



DIVISION OF REAL ESTATE NEWSLETTER

November/December 1987

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SUPERINTENDENT OF REAL ESTATE

Superintendent's Column

License Law Changes Reviewed

By Margaret J. Ritenour, Superintendent

On October 20, 1987, Governor Celeste signed into law House Bill 470, which amends the real estate license law enforced by the Division of Real Estate. This bill adopted numerous proposals made by the Ohio Division of Real Estate and the Ohio Association of Realtors.

In this issue of the *Division of Real Estate Newsletter*, I will summarize the provisions of House Bill 470. Please note that there are amendments to certain educational provisions which do not become effective until January 1, 1990. All other amendments, however, will become effective January 4, 1988.

REQUIREMENTS FOR A SALES LICENSE (Ohio Revised Code (ORC) Section 4735.09)

The following are the revised educational requirements for salespersons which became effective on **January 4, 1988**:

- The 30 classroom hours in law must cover OHIO real estate law.
- In cases where an applicant for the sales exam has not been formerly licensed as a broker or salesperson during the previous four years, the pre-licensure courses (Real Estate Practices and Principles and Real Estate Law) must have been completed within 10 years of the application to be seated for the exam.
- The time to complete Real Estate Appraisal and Real Estate Finance has been reduced from two years to within one year of being licensed.

Effective **January 1, 1990**, these educational requirements will be further upgraded as follows:

- The 30 hours of real estate appraisal and 30 hours of real estate finance will become *pre-licensure* requirements for all persons applying for a sales license after January 1, 1990.
- Within one year after the issuance of a sales license, the licensee must complete a 10-hour post-licensure course on current issues relating to consumers, real estate practice, ethics and real estate law. This course can be taken at schools that do not qualify as degree

granting institutions of higher education. If this 10-hour course is not completed within one year, the license will be automatically suspended with a one-year grace period to complete this instruction.

REQUIREMENTS FOR A BROKER'S LICENSE (ORC Section 4735.07)

Effective **January 4, 1988**, the requirements to be seated for the broker's exam will be amended to accomplish the following:

- To clarify that the required 20 real estate transactions have to be completed in the applicant's capacity as a licensee.
- To specify that the real estate law course must cover Ohio law.

Effective on **January 1, 1990**, brokerage and special topics will be eliminated from the pre-licensing courses for a broker's license. The following will be the educational requirements for broker applicants after January 1, 1990:

- (1) 30 hours in real estate practice
- (2) 30 hours in Ohio real estate law
- (3) 30 hours in real estate appraisal
- (4) 30 hours in real estate finance
- (5) 3 quarter hours or equivalent in semesters in financial management
- (6) 3 quarter hours or equivalent in semesters in human resource or personal management

(continued on page 2)

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)

License Changes (continued from page 1)

(7) 3 quarter hours or equivalent in semesters in applied business economics

(8) 3 quarter hours or equivalent in semesters in business law

The above eight courses will not be required of applicants who were issued a sales license prior to January 2, 1972. Additionally, items (5) through (8) will not apply to applicants who were issued a sales license as a salesperson prior to January 3, 1984. Applicants licensed as a salesperson after January 3, 1984 will still be required to also have satisfactorily completed a minimum of two years of post-secondary education or its equivalent in semester or quarter hours at a college or university.

Within *one year* from the issuance of a broker's license after January 1, 1990, the broker must complete a 10-hour post-licensure course in *real estate brokerage*. This can also be taken at schools that do not qualify as degree operating institutes of higher education. If this course is not completed, the license will be suspended and the broker will then have a one-year grace period after the suspension to complete the course.

REQUIREMENTS FOR A FOREIGN REAL ESTATE SALES OR DEALER'S LICENSE

The provisions regarding both a foreign real estate salesperson's license and dealer's license were amended to provide that a felony or civil rights conviction or a violation of Chapter 4735. may be grounds for denial of an application for a foreign real estate dealer or sales license. (ORC Sections 4735.27 and 28)

MISCELLANEOUS EDUCATIONAL PROVISIONS

The following are miscellaneous changes affecting the area of real estate education:

- Because licensees are currently required to take a three hour continuing education course in civil rights, the requirement that all continuing education courses must include some instruction in civil rights laws was

eliminated. (ORC Section 4735.141.)

- Where a broker's license is suspended for failure to complete continuing education or the 10 hour post-licensing course and his/her salespersons' licenses are correspondingly suspended, the suspended salespersons' licenses will be reinstated, with no fee, only if the following occur:

- (1) the broker submits proof of compliance and requests reinstatement of his license;
- (2) his/her license is reinstated and,
- (3) the associated salesperson(s) complied with the education requirements of Chapter 4735 and wishes to reinstate with that broker. (ORC Sections 4735.07 and .141)

- Effective **January 1, 1990**, the definition of an institution of higher education will be amended to provide that the schools offering pre-licensing education must actually award at least a two-year degree (ORC Section 4735.01).

INVESTIGATIVE AND DISCIPLINARY POWERS

The following are amendments to the investigative powers and the procedures followed by the Division and Ohio Real Estate Commission:

- The language of Ohio Revised Code Section 4735.051 was clarified to provide that all information obtained by investigators from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information or are prepared by Division employees must be held in confidence. (ORC Section 4735.05)

- An investigation may only be commenced against a licensee if the complaint is filed within *three years* from the date of the alleged violation. After three years, an investigation is barred and no disciplinary action can be taken against the licensee because of the alleged violation. (ORC Section 4735.051 and .32)

- An application to the Commission to reverse, vacate, or modify an order must be filed within 15 days after the order is mailed to the party. (ORC Section 4735.19)

The following amendments were added to the grounds for disciplinary action against a licensee contained in Section 4735.18:

- The Ohio Real Estate Commission can now suspend or revoke a person's license based upon a conviction of any type of felony or crime of moral turpitude regardless of whether it involved real estate activity.

- Like brokers, salespersons are now also subject to disciplinary action for failing to satisfy a judgment that arose out of conduct as a licensee.

- Like brokers, salespersons are now also required to file a statement of expenditures or funds advanced for advertising or promoting the sale of an owner's real estate.

- It is now a violation for *any licensee* to permit a non-licensed person to act as a broker or salesperson.

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Commission Revises Canons Of Ethics

The Ohio Real Estate Commission adopted two revised articles to the "Canons of Ethics For The Real Estate Industry" at its October 28, 1987 meeting.

In revising Article 21 of the Canons, the Commission amended the language and split this passage into Articles 21 and 21.1.

Article 21 now reads: "A licensee should respect the exclusive agency of another licensee until it has expired or until an owner, without solicitation, initiates a discussion with the licensee about terms upon which he might take a future listing or one commencing upon the expiration of any existing listing."

Article 21.1 now reads: "A licensee should not solicit a listing that is currently listed with another broker, unless

the listing broker, when asked, refused to disclose the expiration and nature of the listing. In that event, the licensee may contact the owner to secure such information and may discuss terms upon which he might take a future listing, or one commencing upon the expiration of any existing exclusive listing."

Minor changes were also made to certain other existing Canons of Ethics. Most of these amendments were revised to refine the language and do not substantially change the thrust of the articles.

Copies of the Canons of Ethics can be obtained by calling the Division of Real Estate toll free at 1-800-344-4100 or in Columbus at 466-4100.

Certificates Of Continuation Due By December 31

In early November, the 1988 Certificates of Continuation were mailed to each licensed broker, corporation, partnership or association in Ohio. These certificates must be filed annually by all brokers in order to legally continue to practice real estate in Ohio.

The deadline to file your 1988 Certificate of Continuation is December 31, 1987. Under Ohio Revised Code Section 4735.15(F), there is a 15-day grace period in which to still file your Certificate after that date (or until January 15, 1988). 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, 1988, your license will be **revoked**. Consequently, the licenses of all salespersons affiliated with you will likewise be cancelled.

In order to be re-licensed, it will be necessary for you and your salespersons to apply for reinstatement of your licenses. Since the cost of being re-licensed would be

greater than the standard renewal fee or the late filing fee, the Division recommends that all brokers make sure that their Certificates of Continuation are filed on or before December 31, 1987. Remember, the law states that no extension of the filing time or waiver of the penalty fees can be granted.

When filing your certificate of continuation, please remember the following important points:

- Answer all questions on your Certificates of Continuation including the name and account number of your trust account.
- Sign your Certificate of Continuation at the bottom.
- Enclose your check, certified check or money order made payable to the "Ohio Division of Real Estate".
- Include any late filing fee with your payment if you are filing after December 31, 1987, but before January 15, 1988.
- Enclose all licenses for persons who are not being renewed, if proper notification to them has been made.

Agency Disclosure Form To Be Available Soon

The Division of Real Estate will make the Agency Disclosure Form available to real estate licensees beginning on February 1, 1988.

This form, which is being created in accordance with recently adopted Administrative Code Rule 1301:5-5-05, must be filed with the Division of Real Estate by January 1, 1989. The Division is making the form available nearly a year before the effective date to permit licensees to voluntarily comply and to become familiar with the form before January 1, 1989.

This new rule requires licensees to disclose to the parties in a real estate transaction whether they are representing the purchaser, the seller, or both. The rule was designed to alleviate the confusion and misunderstanding of prospective purchasers, sellers, and licensees as to whom the licensee is representing in a real estate transaction.

To receive an Agency Disclosure Form, please write to the Ohio Department of Commerce, Division of Real Estate, Two Nationwide Plaza, Fifth Floor, Columbus, OH 43266-0547 or call toll free 1-800-344-4100. In Columbus, call 466-4100.

The "Disciplinary Actions" section will not appear in this issue to provide space to discuss the license law changes that become effective in January and the timely notices contained in this issue.

The "Disciplinary Actions" section will return in the January/February 1988 issue of the *Division of Real Estate Newsletter*.

Updated Law Books To Be Ready In January

Ohio's updated license law book will be available from the Division of Real Estate by the end of January.

The updated book will contain the recently amended statutes of the Ohio Revised Code and the Ohio Administrative Code. The "Canons of Ethics for the Real Estate Industry" that were updated by the Ohio Real Estate Commission last month will also be included as well as

an index for easy reference. Additionally, the publisher's copyrighted legislative histories, cross references, and case notes will be provided.

Due to the increased size of the book, a more expensive binding was necessary. To receive a copy of the law book, please forward a check or money order for \$7 made payable to the "Ohio Division of Real Estate."

License Changes (continued from page 2)

- A licensee's duty to *maintain* funds deposited in his/her trust account was clarified.

- With regards to acting for more than one party in a transaction, language was included that creates a presumption that a licensee is the agent of the owner unless there is an agreement to the contrary which is disclosed to all parties.

Finally, in other miscellaneous areas, the following amendments were made:

- Failure to notify the Division of a change of business location was reduced from automatic revocation to grounds of misconduct. (ORC Section 4735.13)

- Section 4735.16 was amended to provide that no fee is to be charged to register a license with the Clerk of Courts office.

I believe that these changes will further enhance the professionalism of real estate licensees and improve the Division's ability to protect Ohio's homebuying consumers. The Division of Real Estate is committed to assisting real estate licensees to comply with these new laws. If you have any questions on these revisions, please call the Division toll free at 1-800-344-4100.

UPCOMING TEST DATES

The following are the tentatively scheduled dates for the real estate sales, brokers and foreign real estate sales examinations for the coming months:

	SALES		BROKERS
	COLUMBUS/CLEVELAND		COLUMBUS
Jan	6	21	11, 18
Feb	3	18	8
Mar	9	24	7

FOREIGN REAL ESTATE SALES

Jan	5, 19
Feb	2, 16
Mar	1, 15, 29

No foreign real estate sales or dealer's examinations will be given in December. 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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