No. 514, §1. Amended by Acts 1980, No. 492, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990.

§1441. Return of license or registration upon transfer or termination

A. When the sponsorship of an associate broker or salesperson is terminated for any reason, the terminating party shall submit a form attesting to the termination to the commission, within five calendar days of such termination.

(1) Upon submission of a form indicating the termination of sponsorship, the license of an associate broker or salesperson shall no longer be in force or effect, and the associate broker or salesperson shall be prohibited from conducting real estate activities, as defined in this Chapter, until such time as the associate broker or salesperson obtains a new sponsoring broker.

(2) An associate broker or salesperson, whose sponsorship has been terminated, shall be entitled to a license transfer upon submission of a form indicating the transfer to a new broker to the commission and payment of the required fee.

B.(1) When the affiliation of a timeshare sales registrant with a registered developer is terminated for any reason, the developer shall notify the commission in writing within five days of such termination.

(2) Any timeshare sales registrant, whose affiliation with a registered developer has been terminated, shall notify the commission, in writing prior to beginning an affiliation with another registered developer.

(3) When an affiliate timeshare sales registrant is terminated by a registered timeshare developer, such sales registration shall no longer be in force or effect, until such time that the commission receives a written notice that the timeshare sales registrant is affiliated with a new developer and the prescribed fees have been remitted.

C. When the association between a designated qualifying broker and a partnership, limited liability company, association, corporation, or other legal entity, foreign or domestic, is terminated for any reason, the following actions shall be taken:

(1) The terminating party shall submit a copy of the letter or resignation or termination to the commission, within five calendar days of such termination.

(2) The outgoing qualifying broker shall notify all sponsored licensees within five calendar days of the termination, including the effective date, by certified or registered mail.

(3) Neither the licensed partnership, limited liability company, association, corporation, or other legal entity, foreign or domestic, nor any licensee sponsored by the terminated qualifying broker, shall engage in any real estate activity requiring a license until a new qualifying broker has been designated by the partnership, limited liability company, association, corporation, or other legal entity, foreign or domestic, and the designation has been reflected in the files of the commission.

(4) Upon termination of a qualifying broker's association with a partnership, limited liability company, association, corporation, or other legal entity, foreign or domestic, such entity shall designate a new qualifying broker and shall notify the commission by submission of a form indicating the designation of such broker within five calendar days of the termination.

(5) Upon designation of a new qualifying broker, the outgoing qualifying broker shall provide custody of the licenses of all sponsored licensees to the new designated qualifying broker.

(6) All sponsored licensees of the partnership, limited liability company, association, corporation, or other legal entity, foreign or domestic, shall be informed of the change in the designation of a qualifying broker, including the effective date, by certified or registered mail, not later than five calendar days following the effective date of the designation.

Acts 1978, No. 514, §1. Acts 1986, No. 839, §1; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 2016, No. 533, §1.

§1442. License, certificate, and registration issuance and renewal

A. Each license, certificate, or registration issued under this Chapter shall be issued for a period of one year and shall expire on December thirty-first following the date upon which it is issued. Each license, certificate, or registration shall be renewed annually. Conducting any activity authorized by the license, certificate, or registration after the expiration of the license, certificate, or registration shall be deemed a violation of this Chapter. Licenses, certificates, or registrations not renewed by January first shall be considered expired.

B. Any licensee or registrant who fails to renew timely may thereafter renew upon payment of the appropriate renewal and delinquent fees and upon filing of a complete renewal application. The period for delinquent renewal of an expired license or registration shall be limited to the three-month period immediately following the expiration date of the active license or registration. Failure

to delinquently renew an expired license or registration during this three-month period shall result in a forfeiture of renewal rights and shall require the former licensee or registrant to apply as an initial applicant and meet all requirements of an initial applicant.

C. Any inactive licensee who fails to renew timely may thereafter renew upon payment of the appropriate renewal fees and filing of a complete renewal application. The period for delinquent renewal of an expired delinquent inactive license will be limited to the three-month period immediately following the expiration date of the inactive license. Failure to renew delinquently an expired inactive license during the three-month period will result in the forfeiture of renewal rights and will require the former licensee to apply as an initial applicant and meet all requirements of an initial applicant.

D. Timeshare registrants who fail to renew timely may thereafter renew within three months of the expiration of their registration upon payment of a delinquency renewal fee; however, registered developers of timeshare projects who qualify under Section 5 of Act No. 999 of the 1985 Regular Session of the Legislature but who fail to renew timely shall no longer qualify under that Section.

Acts 1983, No. 269, §1; Acts 1983, No. 552, §2; Acts 1986, No. 840, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1999, No. 452, §2; Acts 2007, No. 35, §1.

§1443. Fees

The commission may charge:

(1) Initial fees for licensing or certification:	
(a) Individual real estate broker's license	\$120.00
(b) Corporate, partnership, or limited liability company real estate broker's license	\$120.00
(c) Branch office license	\$45.00
(d) Real estate salesperson's license	\$45.00
(e) School certification	\$650.00
(f) Instructor application/certification	\$35.00
(g) Instructor certification re-examination	\$35.00
(h) Continuing education vendor	\$300.00
(2) Renewal fees for licensing or certification:	
(a) Real estate active broker's license	\$70.00
(b) Real estate inactive broker's license	\$35.00
(c) Branch office license	\$45.00
(d) Real estate active salesperson's license	\$35.00
(e) Real estate inactive salesperson's license	\$35.00
(f) School certification	\$300.00

(g) Instructor certification	\$35.00
(h) Continuing education vendor	\$150.00
(3) Fees for timeshare registration:	
(a) Initial public offering statement filing fee	\$500.00
(b) Additional public offering statement filing fee	\$250.00
(c) Initial timeshare developer registration	\$120.00
(d) Timeshare developer renewal fee	\$70.00
(e) Initial timeshare interest salesperson fee	\$45.00
(f) Timeshare interest salesperson renewal fee	\$35.00
(4) Delinquent fees, in addition to the renewal fee, if not renewed by December thirty-first of the applicable license, registration, or certification period:	
(a) January 1 – February 15 Active and inactive Licensees	\$50.00
(b) February 16 – March 31 Active Licensees	\$200.00
(c) February 16 – March 31 Inactive Licensees	\$50.00
(d) January 1 – January 31 Real estate schools, vendors, and pre-license instructors	\$50.00
(5) Transfer fees:	
(a) Active status to inactive status	\$45.00
(b) Inactive status to active status	\$45.00
(c) All other transfers	\$35.00
(6) Processing fee	\$25.00
(7) License verification	\$25.00
(8) Continuing education course registration	\$15.00

Acts 1978, No. 514, §1; Amended by Acts 1981, No. 309, §1; Acts 1983, No. 552, §2; Acts 1985, No. 999, §2; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 2007, No. 35, §1; Acts 2016, No. 533, §§1, 2.

§1444. Broker, place of business; branch office license

The business address registered by a broker with the commission shall be considered as the place of business from which the broker will conduct real estate activities requiring licensing in Louisiana. If a broker conducts business from more than one place of business, a branch office license shall be required for each place of business maintained by the broker.

Acts 1978, No. 514, §1; Acts 1995, No. 1207, §1.

§1445. Unlicensed persons cannot recover brokerage charges

No action or suit shall be instituted, nor recovery be had, in any court of this state by any person for compensation for any act done or service rendered, the doing or rendering of which is prohibited under the provision of this Chapter to other licensed brokers or licensed salespersons unless such person was duly licensed under this Chapter as a broker or salesperson prior to the time of offering to perform any such act or service or procuring any promise to contract for the payment of compensation for any such contemplated act of service.

Acts 1978, No. 514, §1; Acts 1984, No. 943, §2, eff. July 20, 1984; Acts 1984, No. 814, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990.

§1446. Compensation; independent contractor status of salespersons and associate brokers

A. No payment of a commission or compensation shall be made by any licensee or registrant to any person who has not first secured a license or registration under the provisions of this Chapter. This Subsection shall not apply to a nonresident broker who is currently licensed in his state of residence.

B. No payment of a commission or other compensation shall be made by any broker to any licensee when the paying broker has knowledge that the receiving licensee has agreed to pay or intends to pay or otherwise deliver a portion of the commission or compensation to an unlicensed person or entity.

C. Associate brokers, salespersons, and timeshare interest salespersons shall not pay or offer to pay any commission or valuable consideration for the performance of any act herein specified.

D. Payment of a commission or compensation may be made to and accepted by former licensees and registrants for transactions negotiated by them while duly licensed or registered by the commission.

E. An active licensee may accept compensation for transactions that were initiated by the licensee while under sponsorship of a former sponsoring or qualifying broker, provided that the compensation is transmitted through the current sponsoring or qualifying broker.

F. An active real estate licensee shall not accept a commission or other valuable consideration for the performance of any act herein specified, or for performing any act relating thereto, from any person, except their sponsoring or qualifying broker.

G. Associate brokers and salespersons may assign or direct that commissions or other compensation earned in connection with a real estate transaction be paid by their licensed sponsoring broker to an unlicensed corporation of which the associate broker or salesperson is the sole officer, director, and shareholder, or an unlicensed limited liability company of which the associate broker or salesperson is the sole manager.

H. A sponsored real estate licensee shall be an independent contractor of the sponsoring or qualifying broker for all purposes and shall not be an employee of the sponsoring or qualifying broker, if all of the following conditions are met:

(1) The real estate salesperson or associate broker is a licensee.

(2) Substantially all of the sponsored licensee's remuneration for the services performed is directly related to sales or other output rather than the number of hours worked.

(3) There is a written agreement between the sponsored licensee and the sponsoring or qualifying broker that specifies that the sponsored licensee will not be treated as an employee.

Acts 1978, No. 514, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 1999, No. 452, §2; Acts 2003, No. 321, §1; Acts 2006, No. 332, §1, eff. July 1, 2006; Acts 2016, No. 533, §1.

§1447. Referral fees; interference with brokerage relationships

A.(1) It is unlawful for any person, including but not limited to a relocation company, to directly or indirectly solicit or request a referral fee or similar payment for the referral of a buyer or seller unless the person seeking the referral fee has reasonable cause. Reasonable cause shall not exist unless:

(a) The person seeking the referral fee introduced the client to the licensee or registrant from whom the referral fee is being sought; or

(b) The person seeking the referral fee has a written contractual relationship with the licensee or registrant for a referral fee or similar payment; and

(c) The licensee or registrant has received the client referral prior to the client contracting to buy or list real estate with the licensee or registrant.

(2) The solicitation or request of a referral fee or similar payment in accordance with this Subsection shall not create a legal right to be paid such fee or payment.

B. It is unlawful to interfere with a real estate brokerage relationship. The demand for a referral fee from a licensee or registrant when reasonable cause for payment does not exist constitutes interference with a real estate brokerage relationship. A threat by a third party to reduce, withhold, or eliminate any relocation benefits in order to generate a referral fee from a licensee or registrant when reasonable cause for payment does not exist also constitutes interference with a real estate brokerage relationship. Notwithstanding the foregoing, communications between an employer or its representative and an employee concerning relocation policies and benefits shall not constitute interference with a real estate brokerage relationship.

C. It is unlawful for any person, licensed or unlicensed, to interfere with the contractual relationship between a licensee or registrant and a client by counseling a client or another licensee or registrant on how to terminate or amend an existing contractual relationship between a licensee or registrant and a client. Communicating a company's relocation policy or benefits to an employee or consumer shall not be considered a violation of this Subsection as long as the communication does not involve advice or encouragement on how to terminate or amend an existing contractual relationship between a licensee or registrant and a client.

D. A prevailing party in any action for violations of this Section may be awarded actual damages, plus reasonable attorney fees. In addition to bringing an action in court, violations of this Section may be addressed through mediation services. Such mediation services shall include but shall not be limited to mediation through real estate entities who specifically offer programs for resolving complaints involving real estate referral fees.

Acts 2001, No. 261, §1.

§1448. Revocation or suspension of licenses

A. Any licensee whose license is suspended or revoked in accordance with this Chapter shall be deemed an unlicensed person during the period of suspension or revocation and shall be subject to the penalties prescribed for unlicensed persons, if he engages in activity requiring licensure during the period of suspension or revocation. The commission retains jurisdiction over all unlicensed persons relative to violations of and enforcement of the provisions of this Chapter.

B. The revocation or suspension of a broker's license shall automatically suspend the license of every associate broker or salesperson who is sponsored by the broker whose license was suspended

or revoked. The sponsoring broker shall, within seventy-two hours of notification by the commission of the final action on the revocation or suspension of his license, return to the commission all licenses of the licensees sponsored by him.

C. A sponsoring broker shall, within seventy-two hours of notification by the commission, return his license or the license of any associate broker or salesperson sponsored by him when such license has been suspended or revoked by the commission.

Acts 1978, No. 514, §1. Amended by Acts 1981, No. 309, §1; Acts 1995, No. 1207, §1; Acts 2003, No. 713, §1.

§1448.1. Non-compete agreements

A. A non-compete agreement between a real estate broker and licensee which requires the licensee to refrain from carrying on or engaging in a business similar to that of the real estate broker or from soliciting customers of the real estate broker within a specified parish or parishes, municipality or municipalities, or parts thereof, so long as the real estate broker carries on a like business therein, for any period of time up to two years, shall be unenforceable and an absolute nullity unless the licensee shall have the right to rescind the non-compete agreement until midnight of the third business day following the execution of the non-compete agreement or the delivery of the agreement to the licensee, whichever is later. In any agreement between the broker and licensee, which includes a non-compete agreement, the non-compete agreement shall be prominently displayed in bold-faced block lettering of not less than ten-point type.

B. Any action to enforce the provisions of this Section shall be brought in a court of competent jurisdiction in this state.

C. The provisions of this Section shall be effective as to agreements entered into after January 1, 2006.

Acts 2005, No. 229, §1.

§1448.2. Revocation or suspension of registration

A timeshare registrant will within seventy-two hours of notification by the commission of the final action on the revocation or suspension of a registration issued to a timeshare interest salesperson or a timeshare developer return such registration to the commission.

Acts 1989, No. 655, §1, eff. Jan. 1, 1990.

§1448.3. Net listing agreements

It is unlawful for any real estate broker to advise or encourage a seller in relation to, or to enter into, a net listing agreement as described in R.S. 37:1431(34), for the sale of residential real estate property or any land as defined in R.S. 47:2302.

Acts 2015, No. 81, §1.

§1449. Broker to insure provision of contract; retention of records

A. Licensees acting in the capacity of an agent or subagent, and registrants shall insure that their respective principal party signing any document in a real estate transaction is provided a copy of the document immediately after the signing of the document.

B. Licensees and registrants shall insure that persons signing any document in a real estate transaction that pertains to more than one party are provided with a copy of the completed document bearing the signatures of all parties to the transaction within five days after the final signature is affixed to the document.

C. Written agreements for the sale or management of real estate shall specify a definite expiration date that shall not be subject to qualifying terms or conditions.

D.(1) Individual real estate brokers shall retain all of the following records, readily available and properly indexed, for a period of five years:

(a) Bank statements, copies of deposit slips, and cancelled checks on all escrow or trust accounts.

(b) 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.

(2) 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.

E.(1) Partnerships, limited liability companies, associations, corporations, or other legal entities, foreign or domestic, and real estate brokers shall retain the following records, readily available and properly indexed, for a period of five years:

(a) Bank statements, copies of deposit slips, and cancelled checks on all escrow or trust accounts.

(b) Copies of all documents that pertain in any way to real estate transactions wherein the partnership, limited liability company, association, corporation, or other legal entity, foreign or domestic, the designated qualifying broker, or licensees sponsored by same, have appeared in a licensing capacity.

(2) This requirement, regarding copies, shall not be altered by the partnership, limited liability company, association, corporation, or other legal entity, foreign or domestic, transferring the broker license to the inactive status or failure to renew such license.

Acts 1978, No. 514, §1; Acts 1984, No. 943, §4, eff. July 20, 1984; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1991, No. 642, §1; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 2003, No. 1123, §1, eff. July 2, 2003; Acts 2016, No. 533, §1.

§1449.1. Duty of real estate licensees to use purchase agreement forms

A. A licensee representing either the buyer or seller of residential real property shall complete the purchase agreement form prescribed by the Louisiana Real Estate Commission in making an offer to purchase or sell residential real property. No person shall alter the purchase agreement form; however, addendums or amendments to the purchase agreement form may be utilized.

B. The promulgation of this form shall be conducted in accordance with the Administrative Procedure Act no later than July 1, 2007.

C.(1) As used in this Section, the term “purchase agreement form” shall mean a document in a form prescribed by the Louisiana Real Estate Commission as a written agreement for the sale or purchase of residential real property.

(2) As used in this Section, the term “residential real property” means 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.

D. The provisions of this Section shall apply to the sale of residential real property on or after January 1, 2008.

Acts 2006, No. 333, §1.

§1450. Duty of licensees, registrants, and certificate holders to report legal action pertaining to real estate activities

A. It shall be the duty of every licensee, registrant, and certificate holder to notify the commission within ten days by registered or certified mail or by hand delivery of the following actions:

(1) The rendering of a final judgment against him by a court of competent jurisdiction, the subject matter of which involves a real estate transaction in which he was acting as a licensee, registrant, or certificate holder.

(2) The institution of criminal prosecution by arrest or indictment the subject matter of which involves a real estate transaction in which he was acting as a licensee, registrant, or certificate holder.

(3) Any final conviction of him by a court of competent jurisdiction for forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, theft, or any other felony, or any crime involving moral turpitude.

B. It shall be the duty of every licensee, registrant, and certificate holder who is the custodian of client funds to report the institution of bankruptcy proceedings to the commission, in writing and by registered or certified mail or hand delivery within ten days of institution of such proceedings.

(1) Bankruptcy proceedings which shall be reported include those in which the petitioner is named as a debtor, whether classified as voluntary or involuntary, personal, corporate, or partnership, or which is in any way connected with the licensee's, registrant's, or certificate holder's real estate business activities.

(2) The report to the commission shall include a listing which identifies the owner or owners of the funds, the amount of funds held, the name of the financial institution, and the number of the account in which the funds are deposited.

Acts 1978, No. 514, §1. Amended by Acts 1981, No. 594, §1; Acts 1983, No. 552, §2; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1.

§1451. Death or incapacity of a real estate broker

A.(1) The commission shall be notified in writing when a sponsoring broker dies and shall have the authority to appoint an active licensed associate broker or salesperson to complete, carry out, and enforce any incomplete real estate business activities of the deceased sponsoring broker, including real estate contracts left pending at the time of the death.

(2) The associate broker or salesperson shall immediately notify all sponsored licensees that the sponsoring broker has died. Such notice shall advise the sponsored licensees that no new contracts shall be instituted.

(3) In the absence of any sponsored licensees, the commission shall have the authority to appoint an active licensed broker to complete, carry out, and enforce any incomplete real estate activities of the deceased sponsoring broker, including real estate contracts left pending at the time of the death.

B. In the event of the physical or mental impairment of an individual real estate broker, the commission shall have the authority to appoint another individual real estate broker to complete, carry out, and enforce any incomplete real estate business activities of the impaired sponsoring broker, including real estate contracts left pending at the time of the impairment.

C. In the event of the physical or mental impairment of a sponsoring broker, an associate broker or, in the absence of an associate broker, a salesperson sponsored by the broker may be appointed by the commission to temporarily assume the duties and responsibilities of the broker.

D. In the event of the death or physical or mental incapacity of a qualifying broker, the commission shall be immediately notified and the licensed corporation, limited liability company, or partnership shall appoint a new qualifying broker within five days.

Acts 1978, No. 514, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 2016, No. 533, §1.

§1453. Investigations

A. The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any licensee, registrant, certificate holder, or any person who assumes to act in any such capacity. Such an investigation may include inquiries and inspections of records.

B. Every licensee, registrant, and certificate holder shall cooperate fully with and answer all questions propounded by commission personnel conducting an investigation, inquiry, or records inspection.

C. Every licensee, registrant, and certificate holder shall produce any document, book, or record in his possession, or under his control, relative to any investigation, inquiry, or records inspection conducted by commission personnel.

D. The commission shall not become involved in disputes between licensees or registrants in any matter regarding the entitlement to or payment of commissions, fees, or compensation involving the sale or lease of real estate.

Acts 1978, No. 514, §1; Acts 1983, No. 552, §2; Acts 1986, No. 842, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1.

§1454. False information

It is unlawful for any person or his agent to file with the commission any notice, statement, or other document, required under the provisions of this Chapter which is false or contains any material misstatement of fact.

Acts 1978, No. 514, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990.

§1455. Causes for censure, suspension, or revocation of license, registration, or certification

A. The commission may censure a licensee, registrant, or certificate holder or conditionally or unconditionally suspend or revoke any license, registration, or certificate issued under this Chapter, levy fines or impose civil penalties not to exceed five thousand dollars, or impose continuing education requirements on licensees, registrants, or certificate holders if, in the opinion of the commission, a licensee, registrant, or certificate holder is performing or attempting to perform or has performed or has attempted to perform any of the following acts:

- (1) Committing any act in violation of the Louisiana Real Estate License Law not specified in this Section.
- (2) Violating any rule or regulation promulgated by the commission in the interest of the public and consistent with the provisions of this Chapter.
- (3) Committing any act in violation of the Louisiana Timesharing Act.
- (4) Failure to account for any money coming into his possession belonging to others.
- (5) Failure to properly disburse money which belongs to others upon its coming into his possession.
- (6) Commingling the money or other property of his principals with his own.
- (7) Accepting, giving, or charging any undisclosed commission, rebate, or direct profit on expenditures made for a principal.
- (8) Representing or attempting to represent a real estate broker or real estate agency other than the licensed broker or agency listed on the real estate license issued by the commission.
- (9) Acting in the dual capacity of agent and undisclosed principal in any transaction. However, such a relationship shall not constitute dual agency if the licensee is the seller or lessor of property that he owns or if the property is owned by a real estate business of which the licensee is the sole proprietor and agent and the same is disclosed to the buyer or tenant.
- (10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property.
- (11) Offering real estate for sale or lease without the written consent of the owner or his authorized agents. Undivided real estate may be offered for sale or lease with the written consent of the owner of the property to be sold or leased as to his undivided portion of the property.
- (12) Offering real estate for sale or lease on terms other than those authorized by the owner or his authorized agent.

(13) Offering any inducement to or in any way encouraging a party to a written contract involving the sale, lease, or management of real estate to break such contract for the purpose of substituting, in lieu thereof, a new contract with another principal or licensee.

(14) Negotiating the sale, exchange, lease, or management of real estate directly with an owner or lessor of the real estate if he knows that such owner or lessor has a written outstanding contract in connection with such real estate granting an exclusive agency or an exclusive right to sell, exchange, lease, or manage the real estate to another broker.

(15) Knowingly making any false representations to any party in a real estate transaction.

(16) Acting for more than one party in a real estate transaction without the written acknowledgment of all parties to the transaction.

(17) Failure by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his licensed broker any deposit money or other money or funds entrusted to him by any person dealing with him as the representative of his licensed broker or in connection with any transaction involving the sale, lease, or management of real property.

(18) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.

(19) Knowingly permitting a sponsored licensee to operate as an individual real estate broker.

(20) Knowingly permitting a sponsored licensee or an employee to conduct real estate activities in violation of this Chapter.

(21) Failure of a licensee to provide the parties to a real estate transaction with an agency disclosure informational pamphlet and, where applicable, a dual agency disclosure form.

(22) Failure to advise all parties to a real estate transaction in writing of compensation being received from any source in connection with that real estate transaction.

(23) Failure without just cause to surrender unto the rightful owner, upon demand, any document or instrument received by a licensee or registrant in the course of a real estate transaction.

(24) Accepting other than cash as earnest money or good faith deposit unless that fact is communicated to the owner prior to the acceptance of the offer to purchase, and such fact is shown on the face of the purchase and sale agreement.

(25) Failure of a licensee to inform the buyer and seller at the time an offer is presented that either party may be expected to pay certain costs such as discount points, etc. and the approximate amount of said costs.

(26) Failure to reduce a bona fide offer to writing when a proposed purchaser requests that a written offer be submitted.

(27) Failure to disclose to a buyer a known material defect regarding the condition of real estate of which a broker, salesperson, or timeshare interest salesperson has knowledge.

(28) Having been finally adjudicated and found guilty for refusing, because of race, color, national origin, sex, or ethnic group, to show, sell, or rent any real estate for sale or rent to qualified purchasers or renters or for any violation of the Fair Housing Act of 1968 or the Louisiana Equal Housing Opportunity Act and/or any amendments thereto or any successor legislation subsequently following.

(29) Having been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge.

(30) Refusing to appear or testify under oath at any hearing held by the commission.

(31) Procuring a license, registration, or certificate for himself or anyone else by fraud, misrepresentation, or deceit.

(32) Failure to comply with an order or consent order issued or approved by the commission pursuant to adjudicatory proceedings.

(33) Failure by a licensee to provide a buyer or seller with a written property disclosure form for sales and certain leases involving residential real property pursuant to R.S. 9:3196 et seq.

(34) Engaging in real estate activity or attempting or offering to engage in real estate activity within the state during any period of suspension of a real estate license by the commission or revocation of any real estate license by the commission.

(35) Using advertising that is misleading or inaccurate.

(36) Engaging in any effort, including referral or recommendation of a specific home inspector, with the intent to deceive or defraud.

B. The commission may suspend or revoke the registration of any timeshare developer who knowingly allows any person or entity who does not have a current timeshare interest sales registration or current Louisiana real estate license to sell timeshare interests owned by the timeshare developer.

Acts 1978, No. 514, §1. Amended by Acts 1979, No. 404, §1; Acts 1980, No. 388, §1; Acts 1983, No. 552, §2; Acts 1984, No. 943, §2, eff. July 20, 1984; Acts 1986, No. 838, §1; Acts 1986, No. 841, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1991, No. 354, §1, eff. Jan. 1, 1992; Acts 1995, No. 1207, §1; Acts 1997, No. 32, §1; Acts 1997, No. 1141, §2; Acts 1999, No. 452, §2; Acts 2003, No. 308, §2, eff. June 13, 2003; Acts 2003, No. 713, §1; Acts 2005, No. 78, §1; Acts 2014, No. 572, §1.

§1456. Notice of charges; hearing; censure, suspension, or revocation of license, registration, or certificate; criminal action

A.(1) Before censuring, suspending, or revoking any license or registration, or certification, or imposing continuing education requirements, the Louisiana Real Estate Commission shall, except for the reasons set forth in R.S. 37:1463(G), notify in writing the licensee or person registered or certified of any charges made, at least twenty days prior to the date set for the hearing, and shall afford him an opportunity to be heard in person or by counsel. Notice shall be satisfied by mailing a copy of the charges by certified mail to the licensee's, registrant's, or certificate holder's address on file with the commission or by commission personnel hand delivering a copy of the charges to the licensee, registrant, or certificate holder.

(2) The written notice may be served either personally on a broker or salesperson or the registered agent for a corporation, limited liability company, or partnership, or sent by registered or certified mail to the last known business address of the licensee or registered agent.

(3) If the licensee is an associate broker or a salesperson, the commission also shall inform the sponsoring broker of the specific charges against the associate broker or salesperson by sending notice thereof by registered or certified mail to the broker's last known business address.

(4) If the licensee is a corporate, partnership, or limited liability broker, the commission shall inform the designated qualifying broker and the registered agent of the specific charges against the

licensee by sending notice thereof by registered or certified mail to the last known business address of the qualifying broker or the registered agent.

(5) If the licensee is a designated qualifying broker for one or more licensed corporations, limited liability companies, or partnerships, the commission shall inform each corporation, limited liability company, or partnership represented by the broker of the specific charges against the broker by sending notice thereof by registered or certified mail to the registered agent for each corporation, limited liability company, or partnership represented by the broker.

(6) The commission shall have the power to subpoena and issue subpoenas duces tecum and to bring before it any person in this state, or take testimony by deposition, in the same manner prescribed by law in judicial proceedings in the courts of this state, or to require production of any records relevant to an inquiry or hearing by the commission. Any final decision or determination of the commission shall be reviewable by the Nineteenth Judicial District Court in the parish of East Baton Rouge.

B.(1) The hearing on the charges shall be at a time and place prescribed by the commission and in accordance with the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(2) The commission may make findings of fact and shall deliver or mail such findings to the licensee charged with an offense under the provisions of this Part. Any finding of fact by the commission pursuant to the provisions of this Subsection shall be conclusive.

(3) The Nineteenth Judicial District Court of the state may review questions of law involved in any final decision of the commission. Any application for review made by an aggrieved party shall be filed within thirty days after the final decision of the commission.

(4) If the court finds that the Louisiana Real Estate Commission has regularly pursued its authority and has not acted arbitrarily, it shall affirm the decision, order, or ruling of the commission. If a petition to review the final decision of the commission is filed, the case shall be specifically fixed for trial within thirty days from the filing of an answer by the commission.

C. Administrative proceedings under this Chapter before the commission are not exclusive remedies. Criminal action under the terms of this Chapter may be simultaneously instituted and maintained against the accused for any violation of this Chapter. The commission may also separately or simultaneously bring and carry on an action by injunction to restrain a licensed or unlicensed individual from further violation of any of the provisions of this Chapter, during the

pendency of the criminal proceeding or proceedings before the commission and against any unlawful practice thereafter.

Acts 1978, No. 514, §1; Acts 1983, No. 552, §2; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1997, No. 845, §1; Acts 1999, No. 452, §2; Acts 2003, No. 713, §1.

§1457. Judicial proceedings

A. If an appeal is taken under R.S. 37:1456, the court shall receive the entire record of the hearing.

B. All judicial proceedings relative to actions taken by the commission shall be filed in and adjudicated by the Nineteenth Judicial District Court in the parish of East Baton Rouge.

C. Absent an agreement of counsel for all parties, no stay of enforcement of a decision issued under R.S. 37:1456 or for a violation of R.S. 37:1459, during the pendency of an appeal shall be granted unless the Nineteenth Judicial District Court finds that the applicant has established that the issuance of the stay does not threaten harm to other interested parties.

D. No stay shall be granted ex parte. The court shall schedule a hearing on the request for a stay order within ten days from filing. The decision shall be rendered within five days after the conclusion of the hearing.

E. No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the commission in an adjudication proceeding shall be effective, or be issued to be effective, longer than one hundred twenty days from the date on which the commission's decision or order was rendered, or the date on which the court enters judgment in a proceeding for judicial review of the commission's decision or order pursuant to R.S. 49:964, whichever comes first.

Acts 1978, No. 514, §1; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 2003, No. 713, §1.

§1458. Penalty

Whoever violates any of the provisions of this Chapter shall be fined not more than two thousand dollars or imprisoned not more than five years, or both.

Acts 1978, No. 514, §1; Acts 2003, No. 713, §1.

§1459. Real estate activity; unlicensed persons

A.(1) In addition to any other civil remedy or civil penalty provided for in this Chapter, the commission may issue a subpoena to any person or persons who the commission has probable cause to believe has engaged in real estate activity without a currently valid license.

(2) Subpoenas issued by the commission shall comply with the notice requirements of R.S. 49:955. These subpoenas shall be served upon the unlicensed individual personally or by any type of mailing requiring a return receipt and shall include a statement of the manner in which the unlicensed person shall be required to respond to the commission.

B. The commission may impose a civil penalty of no more than five thousand dollars upon any unlicensed person who, after a hearing or informal resolution in accordance with all provisions of this Chapter and the Administrative Procedure Act, is found to have engaged in real estate activity without the benefit of a currently valid license having been issued by the commission pursuant to the provisions of this Chapter. In addition, the commission may assess costs and attorney fees against the unlicensed person found to have been engaged in real estate activity without a current license.

C. The fact that any person engages in or performs or offers to engage in or perform any of the practices, acts, or operations constituting "real estate activity" as set forth in R.S. 37:1431 is prima facie evidence that such person is engaged in the illegal practice of real estate.

D. No person engaged in real estate activity without a currently valid license shall have the right to receive any compensation for services so rendered. In addition to any other penalties imposed under R.S. 37:1455 and 1458, the commission may require that any person engaged in real estate activity without a license return any fees collected for engaging in real estate activity.

Acts 2003, No. 713, §1; Acts 2006, No. 343, §1.

§1460. Certification and regulation of real estate schools, instructors and continuing education vendors

A. The Louisiana Real Estate Commission shall have the authority to establish rules and regulations to certify, regulate, and discipline real estate schools and instructors in the state. The commission shall establish standards for course content including the legal, economic, mathematical, ethical considerations, and fundamentals of the real estate business.

B. The Louisiana Real Estate Commission shall have the authority to certify, regulate, and discipline real estate continuing education vendors in the state and to establish rules and regulations pertaining thereto.

C. The commission shall not certify, or accept educational hours for credit from, any real estate school or any real estate continuing education vendor in which a substantial economic interest is held by a legislator or a member of the commission, member of his immediate family, or any entity in which he directly or indirectly holds a substantial economic interest.

Acts 1978, No. 514, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990.

§1460.1. Continuing education; meetings and conferences; approved vendors; approval process; exceptions

A. A vendor which has been licensed by the Louisiana Real Estate Commission to provide continuing education courses to licensees of the commission shall be exempt from the continuing education approval processes as set forth in the Louisiana Administrative Code or prescribed by the commission when seeking approval of the following:

(1) Courses offered to obtain certifications or designations awarded by the National Association of REALTORS or its affiliated institutes, societies, and councils.

(2) Live courses offered once a year in any one location and in conjunction with a conference, meeting, forum, or similar event held or sponsored by a state or local real estate trade association, or any institutes, societies, or councils affiliated with a state or local real estate trade association.

B. In order for licensees to earn continuing education credit for courses delineated in Subsection A of this Section, the vendor of the course shall submit the course for approval pursuant to the process set forth in this Section.

C.(1) To obtain approval for continuing education credit for the courses delineated in Subsection A of this Section, a vendor shall submit the following information to the executive director of the commission by electronic mail at least forty-five days prior to the planned date of the course:

(a)(i) The date, location, and time the course will be provided.

(ii) If the date, location, or time of the course has not been finalized, the vendor shall state reasons for the uncertainty and submit the omitted information at least ten days before the course is taught.

(b)(i) For courses described in Paragraph (A)(1) of this Section, for initial approval, the vendor shall submit either the course materials, course syllabus, or both, if available. In applications for renewal, the vendor shall submit a brief summary of the course content.

(ii) For courses described in Paragraph (A)(2) of this Section, the vendor shall submit either the course content or a brief summary of the course content.

(c) The name and qualifications of every instructor involved in conducting the course.

(d) The number of credit hours.

(2) The executive director shall notify the vendor of whether the course has been approved or denied approval within seven calendar days of submission for approval.

(3) If approval is denied by the executive director, the question of approval shall be placed on the agenda of the next regularly scheduled meeting of the commission. At the meeting, the commissioners shall vote to either uphold the decision of the executive director or to approve the course for continuing education credit.

D.(1) Any course described in Paragraph (A)(1) of this Section and approved pursuant to the provisions of this Section shall be valid for continuing education credit for three years from the date of approval or renewal.

(2) If a course described in Paragraph (A)(1) of this Section has not been approved for renewal before the expiration of the three-year time period, it shall not be acceptable for use as continuing education credit.

E.(1) Any state department, office, board, or commission may offer any course for continuing education credit for real estate licensees without being licensed as a real estate education vendor.

(2) Any state department, office, board, or commission seeking to offer any course for continuing education credit for real estate licensees shall submit the course for approval pursuant to the

provisions of this Section and shall be exempt from course and instructor approval requirements provided for in the Louisiana Administrative Code or prescribed by the commission.

F. The following shall apply to any course submitted for approval or approved for continuing education pursuant to the provisions of this Section:

(1) The commission shall not require a separate process to approve the instructor of the course.

(2) If there is a change in the instructor, the vendor shall provide the executive director with the name of the new instructor and a brief statement as to why the instructor is qualified to conduct the course, at least seven days prior to the course.

(3) Neither the commission nor any third-party contractor shall require or request that the vendor or instructor provide an instructor guide, a narrative of the information to be presented in the course, a detailed course outline, time allotment for topics, detailed learning objectives, or instructional methods or aids, when the vendor is seeking approval or renewal of approval of a course.

(4) Neither the commission nor any third party shall require the vendor or instructor to submit additional information about the course content, delivery method, or instructor unless for use in addressing a formal written complaint that may be received by the commission about the course or instructor.

Acts 2019, No. 110, §1.

§1461. Real estate recovery fund

A. There is created the Louisiana Real Estate Recovery Fund, hereinafter referred to as the “recovery fund”. Money from the recovery fund shall be disbursed as provided in this Chapter on order of the commission as reimbursement to any person who is adjudged to have suffered monetary damages by reason of any of the following acts committed as part of any transaction involving the sale or lease of real property in this state by any real estate broker or salesperson who was licensed under the provisions of this Chapter at the time the alleged act was committed:

(1) Any violation of the Louisiana Real Estate License Law.

(2) Obtaining money or property by fraud, misrepresentation, deceit, false pretenses, artifice, trickery, or by any other act which would constitute any violation prescribed in this Chapter.

B.(1) In addition to the license fees provided for in R.S. 37:1443 and those fees provided for in R.S. 37:1464, upon initial issuance and/or renewal of every real estate broker's and real estate salesperson's license as well as any and all other types of licenses, if any, issued by the commission after January 1, 1979 and until December 31, 1980, the commission may charge each of the aforesaid licensees an amount not to exceed eight dollars per year to be deposited and included in the recovery fund, said amounts to be collectible on a two year basis.

(2) After December 31, 1980, for the initial issuance and/or renewal of each license specified herein, except a timeshare interest sales registration, the commission may levy a fee in an amount needed to provide for the reasonable administration of the recovery fund; to provide for the replacement of payments out of the recovery fund so that the minimum level as specified in Subsection C of this Section is retained subject to a credit for the interest earned by the recovery fund itself, and

(3) Further provided that all initial applicants after the first initial license period, January 1, 1979 to December 31, 1980, shall pay the same amount as that charged during the first recovery fund collection period specified herein.

(4) The accrued surplus, if any, in the recovery fund over and above the four hundred thousand dollar minimum level after payment of the administration and losses from the fund may be transferred on December 31 of each calendar year by voucher properly drawn and signed by the chairman of the commission or his designee to the research and education fund for use as specified in R.S. 37:1464.

C. The commission shall maintain a minimum level of four hundred thousand dollars for recovery and guaranty purposes. These funds may be invested by the commission under the same limitations as other state funds and the interest thereon shall be deposited to the credit of the recovery fund.

Acts 1978, No. 514, §1. Amended by Acts 1983, No. 379, §1; Acts 1983, No. 552, §2; Acts 1989, No. 655, §1, eff. Jan. 1, 1990.

§1462. Conditions for recovery; eligibility

A.(1) Any person shall be eligible to seek recovery from the recovery fund if all of the following conditions have been met:

(a) The claimant has received final judgment in a court of competent jurisdiction in this state in any action wherein the cause of action was based on any violation prescribed in this Chapter.

(b) At the time the action was commenced, the claimant gave notice thereof to the Real Estate Commission by certified mail. When the Real Estate Commission receives notice of any action, as required, the commission may intervene, enter an appearance, file an answer, defend the action, or take any action it deems appropriate on behalf of, and in the name of, the defendant and take recourse through any appropriate method of review on behalf of, and in the name of, the defendant.

(c) The claimant has made such judgment executory, and the return of the constable or sheriff showing that executing the same has made a return showing that no personal or real property of the judgment debtor can be found, or that the amount realized on the sale of the judgment debtor's property pursuant to such execution was insufficient to satisfy the judgment.

(d)(i) The claimant has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and by his search he has discovered no property or assets, or that he has discovered property and assets and that he has taken all necessary action and proceedings for the application thereof to the judgment and that the amount thereby realized was insufficient to satisfy the judgment.

(ii) The claimant has diligently pursued his remedies against all the judgment debtors and all persons liable to him in the transaction for which he seeks recovery from the recovery fund. If the recovery fund claim is based on the actions of a corporation, partnership, or limited liability company, the claimant must have diligently pursued all possible remedies against the qualifying broker for the corporation, partnership, or limited liability company.

(iii) If the judgment debtor has sought protection under the federal bankruptcy law, the claimant must provide a stamped copy of the proof of claim submitted to the bankruptcy court handling the case of the judgment debtor.

(e) Any amount recovered by the claimant from the judgment debtor, or from any other source, has been applied to the damages awarded by the courts.

(f) The right to recovery under this Subsection shall be forever barred unless application is made within one hundred eighty days from the date of the final judgment of all judicial proceedings, including appeals.

(g) After proper review, the commission may, after receiving written approval of the state attorney general's office, pay the claim or offer such compromise as is deemed just and equitable.

(2) Consent judgments shall not be eligible for payment from the recovery fund unless the commission has intervened in the lawsuit and is a party to the consent judgment.

B.(1) The commission may, in lieu of meeting all the conditions for recovery set forth in Paragraphs (1) through (5) of Subsection A, allow the aggrieved party to submit a claim to the commission by notarized affidavit giving all the pertinent facts to the claim, when the claim is based on the actions of one or more licensees who have been sanctioned by the commission in an adjudicatory proceeding, the record of which corroborates the affidavit submitted by the claimant, and the amount of the claim does not exceed two thousand dollars.

(2) The right to recover under the provisions of this Subsection shall be forever barred unless application is made within one hundred eighty days from the effective date of the order issued by the commission pursuant to an adjudicatory proceeding pertaining to a claim submitted by a notarized affidavit, including appeals.

(3) Claims submitted by notarized affidavit may be paid by the commission after receiving written approval of the attorney general's office.

Acts 1978, No. 514, §1; Acts 1983, No. 379, §1; Acts 1986, No. 836, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §§1, 2; Acts 1997, No. 845, §1; Acts 1999, No. 452, §2; Acts 2007, No. 35, §1.

§1463. Payment from the fund

A.(1) Any claimant who meets all of the conditions prescribed in this Chapter may apply to the Louisiana Real Estate Commission to cause payment to be made to such claimant from the recovery fund, in an amount equal to the unsatisfied portion of the claimant's judgment or twenty thousand dollars, whichever is less, and only to the extent and amount reflected in the judgment as being actual damages.

(2) The commission shall not make any payment, be liable, cast in judgment, or pay any portion of any claim or judgment representing an award or claim for attorney fees, court costs, damages for physical or mental injury, medical expenses, loss of income or profits, punitive damages, or any other type of damages other than the actual damages suffered by the claimant.

B. Upon receipt by the claimant of the payment from the recovery fund, the claimant shall assign his additional right, title and interest in the judgment, to the extent of such payment to the commission and thereupon the commission shall be subrogated to the right, title and interest of the claimant; and any amount subsequently recovered on the judgment by the commission, to the extent of the commission's right, title and interest therein, shall be for the purpose of reimbursing the recovery fund.

C. Payments for claims arising out of the same transaction shall be limited in the aggregate to twenty thousand dollars regardless of the number of claimants or parcels of real estate involved in the transaction.

D. Payments for claims based upon judgment against any one licensed real estate broker or real estate salesperson shall not exceed in the aggregate fifty thousand dollars.

E. If at any time the monies in the recovery fund are insufficient to satisfy any valid claim, or portion thereof, the commission shall satisfy such unpaid claim or portion thereof as soon as a sufficient amount of money has been deposited in the fund.

F. All payments and disbursements from the recovery fund shall be made by the commission upon a voucher signed by the chairman of the commission, or his designee.

G. Upon payment of any amount from the recovery fund in settlement of a claim in satisfaction of a judgment against a licensed broker or salesperson, the license of such broker or salesperson shall be automatically revoked. A discharge of bankruptcy shall not relieve a person from the penalties and disabilities provided in this Section.

Acts 1978, No. 514, §1; Acts 1986, No. 836, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1.

§1464. Real Estate Research and Education Fund

A. There is created the Louisiana Real Estate Research and Education Fund. The Louisiana Real Estate Research and Education Fund, hereinafter referred to as the "education fund", is hereby established to promote the advancement and more efficient administration of the real estate industry and thereby serve to protect the public. Said funds are to be disbursed by voucher properly drawn and signed by the chairman of the Louisiana Real Estate Commission or his designee for the purposes hereinafter specified in Subsection C of this Section.

B. In addition to the licensee fees provided for in R.S. 37:1443, the commission may charge, upon initial issuance or renewal of every real estate broker's and real estate salesperson's license, as well as any and all other types of licenses, if any issued by the commission after January 1, 1979, an amount not to exceed ten dollars per annum or twenty dollars for each two-year license period to be included in the education fund.

C. The commission, in its discretion, may use any and all monies in the education fund from whatever source derived for the following purposes:

- (1) To establish real estate chairs at Louisiana institutions of higher learning.
- (2) To contract for particular research projects in the field of real estate for the state of Louisiana.
- (3) To sponsor, conduct, contract for, and to underwrite any and all other research projects or real estate programs having to do with the advancement of the real estate field in Louisiana.
- (4) To reduce the Louisiana Real Estate Commission office building debt for the Fiscal Years 2010-2011 and 2011-2012. This Paragraph shall cease to be effective on June 30, 2012.

Acts 1978, No. 514, §1; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 2010, No. 371, §1, eff. July 1, 2010.

§1465. Real estate franchises

A person, partnership, limited liability company, association, or corporation, foreign or domestic, acting in the capacity of a franchisor shall not enter into a franchise agreement with a real estate broker in this state unless the franchisor has appointed a Louisiana licensed real estate broker to act as its representative in this state.

Added by Acts 1983, No. 381, §1. Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 2016, No. 533, §1.

§1466. Errors and omissions insurance; mandatory for all licensees

A. All active licensees licensed in accordance with the provisions of this Chapter are mandated to carry errors and omissions insurance to cover all activities contemplated under this Chapter.

B. The commission shall make the insurance mandated under this Section available to all licensees by contracting with an insurance provider having a current rating in A.M. Best of A or better for a group policy after competitive, sealed bidding and awarding such contract pursuant to requirements established by the commission. Such issuance and award shall be exempt from the provisions of Chapters 16 and 17 of Title 39 of the Louisiana Revised Statutes of 1950.

C. Any policy obtained by the commission must be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

D. Licensees shall have the option of obtaining errors and omissions insurance independently, provided that the coverage contained in such policy complies with the minimum requirements established by the commission.

E. The commission shall determine the terms and conditions of coverage mandated under this Section, including but not limited to the minimum limits of coverage, the permissible deductible, and permissible exemptions.

F. An active licensee that elects to obtain independent errors and omissions insurance shall file a form verifying that they have independent coverage, as prescribed by the commission, with the annual license renewal.

G. Active licensees applying for inactive status and those licensees renewing their license while in an inactive status may do so without the required coverage mandated by this Section.

H. Should the commission be unable to obtain errors and omissions insurance coverage to insure all licensees who chose to participate in the group insurance program at a reasonable cost, not to exceed five hundred dollars for coverage, the insurance requirement mandated by this Section shall be void during the applicable contract year.

Acts 1988, No. 849, §1, eff. Jan. 1, 1990; Acts 1989, No. 655, §1, eff. Jan. 1, 1990; Acts 1995, No. 1207, §1; Acts 1997, No. 845, §1; Acts 2001, No. 924, §1; Acts 2016, No. 533, §1.

§1467. Agency

A. Licensees shall provide the parties to a real estate transaction with an agency disclosure informational pamphlet, and where applicable, a dual agency disclosure form as mandated under R.S. 9:3897.

B. The commission may prescribe such agency disclosure forms or pamphlets as it deems necessary for the enforcement of this Section.

Acts 1991, No. 354, §1, eff. Jan. 1, 1992; Acts 1997, No. 32, §1.

§1468. Psychologically impacted property

A. The fact or suspicion that a property might be or is psychologically impacted, such impact being the result of facts or suspicions, including but not limited to:

(1) That an occupant of real property is, or was at any time suspected to be, infected, or has been infected with Human Immuno-deficiency Virus or diagnosed with Acquired Immune Deficiency Syndrome, or any other disease which has been determined by medical evidence to be highly unlikely to be transmitted through the occupancy of a dwelling place; or

(2) That the property was, or was at any time suspected to have been, the site of a homicide, or other felony, or a suicide; is not a material fact or material defect regarding the condition of real estate that must be disclosed in a real estate transaction.

B. No cause of action shall arise against an owner of real estate or his or her agent for the failure to disclose to the transferee that the transferred property was psychologically impacted as defined in Subsection A.

Acts 1991, No. 336, §1.

§1469. Offender notification

A. Every written lease or rental agreement executed by any licensee for residential immovable property and every written contract for sale of residential immovable property shall contain a notice of the availability to the public of access to a statewide database disclosing the locations of individuals required to register pursuant to R.S. 15:540 et seq. The notice shall include the telephone number and Internet site for the statewide database.

B. Upon delivery of the notice to the lessee or transferee of the residential immovable property, the lessor, seller, broker, or licensee is not required to provide any information in addition to that contained in the notice regarding the proximity of registered sex offenders. The information in the notice shall be deemed to be adequate to inform the lessee or transferee about the existence of a

statewide database of the locations of registered sex offenders and information from the database regarding those locations. The information in the notice shall not give rise to any cause of action against the disclosing party by a registered sex offender or other parties to the transaction.

C. This Section shall apply only to written agreements and contracts that are entered into by the parties on or after January 1, 2002.

Acts 2001, No. 178, §1.

§1470. Mold informational pamphlet; liability of licensees

A.(1) By April 1, 2004, the commission shall, by rule, in accordance with the Administrative Procedure Act, approve a mold informational pamphlet, which may be distributed to buyers by licensees in connection with any real estate transaction entered into on or after July 1, 2004.

(2) If the licensee delivers the mold informational pamphlet to the buyer, he shall do so at or before the time a lease, rental agreement, or contract for sale is entered into by the parties.

B. If the licensee delivers the mold informational pamphlet to the buyer, the licensee is not required to provide any additional information concerning mold. The information contained in the mold informational pamphlet shall be deemed to be adequate to inform the buyer regarding common mold-related hazards that can affect real property.

C. The licensee shall not be held liable for any error, inaccuracy, or omission of any information contained in the mold informational pamphlet delivered pursuant to this Section, if either of the following applies:

(1) The error, inaccuracy, or omission was not within the personal knowledge of the licensee.

(2) The error, inaccuracy, or omission was based on information provided to the licensee by the commission, a public agency, or by other persons providing relevant information by delivery of a report or opinion prepared by an expert dealing with matters within the relevant scope of his professional license, and ordinary care was exercised by the licensee in obtaining and transmitting such information.

D. Nothing in this Section shall alter or affect the existing disclosure duties of any party to a real estate transaction, or their agents, including but not limited to the duty of a licensee to disclose any known material defect regarding the condition of the property.

Acts 2003, No. 1123, §1, eff. July 2, 2003.