



DIVISION OF REAL ESTATE NEWSLETTER

November/December 1986

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SUPERINTENDENT OF REAL ESTATE

Superintendent's Column

Division's Achievements In 1986 Highlighted

By Margaret J. Ritenour, Superintendent

Enclosed in this issue of the Ohio Real Estate Newsletter is a pull-out chart listing the various acts that require the filing of an application with the Division of Real Estate. The purpose of this chart is to provide each broker with a convenient reference guide regarding various changes in one's licensing status that require action. This chart not only describes the applications that must be filed, but also clarifies the supplementary documentation and fee (if any) that must accompany each application. It is suggested that this chart be retained by either the broker or other office personnel who routinely handle filing applications with the Division.

This chart is one of several projects developed to provide greater information and service to Ohio's real estate licensees. By improving the industry's knowledge and awareness of license law, we improve the services provided to Ohio's consumers.

In this last issue of 1986, I would like to summarize some of the gains the Division has made this year to improve the quality of its services to both the licensees and the public. They have been in the following areas:

Testing: To satisfy the demand caused by increasing numbers of applicants, additional sales and brokers examinations have been added. The Division of Real Estate will continue to add more testing dates to avoid unreasonable delays in the examination of prospective licensees.

Foreign Real Estate: In 1986 the Division formulated its own examination for foreign real estate dealers and salespersons. Formerly, a national testing service had been utilized to examine these applicants. These tests had not been changed for many years, did not cover many important areas and usually took applicants less than an hour to complete. Because the testing service charged over \$7,000 to update the examinations and increase the number and scope of the questions, we believe the industry is better served by having the Division of Real Estate formulate and administer its own examinations. These new examinations have been in use since July, 1986. We believe that the new tests more adequately measure the knowledge of these applicants

and assure that they are qualified to deal in foreign real estate. Beginning in this issue, the upcoming foreign real estate exam dates will be listed in each Real Estate Newsletter.

Licensing: This year, for the first time, brokers will file their annual Certificates of Continuation directly with the Division of Real Estate, rather than first returning them to the Treasurer's Office. This is being done to speed up the approval of these Certificates and to assure the timely return of approved copies to brokers.

Publications: In 1986 the Division printed a brochure on the requirements for a real estate sales license to assist applicants, and a 25-page "Homebuyers Guide", geared to the first-time homebuyer. Three new pamphlets have been written and are currently being printed. They are: "How To Become a Real Estate Broker in Ohio", "Questions & Answers On Real Estate Education", and "Complaint Procedures of the Ohio Division of Real Estate".

Consumer Outreach Program: A slide show was developed that correlates to the information contained in our Homebuyer's Guide. This slide show is used by our Consumer Representative throughout Ohio at fairs, shopping malls, and trade shows. Radio and television public service announcements were also developed to make the public more aware of the Division and to publicize the availability of our Homebuyer's Guide. These announcements were distributed this summer and are currently being aired across the state at no charge to the Division.

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Attention!!!

PLEASE SHARE THIS NEWSLETTER WITH ALL OF YOUR SALES ASSOCIATES. FEEL FREE TO MAKE COPIES.

(THIS IS MAILED TO BROKERS AND BRANCH OFFICES ONLY)

Tips Provided For Filing Your 1987 Certificate of Continuation

surprising number of calls from brokers who did not realize that they were still required to maintain a trust account! Anyone who is under this misconception should refer to Ohio Revised Code Section 4735.18(Z). This section requires all brokers who have a valid license to maintain a non-interest bearing trust account. There is no provision exempting any broker from this requirement merely because he is not currently involved in any transactions. Only brokers who have formally placed their license on deposit are exempt from maintaining a trust account.

LATE FILINGS

The deadline to file your 1987 Certificate of Continuation is December 31, 1986. Under Ohio Revised Code Section 4735.15(F), there is a fifteen day grace period in which to still file your Certificate after that date (or until January 15, 1987). However, an additional 50% of the renewal fee is charged as a late filing penalty for any continuation postmarked during that grace period. If your Certificate of Continuation is not postmarked by January 15, 1987, your license will be revoked. The licenses of all salespersons affiliated with you will likewise be cancelled. To then become re-licensed, it will be necessary for you and your salespersons to apply for reinstatement of your licenses. The cost to do this is greater than either the standard renewal fee or the late filing fee. Therefore, it is urged that all brokers make sure that their Certificates of Continuation are filed on or before December 31, 1986 to avoid either revocation of their license or additional fees. Remember, no extension of the filing time or a waiver of the penalty fees can be granted.

OTHER IMPORTANT POINTS TO REMEMBER

1. Answer all questions on your Certificate of Continuation, including the name and account number of your trust account;
2. Sign your Certificate of Continuation at the bottom;
3. Enclose your check, certified check or money order made payable to the Ohio Division of Real Estate;
4. Include any late filing penalty fee with your payment if you are filing after December 31, 1986, but before January 15, 1987;
5. Enclose all licenses for persons who are not being renewed, if proper notification to them has been made.

1986 Achievements (continued from page 1)

The Division plans to continue these efforts to develop new programs and to improve already existing services to our licensees and Ohio's consumers. In the next year, I hope to be sharing these plans with you through this Newsletter.
Best wishes to all of you for the upcoming holiday season.

In early November, the 1987 Certificates of Continuation were mailed to each licensed broker, corporation, partnership or association in Ohio. These must be filed annually by all brokers in order to legally continue to practice real estate in Ohio. Discussed below are some areas in which problems may occur that could delay the renewal of your license or cost you additional fees.

ADDRESS CHANGES

Many of the Certificates that were mailed were returned to the Division because of incorrect addresses. This is usually caused because a broker has moved his office, but has failed to notify the Division. In these cases every effort is being made to re-send the Certificate to the forwarding address noted by the post office. However, often no new address is indicated. Therefore, if any brokers have still not received their Certificate of Continuation, they should contact the Division of Real Estate immediately.

Furthermore, it should be noted at this time, that under Section 4735.13(D) of the Ohio Revised Code each broker is required to notify the Division of Real Estate, in writing, of any change in his or her business address. Failure to so notify the Division is grounds for automatic revocation of a broker's license. In order to effect such a change of address, a multiple change application form must be completed and sent to this office. No fee is charged to file this application. Anyone who has moved their business location without the proper notice should file this form with the Division immediately. This will not only avoid the loss of your license, but will also assure the receipt of your Certificate of Continuation.

TRUST ACCOUNT INFORMATION

This year the Certificates of Continuation once again ask for information regarding one's trust account. After these Certificates were mailed, the Division received a

STATE OF OHIO
DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
TWO NATIONWIDE PLAZA, COLUMBUS, OHIO
43266-0547
614/466-4100
800/344-4100

RICHARD F. CELESTE, Governor, State of Ohio
KENNETH R. COX, Director
MARGARET J. RITENOUR, Superintendent
The Ohio Real Estate Commission
ARTHUR C. CHURCH, President
PAUL J. EVERSON
EDWARD J. KIZER
SELMER E. PREWITT
SANDRA J. TAYLOR

Disciplinary Actions

The purpose of this article is to disseminate to licensees information concerning recent Commission activities and decisions pursuant to Section 4735.03(E) of the Ohio Revised Code.

The Commission has taken the following action with regard to these real estate licensees:

SUSPENSIONS

BRUCE E. HICKMAN, sales associate, Columbus, Ohio, had his sales license suspended for 180 days for violating Section 4735.18(A) and (F) of the Ohio Revised Code. This suspension shall commence upon reinstatement of his license. Hickman knowingly concealed the true purchase price of a property from the Federal Housing Authority for the purpose of allowing the buyers to obtain 100% financing to purchase the subject property. Hickman also failed to promptly turn over an earnest money deposit to his broker for deposit in his trust account.

WILLIAM E. JOHNSON, broker, Columbus, Ohio, had his broker's license suspended for 20 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension commenced on September 2, 1986. Johnson prepared a contract for the sale of a property on behalf of the complainants. In the agreement, Johnson failed to place any ceiling on the points that would be paid or any maximum amount of closing costs that the complainants would pay. When this contract was later extended Johnson also failed to disclose to the complainants that the points they were required to pay under the terms of the original contract would be much higher, when he knew at that time this would be the case. He permitted the complainants to extend the contract in its original form without advising them to execute a second contract that would place a ceiling on the points and closing costs they would pay.

RICHARD R. KASSOUF, sales associate, Bay Village, Ohio, had his real estate broker's license on deposit and sales license suspended for 10 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension commenced on September 2, 1986. In a contract for the purchase of a property, Kassouf acknowledged the receipt of an earnest money deposit. However, he did not have the earnest money deposit as he represented in the purchase agreement, nor did he inform the seller within a reasonable time that he did not have this earnest money deposit.

THOMAS LEIBOLD, sales associate, Dayton, Ohio, had his broker's license on deposit and sales license suspended for 10 days for violating Section 4735.18(F) and (Y) of the Ohio Revised Code. This suspension commenced September 29, 1986. Leibold failed to furnish the seller with a copy of the listing agreement at the time she signed it or within a reasonable time thereafter. Leibold also failed to exercise due care to secure the

signature of the co-owner's legal guardian to the listing agreement as he had agreed to do.

JOHN H. MASCIO, broker, Cuyahoga Falls, Ohio, had his broker's license suspended for 60 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension shall commence upon any future reinstatement of his license. Mascio is currently not licensed. Mascio issued a check made payable to the Treasurer of the State of Ohio for renewal of his real estate broker's license. Payment of said check was refused by the bank upon which it was drawn. Despite several contacts by the Division, Mascio failed to make this check good.

GEORGE R. SHINABERRY, sales associate, Canton, Ohio, had his sales license suspended for 90 days for violating Section 4735.18(F) of the Ohio Revised Code. Imposition of 45 days of this suspension was waived by the Commission. Shinaberry began serving the 45 day balance of this suspension on September 2, 1986. Shinaberry prepared a "transaction release" in which the seller of a property agreed to release the buyers from the purchase contract. The buyers were a married couple. Shinaberry presented the release to the husband first and in the absence of his wife. At that time the release did not contain any language regarding forfeiture of their earnest money deposit. After the husband signed it, Shinaberry added language to this release providing for earnest money to be paid to the sellers. He then proceeded to obtain the signature of the wife without explaining to her that the language regarding forfeiture of the earnest money was added after her husband's signature and without his knowledge and/or consent. Shinaberry also failed to subsequently secure the husband's consent to the addition of this term to the release.

OLIVER STALLWORTH, broker, Youngstown, Ohio, had his broker's license suspended for 60 days for violating Section 4735.18(E) and (F) of the Ohio Revised Code. This suspension commenced on September 2, 1986. In two separate instances, Stallworth failed, within a reasonable time, to remit to the complainants money which he received from them and which belonged to them as their portion of the pro-rated taxes from the purchase of certain properties.

HARRIETTE O. VINEY, sales associate, Lima, Ohio, had her sales license suspended for 30 days for violating Section 4735.18(F) and (I) of the Ohio Revised Code. This suspension commenced September 2, 1986. Viney collected monies in connection with the management of properties in a name other than that of her broker and without the knowledge and/or consent of her broker. She also managed the subject properties in a name other than that of the broker with whom she was licensed and without the consent of that broker.

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Disciplinary Actions (continued from page 3)

MYRTLE WILLIAMS, sales associate, Columbus, Ohio, had her sales license suspended for 30 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension commenced September 2, 1986. Williams indicated on a lease agreement and on an accounting issued to the owner of the property, that she was affiliated with a real estate company with whom she was, in fact, no longer associated.

MABEL A. WILLOUGHBY, broker, Warren, Ohio, had her broker's license suspended for 10 days for violating Section 4735.18(F) of the Ohio Revised Code. However, the Real Estate Commission ordered that this 10 day suspension be waived. Willoughby received and deposited in her real estate trust account an earnest money deposit from the complainant for the purchase of a property. Willoughby disbursed the earnest money deposit without first securing or attempting to secure a written release from the complainant. Willoughby failed to maintain said earnest money until such time as the parties to the contract agreed to a release or a court of law ordered the release of said earnest money.

H. RICHARD WOOD, sales associate, Columbus, Ohio, had his sales license suspended for 30 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension commenced on September 2, 1986. Wood failed, within a reasonable time, to notify the seller of a property that he had not collected an earnest money deposit or deposited it in his broker's trust account. This was found to constitute gross negligence.

GERALD F. ZARISKE, sales associate, Howard, Ohio, had his real estate broker's license on deposit and sales license suspended for 365 days for violating Section 4735.18(A), (C), (E), and (F) of the Ohio Revised Code. This suspension commenced on September 2, 1986. Zariske permitted the closing of the sale of property to take place in the absence of the seller and without their knowledge or consent. Thereafter, he represented to the sellers that the closing on the property would take place on a later date, when he knew it had already closed. At

the closing, Zariske had received the proceeds from the sale on behalf of the sellers, however he later knowingly misrepresented to them that he was not in possession of these funds. Zariske also failed, within a reasonable time, to account for and to remit these funds to the owners. Based upon these findings, the Commission concluded that Zariske engaged in a continued course of misrepresentation.

UPCOMING TEST DATES

The following are the scheduled dates for the real estate sales and brokers examination for the first quarter of 1987:

	SALES		BROKERS
	COLUMBUS/CLEVELAND		COLUMBUS
Jan.	7	21	12
Feb.	4	18	9
March	11	25	16
April	8	22	13

Additional examinations may be added in the months to come to accommodate applicants.

FOREIGN REAL ESTATE SALES UPCOMING TEST DATES

	COLUMBUS		
January	6	20	
February	3	17	
March	3	17	31
April	14	28	

The foreign real estate sales examination is given *only* in Columbus. Because of the small number of applicants for the foreign real estate dealer examination, these exams are scheduled on an individual basis as the applications are received.

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State of Ohio
Department of Commerce
Division of Real Estate
Two Nationwide Plaza
Columbus, Ohio 43266-0547

Bulk Rate
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PAID
Columbus, Ohio
Permit No. 542

an Corporation				Corporation must be submitted so that name can be added.
Change of Address (Broker's Office)	Multiple Change Application — Form R-4	-0-		Only Broker's license is to be returned if maintaining office in the same city. If moving to a different city all sales licenses must be returned.
Change of Business Name (DBA)	Multiple Change Application — Form R-4 Contact Division for approval of name	\$10.00		License to be returned.
Individual Name Change (marriage, divorce, etc.)	Multiple Change Application — Form R-4	\$10.00 (no fee when transferring or reinstating at the same time).		Photocopy of legal document showing name change. License to be returned.
Lost or Damaged License	Multiple Change Application — Form R-4	\$10.00		_____
Corporation Name Change	Multiple Change Application — Form R-4 Contact Division for approval of name	\$10.00		Copy of amended Articles of Incorporation or Certificate of Good Standing in new name as approved by the Ohio Secretary of State's Office. Letter from bank reflecting new account name and number.
Depositing a Broker's License	Application to Deposit — Form R-6	\$ 7.00		License to be returned.
Securing Sales License when Broker's License Deposited	Application to Deposit — Form R-6	\$17.00		License to be returned.
Activating a Broker's License that is on deposit	Application to Deposit — Form R-6	\$10.00		Letter from bank stating trust account name and number.
Establish dba (doing business as)	Multiple Change Application — Form R-4 Contact Division for approval of name	\$10.00		License to be returned.
Opening Branch Office	Branch Office Application — Form R-6	\$ 3.00		_____
Returning a Sales License	No Form Required	-0-		Cover Letter and the License to be returned; Certified Letter sent to Sales Associate indicating return of license to the Division.
Broker Discontinues Business	No Form Required	-0-		Cover Letter and the Licenses to be returned; Certified Letter sent to Sales Associates indicating return of licenses to the Division.
Deceased Broker	Contact Division of Real Estate immediately and ask for specific instructions	-0-		_____

If you have any questions or need additional forms, please call the Division of Real Estate's toll-free hotline at 1-800-344-4100.

A Guide To The Division of Real Estate's Forms

SITUATION	FORM REQUIRED	PROCESSING FEE	ITEMS TO BE INCLUDED WITH FORM
Application for a Broker's License	Broker Application — Form R-1	\$59.00	Transcripts or Certificates of Education. 2 X 2 Photograph.
Activating Individual Broker's License immediately after passing examination	No Form Required (if Corporation, see Corporation Application for instructions)	-0-	Cover Letter stating requested DBA, Business Location, Letter from Bank indicating name & account number of Trust or Special Account.
Forming a Corporation	Corporation Application — Form R-1C and prior approval of name from Superintendent	-0-	Certificate of Good Standing or Articles of Incorporation from Ohio Secretary of State's Office. Letter from bank verifying trust account (see application for further items to be submitted).
Forming a Partnership	Partnership Application — Form R-1P and prior approval of name from Superintendent	-0-	Copy of partnership agreement as filed with the Clerk of Courts. Letter from bank verifying trust account (see application for further items to be submitted).
Forming an Association	Association Application — Form R-1A	-0-	Documentation establishing agreement of association. Trust account letter from bank.
Application for a Sales License	Sales Application — Form R-2	\$39.00	Transcripts or Certificates of Education. 2 X 2 Photograph.
Reinstatement of Broker License	Broker Reinstatement Application — Form R-1B.	\$59.00	Proof of post-licensure or continuing education if not current.
Reinstatement of Sales License	Sales Reinstatement Application — Form R-2B	\$39.00	Proof of post-licensure or continuing education if not current.
Reciprocal Broker License	Broker Reciprocity Application — Form R-1A	\$59.00	A 2 X 2 Photograph and Certification of Licensure from the Commission in the state in which you are licensed. Letter from an Ohio bank giving account name and account number of the Trust or Special Account.
Reciprocal Sales License	Sales Reciprocity Application — Form R2A	\$39.00	A 2 X 2 Photograph and Certification of Licensure from the Commission in the state in which you are licensed.
Sales Associate Transfers to different broker	Sales Transfer Application — Form R-3	\$12.00	License to be returned from former broker.
Broker Transfers License	Broker Transfer Application — Form R-3A	\$17.00	License to be returned.