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District of Columbia

Department of Consumer and Regulatory Affairs

For informational use only

OCCUPATIONAL & PROFESSIONAL LICENSING ADMINISTRATION

REAL ESTATE LEGISLATION AND REGULATIONS

Stock# 6609-09 (3/07)

PREFACE

The Occupational and Professional Licensing administration is pleased to publish this document, which contains major portions of the "Non-Health Related Occupations and Professions Licensure Act of 1998", as well as specific statutory and rule provisions governing real estate practices in the District of Columbia. The District of Columbia Board of Real Estate, a nine-member regulatory body, enforces the laws and regulations applicable to real estate brokers, salespersons, and property managers. The reader should be aware that Titles 47 and 42, respectively, do not appear in their entirety, and contain only legislation relating to real estate professionals. Other professionals should consult the District of Columbia Official code for a full listing. In addition to this document, it is also recommended that the reader consult the District of Columbia Human Rights Act administered by the Office of Human Rights and the Rental Housing Conversion and Sale Act of 1980 and related forms administered by the Housing Regulation Administration. These laws are useful in the practice of real estate in the District of Columbia.

Mr. Leon Lewis
Program Liaison
Board of Real Estate

DISCLAIMER

The Board of Real Estate and the Department of Consumer and Regulatory Affairs offer this compilation for informational purposes only. This compilation has no legal effect and does not include every law or regulation that may apply to a given factual situation. This document is not a substitute for official publications such as D.C. Official Code published by West Group, the official District of Columbia regulations published in the *D.C. Register*, or the official compilation of rules and regulations compiled in the *District of Columbia Municipal Regulations* (DCMR). Licensees, prospective licensees, and consumers are encouraged to seek the advice of an attorney if questions arise regarding the application of a particular law or regulation to their particular fact situation. The Board of Real Estate or the Director of the Department of Consumer and Regulatory Affairs may, upon proper application by any interested person, issue a declaratory order pursuant to D.C. Official Code § 2-508 regarding the applicability of any law or regulation enforced by the Board of Real Estate or the Department to a particular set of facts and circumstances.

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Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act as amended);
Title II of the American with Disabilities Act of 1990
Executive Order 11063, Non-Discrimination. (1962)
Executive Order 12892, Equal Opportunity in Housing (1994)
Advertisements Under 804(c) of the Fair Housing Act - Jan. 9, 1995
http://www.hud.gov/offices/fheo/disabilities/sect804achtenberg.pdf

DISTRICT OF COLUMBIA:

D.C. Official Code (2001) § 2-1401.01 et seq. – Human Rights Law
D.C. Official Code (2001) § 6-1101 et seq. - Historic Landmark and Historic District Protection
D.C. Official Code (2001) § 42-1801 et seq. – Real Estate Sale or Rent Signs
D.C. Official Code (2001) § 42-2401 et seq. – Disbursement of Settlement Proceeds
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DISTRICT OF COLUMBIA OFFICIAL CODE 2001 EDITION
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§47-2853.01. DEFINITIONS.
For the purposes of this subchapter:

(1) "Board" means a panel of persons appointed in accordance with this subchapter to define and regulate the scope of practice and qualifications needed to practice particular occupations or professions in the District of Columbia.

(2) "Certificate" means a document issued by the Mayor to a person licensed in accordance with this subchapter certifying that the person has met the eligibility requirements for practicing a

specialty established as a subcategory within the scope of the license and is authorized to perform the services of such specialty and to hold himself or herself out to perform such services, except as defined in § 47-2853.47.

(3) "Certify," "certified" and "certification" means the designation on a certificate issued by the Mayor authorizing a person to practice a specialty within a license category.

(4) "Attorney General" means the Attorney General for the District of Columbia or designee.

(5) "District" means the District of Columbia.

(6) "License" means a document issued by the Mayor to a person who has met the eligibility standards and other requirements for practicing an occupation or profession regulated by this subchapter and who is therefore authorized to perform the services permitted by law and regulation to be performed by a person holding such a license, and to hold himself or herself out as authorized to perform such services.

(7) "Licensed" means that a person so designated has been granted a license by the Mayor to practice an occupation or profession in the District.

(8) "Registration" or "registered" means the inclusion of a person on a list of persons authorized to offer certain occupation or professional services in the District. "Registration" does not imply that the person has been examined and found to be competent to provide the services for which he or she has registered.

(9) "Natural person" means a human being.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Apr. 13, 2005, D.C. Law 15-354, § 73(l)(8), 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

HISTORY: 1981 Ed., § 47-2853.1; Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; May 26, 2004, Mayor's Order 2004-92, § 4, 51 DCR 6052; April 13, 2005, D.C. Law 15-354, § 73(I)(8), 52 DCR 2638.

NOTES:
SECTION REFERENCES. – This section is referenced in § 42-1702.

EFFECT OF AMENDMENTS. – D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel" in (4).

TEMPORARY LEGISLATION. – Section 2(b) of D.C. Law 16-1-1 added (9) to read as follows:
"For the purpose of this subchapter:
*****
"(9) 'Natural Person' means a human being."
Section 4(b) of D.C. Law 16-101 provides that the act shall expire after 225 days of its having taken effect.

EMERGENCY LEGISLATION. – For temporary addition of (7A), defining "Natural person," see § 2(b) of the Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

LEGISLATIVE HISTORY OF LAW 12-261. – See note to § 47-2851.01.

LEGISLATIVE HISTORY OF LAW 15-354. – See note to § 47-2820.

LEGISLATIVE HISTORY OF LAW 16-101. – Law 16-101, the "Non-Health Related Occupations and Professions Licensure Temporary Act of 2006," was introduced in Council and assigned Bill No. 16-523. The Bill was adopted on first and second readings on Jan. 4, 2006, and Feb. 7, 2006, respectively. Signed by the Mayor on Feb. 27, 2006, it was assigned Act No. 16-303 and transmitted to Congress for its review. D.C. Law 16-101 became effective on May 12, 2006, and expires on Dec. 23, 2006.

EDITOR'S NOTE. – D.C. Law 15-354, § 73(I)(8), amended this section by striking the phrase "Corporation Counsel" wherever it appears and inserting the phrase "Attorney General for the District of Columbia" in its place. LexisNexis interpreted the amendment by D.C. Law 15-354 as amending (4) by substituting "Attorney General" for "Corporation Counsel"; and substituting "Attorney General for the District of Columbia" for "Corporation Counsel of the District of Columbia."

§47-2853.02. LICENSE, CERTIFICATION, AND REGISTRATION CRITERIA.

(a) No person shall practice, attempt to practice, or offer to practice an occupation or profession for which a license, certification, or registration is required under this subchapter without a current valid license, certificate, or registration in accordance with the requirements of this subchapter.

(b) A license, certification, or registration is not required for the practice of any occupation, trade or profession not covered by this subchapter or Chapter 38 of Title 2.

(c) Nothing in this section shall relieve any person from the obligation to obtain a business license or endorsement or any other license or permit required by District law or regulation.

(d) (1) Licensure shall be required whenever the Mayor has determined that, in order to protect the public, a person who seeks to practice a particular occupation or profession must meet specified educational and training requirements, must demonstrate competency in that occupation or profession through examination or other proof of fitness, or must have a specified amount of experience in order to practice that occupation or profession.

(2) Any person who seeks to practice in an occupation or profession described in paragraph (1) of this subsection shall be required to obtain a license in order to practice the occupation or profession.

(e) (1) Certification shall be required whenever the Mayor has determined that, in order to protect the public, a person who is licensed to practice a particular occupation or profession must meet specified additional educational, training or experience requirements, or must successfully pass additional examination, to qualify for advanced practice or specialization in the licensed occupation or profession.

(2) Any person required to be licensed to practice an occupation or profession under this subchapter shall be required to obtain a certificate attesting to his or her qualifications to practice the occupation or profession at the higher level or in the specialty.

(f) Registration shall be required whenever the Mayor has determined that a person who seeks to practice a particular occupation or profession need not meet specified educational or training requirements nor demonstrate competence, but to protect the public should be identified as a practitioner of that occupation or profession.

(g) Each board established pursuant to § 47-2853.6 shall advise the Mayor as to whether the occupations or professions under its jurisdiction are appropriately regulated by licensure, certification, or registration in accordance with the criteria established in this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law – 12-261.-See note to § 47-2801.

§47-2853.03. SCOPE OF SUBCHAPTER.

(a) This subchapter does not limit the right of a person to practice an occupation or profession that he or she is licensed, certified, or registered to practice, except as provided in this subchapter or by any other law or regulation. A person may practice any other occupation or profession for which authorization is not required by law.

(b) Nothing in this subchapter shall be construed to prohibit the practice of an occupation or profession by a person enrolled in a recognized training program, school, or college as a candidate for a degree or certificate in that occupation or profession, or enrolled in a recognized postgraduate training program, provided that the practice is performed:

(1) As part of a course of instruction;

(2) Under the supervision of a person who is either licensed, certified, or registered to practice that occupation or profession in the District or is qualified, according to law, as a teacher of that occupation or profession;

(3) At a facility operated by the District or federal government, or at a facility deemed appropriate for that purpose by the school, college or training program; and

(4) In accordance with procedures established by the board charged with the regulation of that occupation or profession.

(c) Nothing in this subchapter shall be constructed to prohibit the practice of an occupation or profession by a person who has filed an initial application for licensure or certification and is awaiting action on that initial application, provided that the practice is performed:

(1) Under the supervision of an appropriate person licensed or certified in accordance with this subchapter;

(2) At a facility operated by the District or federal government, or other facility appropriate for the services being provided; and

(3) In accordance with any other requirements established by law or regulation.

(d) Except as expressly provided to the contrary in this subchapter, any person licensed, certified, or registered by any District agency established by any statute amended, repealed, or superseded by this subchapter is considered for all purposes to be licensed, registered, or certified by the appropriate board established under this subchapter for the duration of the term for which the license, certification, or registration was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this subchapter.

(e) Except as provided to the contrary in this subchapter, any person who was originally licensed, certified, or registered under a provision of law that has been repealed by this subchapter is deemed to meet the education and experience requirements for licensure, certification, or registration as if that provision had not been repealed.

(f) The provisions of this subchapter prohibiting the practice of an occupation or profession without a license, certificate, or registration shall not apply to:

(1) A person employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment; or

(2) A person licensed or certified to practice an occupation or profession in a state who is called from that state for consultation in the District, or to give a demonstration or teach a course in the District, provided that the person engages in the consultation or demonstration in affiliation with a comparable licensed person pursuant to this subchapter or teaches at a licensed educational institution approved to offer instruction in the person's field of expertise.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.04. REGULATED NON-HEALTH RELATED OCCUPATIONS AND PROFESSIONS.

(a) The following non-health related occupations and professions have been determined to require regulation in order to protect public health, safety or welfare, or to ensure the public that persons engaged in such occupations or professions have the specialized skills or training required to perform the services offered:

(1) Architect;

(2) Asbestos Worker;

(3) Attorney;

(4) Barber;

(5) Boxer/Wrestler;

(6) Certified Public Accountant;

(7) Clinical Laboratory Director;

(8) Clinical Laboratory Technician;

(9) Cosmetologist;

(10) Commercial Driver;

(11) Commercial Bicycle Operator;

(12) Electrician;

(13) Funeral Director;

(14) Insurance Agent;

(15) Insurance Broker;

(16) Interior Designer;

(17) Investment Advisor;

(18) Land Surveyor;

(19) Notary Public;

(20) Operating Engineer;

(21) Plumber/Gasfitter;

(22) Principal (public school);

(23) Private Correctional Officer;

(24) Professional Engineer;

(25) Property Manager;

(26) Real Estate Appraiser;

(27) Real Estate Broker;

(28) Real Estate Salesperson;

(29) Refrigeration and Air Conditioning Mechanic;

(30) Securities Agent;

(31) Securities Broker-Dealer;

(32) Security Alarm Agent;

(33) Special Police Officer;

(34) Steam Engineer;

(35) Taxicab/Limousine Operator;

(36) Teacher and Other Instructional Personnel (public schools only); and

(37) Veterinarian.

(b) No other non-health related occupation or profession shall be regulated other than as set forth in subsection (a) of this section, except where there has been a determination by the Mayor that regulation is needed to protect the public interest and is consistent with the criteria for regulation specified in § 47-2853.2.

(c) All non-health related occupations and professions shall be regulated by the Mayor through the Department of Consumer and Regulatory Affairs, except as follows:

(1) Attorneys shall be regulated by the District of Columbia Court of Appeals, as provided in § 11-2501.

(2) Notaries public shall be regulated by the Mayor, as provided in § 1-801.

(3) Principals, teachers, and other instructional employees of the District of Columbia public schools shall be regulated by the Superintendent of Schools of the District of Columbia as delegated by the Board of Education, pursuant to § 31-107, and teachers and instructional employees of the University of the District of Columbia ("University") by the Board of Trustees of the University pursuant to §§ 31-1511 and 31-1516 and § 31-1520.

(4) Insurance agents and brokers, securities agents and brokers, and investment advisers shall be regulated by the Department of Insurance and Securities Regulation, as provided in Chapter 1A of Title 35, Chapter 26 of Title 2, and Chapter 26A of Title 2.

(5) Hackers, taxicab and limousine operators shall be regulated by the District of Columbia Taxicab Commission, as provided in § 47-282.

(6) Commercial drivers and commercial bicycle operators shall be regulated by the Department of Public Works, as provided in Chapter 14 of Title 40 and Chapter 18 of Title 40.

(7) Special police, security alarm agents and private correctional officers shall be regulated by the Metropolitan Police Department as provided in § 4-114; § 6-3105; and subchapter VII of Chapter 4 of Title 24.

(8) Boxers, wrestlers, referees and other officials involved in boxing and wrestling contests shall be regulated by § 2-606(b).

(9) Clinical laboratory directors and clinical laboratory technicians shall be regulated by the Mayor in accordance with Chapter 15 of Title 32.

(10) Veterinarians shall be regulated by the Mayor in accordance with Chapter 27 of Title 2.

(11) Funeral directors shall be regulated by the Mayor in accordance with Chapter 28 of Title 2.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.05. EXEMPTIONS; FEDERAL SERVICES.

Any person who is providing occupational or professional services for the federal government at a federal government facility in the District shall not be regulated under this subchapter. Any person who has a license or certificate issued by the federal government permitting that person to provide particular occupational or professional services may provide such services in the District of Columbia without obtaining a District license or certificate as long as the services provided by that person are within the scope of the federal license or certificate.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law. – See note to § 47-2801.

§47-2853.06. ESTABLISHMENT OF BOARDS.

(a) There is established a Board of Architecture and Interior Designers to consist of 7 members of whom 3 shall be architects, 3 shall be interior designers and one shall be a consumer member. The Board shall regulate the practice of architecture and the practice of interior design.

(b) There is hereby established a Board of Accountancy to consist of 5 members. Of the members of the Board, one shall be a consumer member and 4 shall be licensed as certified public accountants who, at the time of their appointments, have been engaged in the practice of public accountancy as certified public accountants in the District for a period of not less than 5 years. The Board shall regulate the practice of public accountants and certified public accountants.

(c) There is established a Board of Barber and Cosmetology consisting of 11 members of whom 3 shall be barbers, 3 shall be cosmetologists, 3 shall be specialty cosmetologists and 2 shall be consumer members. The Board shall regulate the practice of barbers and cosmetologists, including specialty cosmetology practices such as braiding, electrolysis, esthetics, manicuring and others as the Mayor may from time to time establish by rule, instructors and managers of these practices, and owners of such facilities.

(d) There is established a Board of Industrial Trades consisting of 15 members of whom 3 shall be plumbers licensed in the District, 3 shall be electricians licensed in the District, 3 shall be refrigeration and air conditioning mechanics licensed in the District, 3 shall be steam and other operating engineers licensed in the District, 2 shall be asbestos workers, and one shall be a consumer member. The Board shall regulate the practice of plumbers, gasfitters, electricians, refrigeration and air conditioning mechanics, steam and other operating engineers, and asbestos workers.

(e) There is established a Board of Professional Engineering consisting of 7 members of whom 4 shall be professional engineers licensed in the District in various disciplines, 2 shall be land surveyors licensed in the District, and one shall be a consumer member. The Board shall regulate the practice of professional engineers and land surveyors.

(f) There is established a Board of Funeral Directors consisting of 5 members of whom 4 shall be funeral directors licensed in the District and one shall be a consumer member. The Board shall regulate the practice of funeral directors.

(g) There is established a Board of Real Estate Appraisers consisting of 5 members, of whom 3 shall be real estate appraisers licensed and in good standing in the District with not less than 3 years experience in real estate appraising immediately preceding his or her appointment to the Board, one of whom shall be a real estate broker licensed and in good standing in the District, and one shall be a consumer member. The Board shall regulate the practice of real estate appraisal, including the functions of a state appraiser certifying and licensing agency under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, approved August 9, 1989 (103 Stat. 511; 12 U.S.C.S. §§ 3331 through 3351).

(h) There is established a Board of Real Estate consisting of 9 members of whom 3 shall be real estate brokers licensed in the District, 2 shall be real estate salespersons licensed in the District, 2 shall be property managers licensed in the District, one shall be an attorney admitted to the bar of the District of Columbia and engaged in the practice of real estate law, and one shall be a consumer member. All members of the Board shall be residents of the District during their tenure. The Board shall regulate the practices of real estate brokers, real estate salespersons, and property managers.

HISTORY: 1981 Ed., § 47-2853.6; Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Jun. 16, 2006, D.C. Law 16-130, § 2(b), 53 DCR 4718.

NOTES:
CROSS REFERENCES. --Board of Funeral Directors, § 3-401 et seq.

SECTION REFERENCES. --This section is referenced in § 1-523.01, § 47-2853.02, and § 47-2853.221.

EFFECT OF AMENDMENTS. --D.C. Law 16-130 substituted "and 4" for "one shall be a public accountant registered in the District, and 3" in the second sentence of (b); and in (g), in the first sentence substituted "of whom 3" for "of whom 4" and inserted "one of whom shall be a real estate broker licensed and in good standing in the District" and added the second sentence.

TEMPORARY LEGISLATION. --Section 2(c) of D.C. Law 16-101 amended (b) and (g) to read as follows:
"(b) There is established a Board of Accountancy to consist of 5 members. Of the members of the Board, one shall be a consumer member and 4 shall be licensed as certified public accountants who, at the time of their appointments, have been engaged in the practice of public

accountancy as certified public accountants in the District for a period of not less than 5 years. The Board shall regulate the practice of public accountants and certified public accountants.

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"(g) There is established a Board of Real Estate Appraisers consisting of 5 members, of whom 3 shall be real estate appraisers licensed and in good standing in the District with not less than 3 years experience in real estate appraising immediately preceding his or her appointment to the Board, one shall be a real estate broker licensed and in good standing in the District, and one shall be a consumer member. In addition to assuming the powers enumerated in § 47-2853.08, the Board shall regulate the practice of real estate appraisal, including the functions of a state appraiser certifying and licensing agency under Title XI of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, approved August 9, 1989 (103 Stat. 183; 12 U.S.C.S. §§ 3331 through 3351)."

Section 4(b) of D.C. Law 16-101 provides that the act shall expire after 225 days of its having taken effect.

EMERGENCY LEGISLATION. --For temporary amendment of (b) and (g), see § 2(c) of the Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

LEGISLATIVE HISTORY OF LAW 12-261. --See note to § 47-2851.01.

LEGISLATIVE HISTORY OF LAW 13-313. --Law 13-313, the "Technical Amendments Act of 2000," was introduced in Council and assigned Bill No. 13-879. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 19, 2001, it was assigned Act No. 13-574 and transmitted to both Houses of Congress for its review. D.C. Law 13-313 became effective on June 19, 2001.

LEGISLATIVE HISTORY OF LAW 16-101. --See note to § 47-2853.01.

LEGISLATIVE HISTORY OF LAW 16-130. --Law 16-130, the "Non-Health Related Occupations and Professions Licensure Amendment Act of 2006," was introduced in Council and assigned Bill No. 16-524. The Bill was adopted on first and second readings on Mar. 7, 2006, and Apr. 4, 2006, respectively. Signed by the Mayor on Apr. 21, 2006, it was assigned Act No. 16-348 and transmitted to Congress for its review. D.C. Law 16-130 became effective on Jun. 16, 2006.

EDITOR'S NOTES. --Section 134 of D.C. Law 13-91, as amended by § 18(b) of D.C. Law 13-313, provided for the transfer of authority established by the District of Columbia Funeral Services Regulatory Act of 1984 (D.C. Law 5-84) to the Board of Funeral Directors created by this section.

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in the second sentence of (g), is codified as 12 U.S.C.S. §§ 3331 through 3352.

§47-2853.07. APPOINTMENT AND TENURE OF BOARD MEMBERS.

(a) The Mayor, with the consent of the Council, shall appoint the members of each board to serve a 3-year term of office. The members first appointed shall serve staggered terms made for one, 2, or 3 years so that approximately one-third of the membership of each board shall expire each year. Members of the boards shall serve until their successor is appointed. Members may be appointed to succeed themselves, provided, however, that no member shall be appointed to serve more than 3 full consecutive 3-year terms. The terms of members of a board, after the initial terms, shall expire on the third anniversary of the date the first members constituting a quorum take the oath of office. A vacancy on a board shall be filled in the same manner as the original appointment was made. A member appointed to fill a vacancy shall serve until the expiration of the term or under a successor is appointed and sworn into office, whichever is later.

(b) The nomination transmitted under subsection (a) of this section shall be considered in accordance with § 1-633.7.

(c) The Mayor may remove a member of a board for incompetence, misconduct, or neglect of duty. The failure of a member of a board to attend at least half of the regularly scheduled meetings of the board within a 12-month period shall constitute neglect of duty within the meaning of the section.

(d) Board members shall meet the following requirements for appointment or tenure:

(1) The members of each board shall be residents of the District at the time of appointment and during their tenure on the board. Members of the Board of Real Estate also shall have been residents of the District for at least one year prior to their appointment.

(2) Each professional member of a board, in addition to the requirements of paragraph (1) of this subsection, shall have been engaged in the practice of the occupation or profession regulated by the board for at least 3 years preceding appointment. Notwithstanding the above, professional members of the Board of Real Estate shall each have been actively engaged in their field for not less than 5 years immediately prior to their appointment to the Board and shall remain active in their field during their tenure on the Board.

(3) (A) Each consumer member of a board, in addition to the requirements of paragraph (1) of this subsection, shall:

(i) Be at least 18 years of age;

(ii) Not be a practitioner of a profession or occupation supervised by that board, or in training to become one;

(iii) Not have a household member who is a practitioner of a profession or occupation supervised by that board, or in training to become one; and

(iv) Not own, operate, or be employed in or have a household member who owns, operates, or is employed in a business which has as its primary purpose the sale of goods or services to practitioners of a profession or occupation supervised by that board.

(B) Within the meaning of subparagraph (A) of this paragraph, the term "household member" means a relative, by blood or marriage, or a ward of a person, or someone who shares the person's actual residence.

(e) The position of a member of a board shall be forfeited upon his or her failure to maintain the qualifications required by this subchapter.

(f) Each professional member of a board shall disqualify himself or herself from acting on his or her own application for licensure or license renewal or on any other matter related to his or her practice of an occupation or profession.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.08 POWERS OF THE BOARDS.

The boards established under this subchapter shall have the power, consistent with this subchapter, to:

(1) Determine the scope of practice, the requirements which an applicant must meet for initial licensure, certification or registration and for renewal of the same, including any continuing education requirements, and shall determine the appropriate level of regulation for every occupation or professional under the authority of the board;

(A) Where such standards already exist in any law or regulation of the District, those standards shall remain in effect until altered or amended; and

(B) Each board shall be responsible for continually monitoring the standards for the professions and occupations under its authority and for recommending to the Mayor changes in existing standards when such changes are necessary or desirable;

(2) Determine whether the standards or licensure by another jurisdiction, or certification by a national certifying organization, are substantially equivalent to the requirements of this subchapter and authorize the issuance of a license by reciprocity or endorsement to an applicant:

(A) Who is licensed or certified and in good standing under the laws of another state with requirements which, in the opinion of the board, were substantially equivalent at the time of licensure to the requirements of this subchapter, and which state admits professional licensed by the District in a like manner; and

(B) Who pays the applicable fees established by the Mayor;

(3) Review, upon referral from the Mayor, the qualifications of a candidate for licensing, certification or registration, or for renewal, whose eligibility is unclear and shall determine whether that candidate meets the applicable criteria for that occupation or profession. The determination of the board shall be binding on the Mayor, who shall issue or deny the license, certificate, or registration accordingly;

(4) Advise the Mayor, on the content of rules governing the conduct of persons licensed, certified, or registered;

(5) Hear and decide protests from any person denied a license or certificate, or the renewal of the same, by an official authorized by the Mayor to issue such licenses or renewals on the ground that the person does not meet the eligibility standards set by the board. The determination of the board shall be binding on the Mayor, who shall issue or deny the license, certificate, or registration accordingly;

(6) Receive complaints of malpractice or other complaints against any persons licensed, certified, or registered under the jurisdiction of the board and shall have the authority, after a hearing in accordance with the procedures set forth in § 47-2853.22, to discipline any such person by the imposition of the penalties provided in this subchapter;

(7) Submit names of persons qualified to serve on that board as professional or consumer members to the Mayor in accordance with the procedures set forth in § 47-2853.7(b) and (c). Persons whose names are submitted for professional seats on the board shall be determined by the board to be competent and experienced members of the profession with good reputations in their fields. Persons whose names are submitted for citizen seats shall be determined by the board to have no conflicts and to be willing and able to serve;

(8) Convene in committees smaller than the full board for the purpose of carrying out specific functions of the board, such as investigating complaints or determining appropriate discipline in accordance with the procedures set forth in §§ 47-2853.17 through 47-2853.19, provided that such smaller committees consist of not fewer than 3 board members, and the actions of such small committees are ratified by the full board;

(9) Notify the Mayor of actions taken regarding a licensee, certificate holder, or applicant; and

(10) Monitor the issuance of licenses and certificates by persons authorized to do so by the Mayor to make sure that the qualification standards established by the board are being adhered to, and shall recommend to the Mayor the disciplining or removal of any official issuing licenses not in accordance with those standards.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.09. GENERAL PROVISIONS.

(a) All boards shall adopt uniform procedures which at a minimum require:

(1) Each board to elect a chairperson from among its members;

(2) Each board to meet not less than 4 times a year at times and places it determines and shall publish notice of all regular meetings at least one week in advance in the District of Columbia Register;

(3) A quorum to be a majority of the number of positions on the board; and

(4) A majority vote of those present and voting to be necessary and sufficient for any action taken by the board.

(b) Members of each board shall be entitled to receive compensation in accordance with § 1-612.8, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties, subject to appropriations.

(c) No member of any board authorized by this subchapter shall be subject to any civil or criminal liability for actions taken or decisions rendered in carrying out this subchapter, nor for any statements made or recorded in the course of carrying out his or her responsibilities under this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.10. STAFFING AND ADMINISTRATION.

(a) The boards established by this subchapter shall be under the administrative control of the Mayor. The Mayor shall be responsible for:

(1) Promptly issuing and renewing licenses or certificates or registering those persons who meet the standards established by the boards for each regulated profession or occupation of this subchapter, except that where there is a question as to whether an applicant is qualified, that question shall be referred to the appropriate board for resolution. Upon resolution of the question, the Mayor shall promptly take such action as the board determines is appropriate;

(2) Planning, developing, and maintaining procedures to ensure that the boards receive administrative support, including staff and facilities, sufficient to enable them to perform their responsibilities;

(3) Providing investigative and inspection services to the boards;

(4) Arranging for hearings on cases pursuant to guidelines established in § 47-2853.22 when requested to do so by a board, and providing facilities and support personnel to

enable the board to hold such hearings, record the proceedings, and issue the resulting opinion;

(5) Furnishing expert services in noncompliance cases brought in an administrative or court proceeding;

(6) Providing budgetary and personnel services;

(7) Maintaining central files of records pertaining to licensure, certification, registration, inspections, investigations, and other matters requested by the boards;

(8) Providing information to the public concerning regulatory requirements and procedures;

(9) Publishing and distributing forms and instructions describing regulatory requirements and procedures and other materials as requested by the boards;

(10) Assisting, supplying, furnishing, and performing other administrative, clerical, and technical support the Mayor determines is necessary or appropriate;

(11) Making necessary rules relating to the administrative procedures for the regulation of professions and occupations;

(12) Issuing all rules necessary to implement the provisions of this subchapter;

(13) Notifying persons or other jurisdictions of the status of a licensee or certificate holder as deemed appropriate by rule or District or federal law; and

(14) Notifying other jurisdictions of disciplinary action taken against a licensee or certificate holder as required by District or federal law.

(b) In carrying out the administrative responsibilities described in subsection (a) of this section, the Mayor may out-source, by contract in accordance with the procurement laws of the District, any function that can be more efficiently and effectively performed in that manner.

(c) The D.C. Office of Personnel shall set the compensation of support personnel of the boards in accordance with Chapter 6 of Title 1. The Chief Procurement Officer or his or her designee may enter into contracts for support services for the boards in accordance with Chapter 11A of Title 1.

(d) The Mayor shall establish fee schedules for all services related to the regulation of occupations and professions. At the time of application for initial licensing, certification or registration, and at the time of application for renewal or for reinstatement of inactive or lapsed licenses, certificates or registration, each applicant shall be notified of, and shall pay, all fees and costs required for licensure, certification, or registration for the occupation or profession. The fee for the regulation of each profession or occupation shall be reasonably

related to the cost of testing, processing and issuing the license, certificate or registration, and a proportionate share of the cost of running the board and any hearing procedures and other administrative functions. Fees, whenever possible, shall be comparable to the fees charged in neighboring jurisdictions for a similar license or certification. Application fees paid under this section shall not be refundable, even if the applicant withdraws his or her application for licensure, certification or registration, or is found to be not qualified.

(e) Each board, before March 1 of each year, shall submit a report to the Mayor and the Council of its official acts during the preceding fiscal year.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.11. OCCUPATIONS AND PROFESSIONS LICENSURE SPECIAL ACCOUNT.

(a) In accordance with § 47-131(c)(4), there is hereby established within the General Fund of the District of Columbia a special account, called the Occupations and Professions Licensing Special Account to which shall be credited, without regard to fiscal year limitation pursuant to an act of Congress, the fees that are identified in this subchapter.

(b) No revenues deposited into the continuing, nonlapsing special account may be obligated or spent in any year without a Congressional appropriation. Revenues in this continuing, nonlapsing special account that are carried over into a succeeding fiscal year may not be obligated or spent in the succeeding year without a new Congressional appropriation that permits such obligation or expenditure.

(c) Subject to the applicable laws relating to the appropriation of District funds, monies received and deposited in the Occupation and Professions Licensure Special Account shall be used to defray the expenses to discharge the administrative and regulatory duties as prescribed by this subchapter. The special account shall not be used by any other District government agency and shall be used solely to carry out the functions of this subchapter.

(d) The special account shall be continuing. Revenues deposited into the special account shall not revert to the General Fund at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this subchapter, subject to authorization by Congress in an appropriations act.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§ 47-2853.12. License, certification, and registration criteria; waiver.

(a) A person applying for licensure, certification, or registration under this subchapter shall establish to the satisfaction of the Mayor that the person:

(1) Has not been convicted of an offense which bears directly on the fitness of the person to be licensed; provided, that this restriction shall not apply to the following occupations,

unless the Mayor has issued rules before [May 24, 2005], specifying the criteria for the determination of fitness for licensure based on a specific offense committed by an applicant:

(A) Asbestos worker;

(B) Barber;

(C) Cosmetologist;

(D) Commercial bicycle operator;

(E) Electrician;

(F) Funeral director;

(G) Operating engineer;

(H) Plumber/gasfitter;

(I) Refrigeration and air conditioning mechanic; and

(J) Steam engineer.

(2) Is at least 18 years of age;

(3) Has successfully completed the requirements set forth in law or regulation, as applicable;

(4) If required, has passed an examination or otherwise met the requirements established by the relevant board to demonstrate his or her fitness to practice the profession or occupation; and

(5) Meets any other requirements established by the relevant board by regulation to assure that the applicant has had the proper training, experience, and qualifications to practice the profession or occupation or any subcategory or specialization of the profession or occupation.

(b) A board shall waive the requirements for passage of an examination or other proof of fitness to practice for any person who:

(1) Presents proof that he or she is licensed or certified in the same or substantially similar profession or occupation, and is currently in good standing, in any state which, on the date such license or certification was issued had standards at least as high as those required for licensure or certification in the District and admits professionals licensed by the District in a like manner; or

(2) Has passed an examination acceptable to the board (or has met other requirements for certification) and has been certified by a recognized national certifying organization acceptable to the board whose standards on the date of such certification were at least as high as the standards required for the same profession or occupation in the District, and has not been disciplined or otherwise disqualified by the national certifying organization.

(c) Notwithstanding subsection (b) of this section, where a board determines that the occupation or profession requires a substantial knowledge of District law or procedures, the board may require that an applicant, who is otherwise qualified by virtue of licensure in another state or certification by a national certifying organization, take an examination demonstrating knowledge of the relevant District laws or procedures.

(d) Each board by regulation shall maintain a list of each national certifying organization, and each state, whose standards have been determined to be at least as high as those required by the District, and which admits professionals licensed by the District in a like manner.

(e) The Mayor may deny a license or certificate to an applicant whose license or certificate to practice an occupation or profession was revoked or suspended in another jurisdiction if the basis of the revocation or suspension would have caused a similar result in the District, or if the applicant is the subject of pending disciplinary action regarding his or her right to practice in another jurisdiction.

(f) The Mayor may deny a license or certificate to an applicant licensed or certified in another jurisdiction who has failed to meet the continuing education requirements established by that jurisdiction, but failure of an applicant to meet the continuing education requirements established by the District shall not be a basis for denial of a District license or certificate if the jurisdiction in which the applicant was licensed does not have continuing education requirements or has requirements that are different than those required by the District for the occupation or profession.

(g) The Mayor may grant a license or certificate to an applicant whose education and training in an occupation or profession has been successfully completed in a foreign school, college, university, or training program, or who is licensed or certified in the same or substantially similar profession or occupation by the foreign jurisdiction, if the applicant otherwise qualifies for licensure or certification, including passing an examination if required, and if the board determines that the education and training requirements for licensure or certification in the foreign jurisdiction were substantially equivalent, at the time they were received by the applicant, to the requirements of this subchapter.

(h) An applicant for a license, certificate, or registration shall:

(1) Submit an application to the Mayor on the form required by the Mayor; and

(2) Pay the applicable fees established by the Mayor.

(i) An applicant for licensure who otherwise qualifies for a license is entitled to be examined as follows:

(1) Each board that requires the passage of an examination for licensure shall give applicants the opportunity to take such examination at least twice a year.

(2) When a board determines that a national examination is acceptable, then the frequency, time, and place that the national examination is given shall be considered acceptable and in accordance with this subchapter.

(3) The Mayor shall notify each qualified applicant of the time and place of examination.

(4) Except as otherwise provided by this subchapter, each board shall determine the subjects, scope, form, and passing score for examinations to assess the ability of the applicant to practice effectively the occupation or profession regulated by the board, except that when a national examination has been determined to be acceptable, the board shall use the passing score recommended by the organization administering the national examination.

(j) A person licensed or certified under this subchapter to practice an occupation or profession is authorized to practice that occupation or profession in the District while the license is effective.

(k) A person who fails to renew a license or certification required by this subchapter, or fails to re-register, shall be considered to be unqualified to practice the occupation or profession and subject to the penalties set forth in this subchapter and other applicable laws of the District if he or she continues to practice the profession or occupation.

(l) A license, certificate or registration, expires 2 years from the date of its first issuance or renewal unless renewed in accordance with procedures established in this section, except where another period is provided by law or regulation.

(m) Each board may establish by rule continuing education requirements as a condition for renewal of licenses or certificates issued under this subchapter.

CREDIT(S)

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; May 24, 2005, D.C. Law 15-357, § 202(a), 52 DCR 1999.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 47-2853.12.

Effect of Amendments

D.C. Law 15-357 rewrote subsec. (a)(1) which had read as follows:

"(1) Has not been convicted of an offense which bears directly on the fitness of the person to be licensed;"

Legislative History of Laws

For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

Law 15-357, the "Omnibus Public Safety Ex-offender Self-sufficiency Reform Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-785, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on November 9, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-744 and transmitted to both Houses of Congress for its review. D.C. Law 15-357 became effective on May 24, 2005.

§47-2853.13. PROCEDURES FOR RENEWAL OF LICENSE, CERTIFICATION, AND REGISTRATION.

(a) At least 30 days before the license, certification or regulation expires, or a greater period as established by rule, the Mayor shall send to the person licensed, certified or registered, by first class mail to his or her last known address, a renewal notice that states:

    (1) The date on which the current license, certificate, or registration expires;

    (2) The date by which the renewal application must be received for renewal to be issued prior to expiration; and

    (3) The amount of the renewal fee.

(b) Before a license, certificate or registration expires, it may be renewed for an additional term, if the person applying for renewal:

    (1) Submits a timely application;

    (2) Is otherwise eligible to be renewed;

    (3) Pays the renewal fee established by the Mayor;

    (4) Submits satisfactory evidence of compliance with any continuing education requirements established by the board; and

(5) Meets any other requirements established by law or regulation.

(c) The Mayor shall renew the license or certificate, or shall re-register, each applicant for renewal who meets the requirements of this section and § 47-2853.13, unless a question has been raised about whether an applicant for renewal is eligible for renewal. Where questions arise about the eligibility of the applicant for renewal, the board with responsibility for that occupation or profession shall investigate and determine whether the applicant shall be renewed.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.14. INACTIVE STATUS.

(a) Upon application by any person licensed, certified, or registered to practice an occupation or profession in the District and payment of an inactive status fee established by the Mayor, the Mayor shall place such person on inactive status.

(b) While on inactive status, the person shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice the occupation or profession in the District.

(c) The Mayor shall issue a license or certificate or shall register any person who is on inactive status for less than 5 years and who desires to resume the practice of an occupation or profession for which that person was previously licensed, certified, or registered if that person:

(1) Pays the fee established by the Mayor;

(2) Complies with the continuing education requirements in effect at the time application is made for reactivation; and

(3) Complies with all current requirements for renewal of licensing, certification, or registration.

(d) If the person seeking return to active status has been on inactive status for 5 years or more, he or she shall be considered a new applicant and shall be required to meet all current requirements for licensure, unless the relevant board in its discretion determines that the failure to renew during the 5-year inactive period was due to reasonable cause or excusable neglect.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.15. REINSTATEMENT OF EXPIRED LICENSE.

(a) If a person fails for any reason to renew the license, certificate, or registration prior to expiration, the Mayor shall reinstate the license, certificate, or registration if the person:

(1) Applies to the board for reinstatement within 5 years after the license, certification or registration expires;

(2) Complies with current requirements for renewal of a license, certification or registration;

(3) Pays a reinstatement fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this subchapter for reinstatements.

(b) The Mayor shall no reinstate the license, certification, or registration of a person who fails to apply for reinstatement within 5 years after the license, certification or registration expires. Such person may become licensed, certified, or registered only by meeting the requirements for obtaining an initial license, certification, or registration under this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.16. DISPLAY OF LICENSE, CERTIFICATE, OR REGISTRATION; NOTICE OF CHANGES OF ADDRESS.

(a) Each person licensed, certified, or registered under this subchapter shall conspicuously display or maintain on file the license, certificate, or registration in all places of covered non-health related business or places of employment.
(b) Each person licensed, certified, or registered under this subchapter shall notify the Mayor of any change of address of the place of residence or place of business or employment within 30 days after the change of address.
(c) Each person licensed, certified, or registered under this subchapter shall be subject to the penalties provided by this subchapter for failure to comply with the requirements of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.17. REVOCATION, SUSPENSION, OR DENIAL OF LICENSE OR PRIVILEGE; CIVIL PENALTY; REPRIMAND.

(a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of its members present and voting may take 1 or more of the disciplinary actions provided in subsection (c) of this section against any applicant or person permitted by this subchapter to practice an occupation or profession regulated by the board who:

(1) Knowingly provides false or misleading information on or in support of an application or renewal application;

(2) Fraudulently or deceptively obtains, or attempts to obtain, a license or certificate, or to register, for another person;

(3) Fraudulently or deceptively uses a license, certificate, or registration;

(4) Is disciplined by a licensing or disciplinary authority in another jurisdiction, or is convicted or disciplined by a court of any jurisdiction, for conduct that would be grounds for disciplinary action under this section;

(5) Has been convicted in any jurisdiction of any crime involving any offense that bears directly on the fitness of the person to be licensed; provided, that this restriction shall not apply to the following occupations, unless the Mayor has issued rules before the effective date of the Trade Occupations Exemption from Conviction Restriction on Licensure Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-712) [D.C. Law 15-357, effective May 24, 2005], specifying the criteria for the determination of fitness for licensure based on a specific offense committed by an applicant:

(A) Asbestos worker;

(B) Barber;

(C) Cosmetologist;

(D) Commercial bicycle operator;

(E) Electrician;

(F) Funeral director;

(G) Operating engineer;

(H) Plumber/gasfitter;

(I) Refrigeration and air conditioning mechanic; and

(J) Steam engineer.

(6) Has been determined to be professionally or mentally incompetent or physically incapable of carrying out the services for which that person has been licensed, certified or registered;

(7) Is addicted to, or habitually abuses, any narcotic or controlled substance as defined in Chapter 9 of Title 48 ("Uniform Controlled Substances Act").

(8) Provides, or attempts to provide, professional services while under the influence of alcohol or while using any narcotic or controlled substance as defined in the Uniform Controlled Substances Act, or other drug in excess of therapeutic amounts or without valid medical indication;

(9) Willfully makes or files a false report or record in the practice of his or her occupation or profession, willfully fails to file or record any report required by law, impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(10) Willfully fails or refuses to comply with any lawful inquiry made by a board with authority over the person's occupation or profession, or to cooperate fully with such board in the conduct of its official duties;

(11) After proper request in accordance with law, fails to provide records kept by that person in the course of the practice of his occupation or profession to which any other person is lawfully entitled;

(12) Willfully makes a misrepresentation as to what services the person is authorized to perform under the terms of his or her license, certificate or registration;

(13) Willfully practices an occupation or profession with an unauthorized person or aids an unauthorized person in the practice of an occupation or profession;

(14) Submits false statements to collect fees for which services have not been provided or submits statements to collect fees for services which were not authorized and were not necessary;

(15) Fails to pay a civil fine imposed by the Mayor, a board, other administrative officer, or court;

(16) Willfully breaches a statutory, regulatory, or ethical requirement of the profession or occupation, unless ordered by a court;

(17) Refuses to provide service for which he or she is licensed, certified or registered, to any person for reasons prohibited by Unit A of Chapter 14 of Title 2, or any other District or federal anti-discrimination law or regulation;

(18) Performs, offers, or attempts to perform services beyond the scope of those authorized by the registration, license or certificate, if such services require registration, licensing, or certification under District law;

(19) Violates any District or federal law, regulation, or rule related to the practice of the occupation or profession;

(20) Violates a valid order of a board or violates a consent decree or negotiated settlement entered into with a board;

(21) Demonstrates a willful or careless disregard for the standards of acceptable conduct and prevailing practice within the occupation or profession;

(22) Demonstrates a willful or careless disregard for the health, welfare, or safety of any client or member of the public in the practice of the occupation or profession, regardless of whether such person sustains actual injury as a result; or

(23) Fails to pay the applicable fees required by this subchapter.

(b) (1) A board may require a licensed or certified person to submit to a mental or physical examination whenever it has probable cause to believe that person is impaired due to the reasons specified in subsection (a)(6), (7), or (8) of this section. The examination shall be conducted by one or more health professionals designated by the board, and he, she, or they shall report their findings concerning the nature and extent of the impairment, if any, to the board and to the person who was examined.

(2) Notwithstanding the findings of the examination ordered by the board, the licensed or certified person may submit, in any proceedings before a board or other adjudicatory body, the findings of an examination conducted by one or more health professionals of his or her choice to rebut the findings of the examination ordered by the board.

(3) Willful failure or refusal to submit to an examination requested by a board shall be considered as affirmative evidence that the licensed or certified person is in violation of subsection (a)(6), (7), or (8) of this section, and the person shall not be entitled to submit the findings of another examination in disciplinary or adjudicatory proceedings related to the violation.

(c) Upon determination by a board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may direct the Mayor to:

(1) Deny a license or certificate to an applicant;

(2) Revoke or suspend the license of any licensee or the certificate of a certified person, or may refuse to register a person;

(3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;

(4) Reprimand any licensee or person permitted by this subchapter to practice in the District;

(5) Impose a civil fine not to exceed $ 5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;

(6) Require a course of remediation, approved by the board, which may include:

(A) Therapy or treatment;

(B) Retraining; and

(C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;

(7) Require a period of probation; or

(8) Issue a cease and desist order pursuant § 47-2853.19 [repealed, see now § 47-2844.01].

(c-1) An applicant may be denied a license or certificate by reason of a conviction which bears directly on the fitness of the person to be licensed only after consideration by the Mayor of the following criteria:

(1) The specific duties and responsibilities necessarily related to the license sought;

(2) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more of the duties or responsibilities specified under paragraph (1) of this subsection;

(3) The time that has elapsed since the occurrence of the criminal offense or offenses;

(4) The age of the applicant at the time of occurrence of the criminal offense or offenses;

(5) The seriousness of the criminal offense or offenses;

(6) Any information produced by the applicant, or produced on his behalf, in regard to his rehabilitation and good conduct; and

(7) The legitimate interest in protecting property, and the safety and welfare of specific individuals or the general public.

(c-2) If a conviction of a criminal offense which bears directly on the fitness of the person to be licensed is the basis for denial of an application for a license or certificate under subsection (c) of this section, the denial shall be in writing and specifically state the evidence presented and reasons for the denial. A copy of the denial shall be provided to the applicant.

(d) Nothing in this subchapter shall preclude prosecution for a criminal violation of this subchapter regardless of whether the same violation has been or is the subject of one or more of the disciplinary actions provided by this subchapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative enforcement action.

(e) A person licensed to practice an occupation or profession in the District is subject to the disciplinary authority of the relevant board on the basis of disciplinary action taken by another jurisdiction if the basis of the disciplinary action would have caused a similar result in the District.

HISTORY: 1981 Ed., § 47-2853.17; Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; May 24, 2005, D.C. Law 15-357, § 202(b), 52 DCR 1999.

NOTES:
SECTION REFERENCES. --This section is referenced in § 47-2853.08 and § 47-2853.48.

EFFECT OF AMENDMENTS. --D.C. Law 15-357 rewrote (a)(5); and added (c-1) and (c-2).

LEGISLATIVE HISTORY OF LAW 12-261. --See note to § 47-2851.01.

LEGISLATIVE HISTORY OF LAW 15-357. --See note to § 47-2853.12.

§47-2853.18. SUMMARY SUSPENSION OR RESTRICTION OF LICENSE.

(a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the health and safety of persons in the District, the Mayor may summarily suspend or restrict, without a hearing, the license to practice an occupation or profession.

(b) The Mayor, at the time of the summary suspension or restriction of a license, shall provide the licensee with written notice stating the action that is being taken, the basis for the action, and the right of the licensee to request a hearing.

(c) A licensee shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of license. The board shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every decision and order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The relevant board shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

(e) Any person aggrieved by a final summary action may file an appeal in accordance with subchapter I of Chapter 15 of Title 1.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.19. CEASE AND DESIST ORDERS.

Repealed.

HISTORY: 1981 Ed., § 47-2853.19; Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Apr. 4, 2006, D.C. Law 16-81, § 5(d), 53 DCR 1050.

NOTES:
LEGISLATIVE HISTORY OF LAW 16-81. --Law 16-81, the "Nuisance Abatement Reform Amendment Act of 2006," was introduced in Council and assigned Bill No. 16-80. The Bill was adopted on first and second readings on Dec. 6, 2006, and Jan. 4, 2006, respectively. Signed by the Mayor on Jan. 26, 2006, it was assigned Act No. 16-267 and transmitted to Congress for its review. D.C. Law 16-81 became effective on Apr. 4, 2006.

EDITOR'S NOTES. --For present law, see § 47-2844.01.

[Repealed]

§47-2853.20. VOLUNTARY SURRENDER OF LICENSE.

(a) Any person who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may voluntarily surrender his or her registration, license, or certificate to practice in the District, but only by delivering to the Mayor an affidavit stating that the person desires to surrender the registration, license, or certificate and that the action is freely and voluntarily taken, and not the result of duress or coercion.

(b) Upon receipt of the required affidavit, the Mayor shall enter an order revoking or suspending the registration, license, or certificate of the person.

(c) The voluntary surrender of a registration, license, or certificate shall not preclude the imposition of civil or criminal penalties against the licensee.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.21. VOLUNTARY LIMITATION OR SURRENDER; CONFIDENTIALITY.

(a) (1) An registration, license, or certificate issued under this subchapter may be voluntarily limited by the licensee or certificate holder either:

(A) Permanently;
(B) For an indefinite period of time to be restored at the discretion of the board regulating the occupation or profession; or

(C) For a definite period of time under an agreement between the licensee or certificate holder and the board.

(2) During the period of time that the license or certificate has been limited, the licensee or certificate holder shall not engage in the practices or activities to which the voluntary limitation of practice relates.

(3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee or certificate holder to do one or more of the following:

(A) Accept care, counseling, or treatment by a health professional acceptable to the board;

(B) Participate in a program of education prescribed by the board; and

(C) Practice under the direction of a licensed or certified person in the same or a similar occupation or profession acceptable to the board for a specified period of time.

(b) (1) Any license or certificate issued under this subchapter may be voluntarily surrendered to the board by the licensee or certificate holder either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the occupation or profession; or

(C) For a definite period of time under an agreement between the licensee or certificate holder and the board.

(2) During the period of time that the license or certificate has been surrendered, the person surrendering the license or certificate shall not practice, attempt to practice, or offer to practice the occupation or profession for which the license or certificate is required, shall be considered as not licensed or certified, and shall not be required to pay the fees for licensing or certification.

(c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license under this section shall be confidential.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.22. HEARINGS; FINAL DECISION.

(a) Before a board denies an applicant a registration, license, or certificate, revokes or suspends a registration, license, or certificate, reprimands a licensee or certificate holder, imposes a civil fine, requires a course of remediation or a period of probation, or denies an application for reinstatement, it shall give the person against whom the action is contemplated an opportunity for a hearing before the board except where the denial of the license is based solely on an applicant's failure to meet minimum age, education, or experience requirements, pass a required examination, pay the applicable fees established by the board, or where there are no material facts at issue.

(b) A board, at its discretion, may request the applicant, licensee or certificate holder to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) Except to the extent that this subchapter specifically provides otherwise, a board shall give notice and hold the hearing in accordance with subchapter I of Chapter 15 of Title 1.

(d) The hearing notice to be given to the person shall be sent by certified mail to the last known address of the person at least 15 days before the hearing.

(e) The person may be represented at the hearing by counsel.

(f) (1) A board may administer oaths and require the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) A board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by the person against whom an action is contemplated.

(3) In case of contumacy by or refusal to obey a subpoena issued by the board to any person, the board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, a board may hear and determine the matter.

(h) A board shall issue its final decision in writing within 90 days after conducting a hearing.

(i) A board may delegate its authority under this subchapter to hold hearings and issue final decisions to a panel of 3 or more members of the board. Final decisions of a hearing panel shall be considered final decisions of the board for purposes of appeal to the District of Columbia Court of Appeals, except that the person against whom an action is contemplated may ask for a rehearing before the full board. If a rehearing before the full board is requested, no appeal to the District of Columbia Court of Appeals shall be permitted until the full board has issued a ruling.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.23. APPEAL AND REVIEW.

Any person aggrieved by a final decision of a board may appeal the decision to the District of Columbia Court of Appeals pursuant to § 1-1510.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.24. REINSTATEMENT OF SUSPENDED OR REVOKED LICENSE.

(a) Except as provided in subsection (b) of this section, a board may reinstate the license or privilege of a person whose license or privilege has been suspended or revoked by the board only in accordance with:

(1) The terms and conditions of the order of suspension or revocation; or

(2) A final judgment or order in any proceeding for review.

(b) (1) If an order of suspension or revocation was based on the conviction of a crime which bears directly on the fitness of the person to be licensed, and the conviction subsequently is overturned at any stage of an appeal or other post-conviction proceeding, the suspension or revocation shall end when the conviction is overturned.

(2) After the process of review is completed, the clerk of the court issuing the final disposition of the case shall notify the board or the Mayor of that disposition.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.25. LICENSES AND CERTIFICATES ISSUED PRIOR TO THIS SUBCHAPTER.
Any person who has been properly licensed or certified under any prior law or regulation of the District, has a valid license or certificate, and on the effective date of this subchapter is in the active practice of the occupation or profession for which he or she has been licensed or certified shall be deemed qualified to practice that occupation or profession, notwithstanding that such person does not meet the qualifications for licensure or certification set forth in this subchapter. The person shall be eligible to renew that license or certificate and continue to practice that occupation or profession as long as all current requirements for licensure or certification are met and unless disciplined as provided in this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.26. FALSE REPRESENTATION OF AUTHORITY TO PRACTICE.

Unless authorized to practice an occupation or profession under this subchapter, a person shall not represent to the public by title, description of services, methods, or procedures, or otherwise that this person is authorized to practice that occupation or profession in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.27. FINES AND PENALTIES; CRIMINAL VIOLATIONS.
(a) Any person who violates any provision of this subchapter shall, upon conviction, be subject to imprisonment not to exceed one year, a fine not to exceed $10,000, or both.
(b) Any person who has been previously convicted under this subchapter shall, upon conviction, be subject to imprisonment not to exceed one year, a fine not to exceed $25,000, or both.
(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§ 47-2853.28. Prosecutions

(a) Prosecutions for violations of this subchapter shall be brought in the name of the District of Columbia by the Attorney General for the District of Columbia.

(b) In any prosecution brought under this subchapter, any person claiming an exemption from regulation under this subchapter shall have the burden of providing entitlement to the exemption.

HISTORY: 1981 Ed., § 47-2853.28; Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; May 26, 2004, Mayor's Order 2004-92, § 4, 51 DCR 6052; April 13, 2005, D.C. Law 15-354, § 73(l)(9), 52 DCR 2638.

NOTES:
EFFECT OF AMENDMENTS. --D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel" in (a).

LEGISLATIVE HISTORY OF LAW 12-261. --See note to § 47-2851.01.

LEGISLATIVE HISTORY OF LAW 15-354. --See note to § 47-2820.

§ 47-2853.29. FINES AND PENALTIES; CIVIL ALTERNATIVES.

Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 27 of Title 6.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§ 47-2853.30. Injunctions; unlawful practices.

(a) The Attorney General for the District of Columbia may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful practice of any occupation or profession or any other action which is grounds for the imposition of a criminal penalty or disciplinary action under this subchapter.

(b) Remedies under this section are in addition to criminal prosecution or any disciplinary action by a board.

(c) In any proceeding under this section, it shall not be necessary to prove that any person is personally injured by the action or actions alleged.

HISTORY: 1981 Ed., § 47-2853.30; Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; May 26, 2004, Mayor's Order 2004-92, § 4, 51 DCR 6052; April 13, 2005, D.C. Law 15-354, § 73(l)(10), 52 DCR 2638.

NOTES:
EFFECT OF AMENDMENTS. --D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel" in (a).

LEGISLATIVE HISTORY OF LAW 12-261. --See note to § 47-2851.01.

LEGISLATIVE HISTORY OF LAW 15-354. --See note to § 47-2820.

SUBPART K. PROPERTY MANAGERS.

§47-2853.141. SCOPE OF PRACTICE FOR PROPERTY MANAGERS.
For the purposes of this subpart, the term "property manager" means an agent for the owner of real estate in all matters pertaining to property management as defined in this subchapter, which are under his or her direction, and who is paid a commission, fee, or other valuable consideration for his or her services. A property manager may employ resident managers. The property manager shall be held accountable for the day-to-day job-related activities of the property manager's employees. The property manager shall not perform any activities that relate to listing for sale, offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, or negotiating a loan on real estate for a fee, commission, or other valuable consideration.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.142. ELIGIBILITY REQUIREMENTS.

(a) An applicant for licensure as a property manager shall establish to the satisfaction of the Board of Real Estate that the applicant:

(1) Is able to read, write, and understand the English language;

(2) Has passed an examination or examinations given by or under the direction of the Board, or any other examination acceptable to the Board;

(3) Is a high school graduate or the holder of a high school equivalency certificate;

(4) Has not had an application for a property manager's license denied, for reasons other than failure to pass the required examination or examinations, in the District or elsewhere within one year prior to the date on which the application is filed;

(5) Has not had a property manager's license suspended in the District or elsewhere which suspension is still in effect on the date on which the application is filed; and

(6) Has not had a property manager's license revoked in the District or elsewhere within 3 years prior to the date on which his or her application is filed.

(b) Persons licensed as real estate brokers in the District are deemed to have satisfied the educational and examination requirements for licensure as property managers, but shall be required to satisfy all other requirements as set forth in this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.143. CERTAIN REPRESENTATIONS PROHIBITED.

Unless licensed under this subchapter, no person shall use the term or words "property manager" to imply that he or she is licensed as a property manager in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

SUBPART M. REAL ESTATE BROKERS.

§47-2853.161. SCOPE OF PRACTICE FOR REAL ESTATE BROKERS.

For the purposes of this subpart, the term "real estate broker" means any person, firm, association, partnership, or corporation (domestic or foreign) which:

(1) For a fee, commission, or other valuable consideration, lists for sale, or sells, exchanges, purchases, rents, or leases real property. A real estate broker may collect or offer to collect rent or income for the use of real estate, or negotiate a loan secured by a mortgage, deed of trust, or other encumbrance upon the transfer of real estate. A real estate broker may also engage in the business of erecting housing for sale and may sell or offer to sell that housing, or who as owner may sell or, through solicitation or advertising, offer to sell or negotiate the sale of any lot in any subdivision of land comprising 5 lots or more. This definition shall not apply to the sale of space for the advertising of real estate in any newspaper, magazine, or other publication; and

(2) May employ real estate brokers, associate real estate brokers, real estate salespersons, property managers and resident managers. The real estate broker shall be held accountable for the day-to-day job-related activities of his or her employees. These activities include, but are not limited to, property management, leasing or renting of property, listing for sale, buying or negotiating the purchase or sale, or exchanging real estate or negotiating a loan on real property.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.162. ELIGIBILITY REQUIREMENTS.

An applicant for licensure as a real estate broker shall establish to the satisfaction of the Board of Real Estate that the applicant:

(1) Meets all of the requirements for real estate salesperson under subpart N of this subchapter, and

(2) Has been licensed and actively engaged in business as a real estate broker or salesperson in the District or elsewhere the 2 years immediately preceding the date on which the application for a real estate broker license is filed, or equivalent experience acceptable to the Board.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 2801.

§47-2853.163. CERTAIN REPRESENTATIONS PROHIBITED.

Unless licensed under this subchapter, no person shall assume or use the title or designation "real estate broker", the abbreviation "R.E.B.", or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is licensed as a real estate broker in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

SUBPART N. REAL ESTATE SALESPERSONS

§47-2853.171. SCOPE OF PRACTICE FOR REAL ESTATE SALESPERSONS.
For the purposes of this subpart, the term "real estate salesperson" means any person employed by a licensed real estate broker to manage or lease; rent or offer to lease or rent; list for sale, sell, or offer for sale; buy or offer to buy; negotiate the purchase or sale, or exchange of real estate; or to negotiate a loan on real estate.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.172. ELIGIBILITY REQUIREMENTS.

An applicant for licensure as a real estate broker shall establish to the satisfaction of the Board of Real Estate that the applicant:

(1) Is able to read, write, and understand the English language;

(2) Is a high school graduate or the holder of a high school equivalency certificate;

(3) Has successfully completed a course of study prescribed by the Board at a school approved by the Board;

(4) Has passed an examination or examinations given by or under direction of the Board or has passed any other examination acceptable to the Board;

(5) Has not had an application for a real estate license denied, for reasons other than failure to pass the required examination or examinations, in the District or elsewhere within one year prior to the date on which the application is filed;

(6) Has not had a real estate license suspended in the District or elsewhere, which suspension is still in effect on the date on which the application is filed; and

(7) Has not had a real estate license revoked in the District or elsewhere within 3 years prior to the date on which his or her application is filed.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.173. CERTAIN REPRESENTATIONS PROHIBITED.

Unless licensed under this subchapter, no person shall assume or use the title or designation "real estate salesperson", the abbreviation "R.E.S.", or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is licensed as a real estate salesperson unless the person is licensed as a real estate salesperson in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

SUBPART O. SPECIAL RULES FOR REAL ESTATE BROKERS, REAL ESTATE SALESPERSONS, AND PROPERTY MANAGERS.

§47-2853.181. EXEMPTIONS FROM LICENSURE REQUIREMENT.

Except as otherwise provided in this subchapter, nothing contained in this subpart shall be construed to apply to:

(1) Receivers, referees, administrators, executors, guardians, conservators, trustees, or other persons appointed or acting under the judgment or order of any court while acting in that capacity, or attorneys-at-law in the ordinary practice of their profession, but these persons shall not be regularly engaged in the real estate business and shall not hold themselves out as real estate brokers, salespersons or property managers;

(2) Any individual who, as an owner or lessor of real estate, shall perform any of the acts specified in this subsection, where the acts are performed in the regular course of, or incident to, the management of real estate, business and the investments therein owned by that individual;

(3) Any trustee or auctioneer acting under authority of a power of sale in a mortgage, deed of trust, or similar instrument securing the payment of a bona fide debt;

(4) Except for title companies, any bank, trust company, building and loan or savings and loan association, or insurance company, having a fiduciary interest such as a receiver, referee, administrator, executor, guardian, conservator or trustee, when the bank, trust company, building and loan or savings and loan association, or insurance company is so engaged;

(5) Any person who is employed by a licensed real estate broker or property manager in a solely stenographic or clerical capacity and who does not perform, offer, agree, or attempt to perform, any of the activities specified in this subsection;

(6) Any officer or employee of the United States or District government while performing his or her official duties, or any person, or employee thereof, who is employed on a contractual or other basis, by the United States or District government to make appraisals of real estate for real property tax or other government purposes;

(7) Any person who, for a fee, commission, or other valuable consideration, identifies for another person, or provides any other information about, any rental unit available for rent; or

(8) Any qualifying nonprofit housing organization as defined by § 47-3503(a).

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 47-2853.181.
Emergency Act Amendments
For temporary (90 day) amendment of section, see § 2(n) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

Legislative History of Laws
For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

§47-2853.182. TRANSFER OF LICENSE; CHANGE OF STATUS.

(a) A license issued to a real estate broker, real estate broker or property manager shall not be transferred to another person.

(b) A person licensed as a real estate broker may, upon written request to the Mayor, change his or her status from that of a real estate broker to that of a member, partner, trustee, or officer of a firm, franchise, partnership, association, or corporation, or to that of an associate real estate broker with a corporation, for any unexpired portion of his or her licensure term, upon the payment of the requisite fees required pursuant to this subchapter.

(c) Any broker who wishes to change his or her status to that of an associate real estate broker shall notify the Board of Real Estate by certified mail.

(d) For the purposes of this subpart, the term "associate real estate broker" means any person licensed under this subchapter as a broker who is employed by a real restate broker, franchise firm, association, business, or corporation, but who is not a partner, an officer, or a principal broker within a licensed legal entity.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.183. LICENSURE OF REAL ESTATE ORGANIZATIONS.

No real estate broker's license shall be issued to any firm, franchise, partnership, association, or corporation unless the Mayor finds that:

(1) The applicant is organized and exists pursuant to applicable District and federal laws;

(2) Every person member, partner, trustee, or officer who is engaged in activities defined in this subsection is licensed under this subchapter;

(3) Every employee who will render professional services holds a valid license or certificate issued by the Board; and

(4) Every branch office is managed by a licensed real estate broker.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.184. PLACE OF BUSINESS.

(a) If a real estate broker maintains more than one place of business within the district, a duplicate license shall be issued to the broker for each office upon payment of the required fee. A copy of the license must be posted within each office.

(b) Whenever a real estate broker changes the location of his or her principal place of business, or discontinues his or her business, he or she shall notify the Mayor within 15 days of the event, in writing, and return to the Mayor his or her license together with the licenses of all real estate salespersons employed by him or her. The Mayor shall issue a new license to the broker upon payment of the required fee. A salesperson shall be issued a new license upon reemployment and payment of the required fees.

(c) Failure to notify the Mayor or to return the license as required by this section will result in immediate suspension of the license until the real estate broker has complied with the provisions of this section.

(d) New licenses for the unexpired term may be issued by the Mayor upon written request by the applicant and the payment of the fees required pursuant to this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.185. PROHIBITED NAMES.

The Mayor may refuse to issue, renew, or transfer a license in a name that:

(1) Is misleading or would constitute false advertising;

(2) Implies a partnership, association, or corporation when a partnership, association, or corporation does not exist;

(3) Includes the name of a salesperson;

(4) Is in violation of law;

(5) Is a name which has been used by any person whose license has been suspended;

(6) Includes the name of a person not otherwise licensed; or

(7) Is a name which is deceptively similar to a name used by any other licensee.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.186. AUTOMATIC SUSPENSION OF LICENSE THROUGH AFFILIATION.

(a) Whenever a real estate broker's license has been suspended or revoked pursuant to this subchapter, all real estate salespersons employed by that real estate broker must mail their licenses to the Mayor within 15 days of the revocation or suspension. It shall be unlawful for the real estate salesperson to perform any of the acts specified in this subchapter from the date of revocation or suspension until he or she has been reemployed and a license has been reissued to him or her by the Mayor.

(b) When a real estate salesperson is discharged or terminates his or her employment with a licensee, the licensee, within 15 calendar days, shall mail notification to the former employee that his or her license has been mailed to the Mayor. A copy of the notice to the real estate salesperson shall accompany the license when it is mailed to the Mayor. It shall be unlawful for any real estate salesperson to perform any of the acts specified in this subchapter, under authority of the license issued pursuant to this subchapter, from the date of discharge or termination until the time he or she is employed by another licensee and a license is reissued to him or her by the Mayor.

(c) When a real estate salesperson is discharged by or terminates his employment with a licensee it shall be the duty of the real estate salesperson to notify the Mayor in writing within 15 days. It shall be unlawful for the real estate salesperson to perform any of the acts specified in this statute from the date of discharge or termination until he or she has been employed by another licensee and a license is reissued to him or her by the Mayor.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.187. EFFECT OF CORPORATE, PARTNERSHIP, OR ASSOCIATION LICENSE REVOCATION OR SUSPENSION.

In the event of the revocation or suspension of a license issued to a real estate firm, franchise, partnership, association, or corporation, the license issued to the principal real estate broker, or any member of a partnership or director or officer of an association or corporation, shall be summarily revoked or suspended by the Mayor, unless:

(1) In a partnership, the connection with the member whose license has been revoked or suspended is severed within the time prescribed by the Mayor, and his or her participation in the partnership's activities is terminated; or

(2) In an association or corporation, the director or officer whose license has been revoked or suspended is discharged and he or she has no further participation in the association's or corporation's activities.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

SUBPART P. DUTIES OF REAL ESTATE BROKERS, SALESPERSONS, AND PROPERTY MANAGERS

§47-2853.191. FIDUCIARY DUTIES WHEN REPRESENTING A SELLER.
Subpart P. Duties of Real Estate Brokers, Salespersons, and Property Managers.

(a) A licensee engaged by a seller shall:

(1) Perform in accordance with the terms of the brokerage relationship;

(2) Promote the interests of the seller by:

(A) Seeking a sale at the price and terms agreed upon in the brokerage relationship or at a price and terms acceptable to the seller; however, the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract of sale, unless agreed to as part of the brokerage relationship or as the contract of sale so provides;

(B) Presenting in a timely manner all written offers or counter-offers to and from the seller, even when the property is already subject to a contract of sale;

(C) Disclosing to the seller material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(D) Accounting for in a timely manner all money and property received in which the seller has or may have an interest;

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the seller consents in writing to the release of such information;

(4) Exercise ordinary care; and

(5) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a seller shall treat all prospective buyers honestly and shall not knowingly give them false information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a buyer for providing false information to the buyer if the false information was provided to the licensee by the seller and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law.

(c) A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a buyer or potential buyer by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subpart O and § 47-2853.197 shall not be construed to violate the licensee's brokerage relationship with the seller unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such buyer or potential buyer.

(d) A licensee engaged by a seller does not breach any duty or obligation owed to the seller by showing alternative properties to prospective buyers, whether as clients or customers, or by representing other sellers who have other properties for sale.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3412.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.192. FIDUCIARY DUTIES WHEN REPRESENTING A BUYER.

(a) A licensee engaged by a buyer shall:

(1) Perform in accordance with the terms of the brokerage relationship;

(2) Promote the interests of the buyer by:

(A) Seeking a property at a price and terms acceptable to the buyer, but, the licensee shall not be obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase property unless agreed to as part of the brokerage relationship;

(B) Presenting in a timely manner all written offers or counteroffers to and from the buyer, even when the buyer is already a party to a contract to purchase property;

(C) Disclosing to the buyer material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall modify or limit in any way the provisions of § 45-1936(f); and

(D) Accounting for in a timely manner all money and property received in which the buyer has or may have an interest;

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the buyer consents in writing to the release of such information;

(4) Exercise ordinary care; and

(5) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a buyer shall treat all prospective sellers honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. In the case of a residential transaction, a licensee engaged by a buyer shall disclose to a seller the buyer's intent to occupy the property as a principal residence.

(c) A licensee engaged by a buyer in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to the seller, or prospective seller, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subpart O, § 47-2853.197, and this section shall not be construed to violate the licensee's brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the seller.

(d) A licensee engaged by a buyer does not breach any duty or obligation to the buyer by showing properties in which the buyer is interested to other prospective buyers, whether as clients or customers, by representing other buyers looking at the same or other properties, or by representing sellers relative to other properties.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of § 47-2853.193.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.193. FIDUCIARY DUTIES WHEN REPRESENTING A LANDLORD OF LEASED PROPERTIES.

(a) A licensee engaged by a landlord to lease property shall:

(1) Perform in accordance with the terms of the brokerage relationship;

(2) Promote the interests of the landlord by:

(A) Seeking a tenant at the price and terms agreed in the brokerage relationship or at a price and terms acceptable to the landlord; however, the licensee shall not be obligated to seek additional offers to lease the property while the property is subject to a lease or a letter of intent to lease under which the tenant has not yet taken possession, unless agreed as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

(B) Presenting in a timely manner all written offers or counteroffers to and from the landlord, even when the property is already subject to a lease or a letter of intent to lease;

(C) Disclosing the landlord material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(D) Accounting for in a timely manner all money and property received in which the landlord has or may have an interest;

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the landlord consents in writing to the release of such information;

(4) Exercise ordinary care; and

(5) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a landlord to lease property shall treat all prospective tenants honestly and shall not knowingly give them false information. A licensee engaged by a landlord shall disclose to prospective tenants all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a tenant for providing false information to the tenant if the false information was provided to the licensee by the landlord and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. Nothing in this subsection shall limit the right of a prospective tenant to inspect the physical

condition of the property. Nothing in this section shall modify or limit in any way the provisions of § 45-1936(f).

(c) A licensee engaged by a landlord in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a tenant, or potential tenant, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subpart O of this subpart shall not be construed to violate the licensee's brokerage relationship with the landlord unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such tenant or potential tenant.

(d) A licensee engaged by a landlord does not breach any duty or obligation owed to the landlord by showing alternative properties to prospective tenants, whether as clients or customers, or by representing other landlords who have other properties for lease.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.194. FIDUCIARY DUTIES WHEN REPRESENTING A TENANT.

(a) A licensee engaged by a tenant shall:

(1) Perform in accordance with the terms of the brokerage relationship;

(2) Promote the interests of the tenant by:

(A) Seeking a lease at a price and with terms acceptable to the tenant; however, the licensee shall not be obligated to seek other properties for the tenant while the tenant is a party to a lease or letter of intent to lease exists under which the tenant has not yet taken possession, unless agreed to as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

(B) Presenting in a timely fashion all written offers or counter-offers to and from the tenant, even when the tenant is already a party to a lease or a letter of intent to lease;

(C) Disclosing to the tenant material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall amend or limit in any way the provisions of § 42-1755(f) [repealed]; and

(D) Accounting for in a timely manner all money and property received in which the tenant has or may have an interest.

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the tenant consents in writing to the release of such information;

(4) Exercise ordinary care; and

(5) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a tenant shall treat all prospective landlords honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law.

(c) A licensee engaged by a tenant in a real estate transaction may provide assistance to the landlord or prospective landlord by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the tenant unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the landlord or prospective landlord.

(d) A licensee engaged by a tenant does not breach any duty or obligation to the tenant by showing properties in which the tenant is interested to other prospective tenants, whether as clients or customers, by representing other tenants looking for the same or other properties to lease, or by representing landlords relative to other properties.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.195. FIDUCIARY DUTIES OF A PROPERTY MANAGER.

(a) A licensee engaged to manage real estate shall:

(1) Perform in accordance with the terms of the property management agreement;

(2) Exercise ordinary care;

(3) Disclose in a timely manner to the owner material facts of which the licensee has actual knowledge concerning the property;

(4) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the owner consents in writing to the release of such information;

(5) Account, for in a timely manner, all money and property received in which the owner has or may have an interest; and
(6) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) Except as provided in the property management agreement, a licensee engaged to manage real estate does not breach any duty or obligation to the owner by representing other owners in the management of other properties.

(c) A licensee engaged to manage real estate may also represent the owner as seller or landlord if he or she enters into a brokerage relationship what so provides; in which case, the licensee shall disclose such brokerage relationships pursuant to the provisions of this section.

(d) Prior to entering any brokerage relationship provided for in this section, a licensee shall advise the prospective client of the type of brokerage relationship proposed by the broker, and the broker's compensation, and whether the broker will share such salary or compensation with another broker who may have a brokerage relationship with another party to the transaction.

(e) The brokerage relationships set forth in this section shall commence at the time that a client engages a licensee and shall continue until (1) completion of performance in accordance with the brokerage relationship; or (2) the earlier of (A) any date of expiration agreed upon by the parties as part of the brokerage relationship or in any amendments thereto; (B) any mutually agreed upon termination of the relationship; (C) a default by any party under the terms of the brokerage relationship; or (D) a termination as set forth in § 47-2853.197(4).

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.196. GENERAL PROVISIONS GOVERNING DISCLOSURE OF BROKERAGE RELATIONSHIPS.

(a) Brokerage relationships shall have a definite termination date; however, if a brokerage relationship does not specify a definite termination date, the brokerage relationship shall terminate 90 days after the date the brokerage relationship was entered into.

(b) Except as otherwise agreed to in writing, a licensee owes no further duties to a client after termination, expiration, or completion of performance of the brokerage relationship, except to account for all moneys and property relating to the brokerage relationship, and keep confidential all personal and financial information received from the client during the course of the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the client consents in writing to the release of such information.

(c) Upon having a substantive discussion about a specific property or properties with an actual or prospective buyer or seller who is not the client of the licensee, a licensee shall disclose any broker relationship the licensee has with another party to the transaction. The

disclosure shall be made in writing at the earliest practical time, but in no event later than the time when specific real estate assistance is first provided, and shall be substantially in the form determined by the Board by regulation.

(d) A licensee shall disclose to an actual or prospective landlord or tenant, who is not the client of the licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. The disclosure shall be in writing and included in all applications for lease or in the lease itself, whichever occurs first. If the terms of the lease do not provide for disclosure, disclosure shall be made in writing no later than the signing of lease. This disclosure requirement shall not apply to lessors or lessees in single or multifamily residential units for lease terms of less than 2 months.

(e) If a licensee's relationship to a client or customer changes, the licensee shall disclose that fact in writing to all clients and customers already involved in the specific contemplated transaction.

(f) Copies of any disclosures relative to fully executed purchase contracts shall be kept by the licensee for a period of 3 years as proof of having made disclosure, whether or not such disclosure is acknowledged in writing by the party to whom the disclosure was shown or given.

(g) A licensee may act as a dual representative only with the written consent of all clients to the transaction. The written consent and disclosure of the brokerage relationship as required by this section shall be presumed to have been given as against any client who signs a disclosure as provided in this section.

(h) The disclosure may be given in combination with other disclosures or provided with other information, but shall be substantially in the form determined by the Board by regulation.

(i) No cause of action shall arise against a dual representative for making disclosures of brokerage relationship as provided by this section. A dual representative does not terminate any brokerage relationship by the making of any such allowed or required disclosures of dual representation.

(j) In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual representation, thereby terminating the brokerage relationship with such client. Withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction nor to limit the licensee from representing the client who refused the dual representation in other transactions not involving dual representation.

(k) A principal or supervising broker may assign different licensees affiliated with the broker as designated representatives to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of designated representatives shall not constitute dual representation if a designated representative is not representing more than one client in a particular real estate transaction; however, the principal or broker who is

supervising the transaction shall be considered a dual representative as provided in this article. Designated representatives may not disclose, except to the affiliated licensee's broker, personal or financial information received from the clients during the brokerage relationship and any other information that the client requests during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents in writing to the release of such information.

(l) Use of designated representatives in a real estate transaction shall be disclosed in accordance with the provisions of this section. Disclosure may be given in combination with other disclosures or provided with other information, but shall be substantially in the form determined by the Board by regulation.

(m) The payment or promise of payment or compensation to a real estate broker or property manager does not create a brokerage relationship between any broker, seller, landlord, buyer or tenant.

(n) No licensee representing a buyer or tenant shall be deemed to have a brokerage relationship with a seller, landlord, or other licensee solely by reason of using a common source information company.

(o) A client is not liable for a misrepresentation made by a licensee in connection with a brokerage relationship, unless the client knew or should have known of the misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of any property manager, broker, or broker's licensee.

(p) A licensee who has a brokerage relationship with a client and who engages another licensee to assist in providing brokerage services to such client shall not be liable for a misrepresentation made by the other licensee, unless the licensee knew or should have known of the other licensee's misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of the assisting licensee or assisting licensee's licensee.

(q) Clients and licensees shall be deemed to possess actual knowledge and information only. Knowledge or information between or among clients and licensees shall not be imputed.

(r) The common law of agency relative to brokerage relationships in real estate transactions to the extent inconsistent with this section shall be expressly abrogated.

(s) Nothing in this subpart shall limit the liability between or among clients and licensees in all matters involving unlawful discriminatory housing practices.

(t) Except as expressly set forth in this subchapter, nothing in this title shall affect a person's right to rescind a real estate transaction or limit the liability of a client for the misrepresentation, negligence, gross negligence, or intentional acts of such client in connection with a real estate transaction, or a licensee for the misrepresentation,

negligence, gross negligence, or intentional acts of such licensee in connection with a real estate transaction.

(u) The criminal penalties provided in § 45-1946 shall not be applicable to violations of this section, which shall be civil and regulatory in nature.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.197. PROHIBITED ACTS.

In addition to those acts prohibited by other sections of this subchapter, a real estate broker, real estate salesperson or property manager may be subject to disciplinary action, and fines not to exceed $2,500 per violation, if he or she has:

(1) Made any substantial misrepresentation;

(2) Made any false promise of a character likely to influence, persuade, or induce;

(3) Pursued a continued and flagrant course of misrepresentation, or made false promises through agents or salespersons, or advertisement or otherwise;

(4) Acted, as a broker or salesperson, for more than one party in a transaction without the knowledge of all parties for whom he or she acted;

(5) As a property manager, disclosed to a third party confidential information which would be injurious concerning the business or personal affairs of a client without prior written consent of the client, except as may be required or compelled by applicable law or rules;

(6) Accepted a fee, commission, or other valuable consideration as a real estate salesperson for the performance of any of the acts specified in this subchapter from any person, except the broker under whose name he or she is or was licensed at the time the fee, commission, or other valuable consideration was earned;

(7) As a property manager, failed to maintain accurate accounting records concerning the property managed for the client and failed to keep the records available for inspection by each client;

(8) Represented or attempted to represent any real estate broker, other than the broker under whose name he or she is licensed, as a real estate salesperson without the express knowledge and written consent of the broker under whose name he or she is licensed;

(9) Placed an advertisement in any publication, or used a sign or business card which was misleading or which constituted false advertising;

(10) Failed, without a reasonable time, to account for or to remit any money, valuable document, or other property coming into his or her possession which belongs to others;

(11) Demonstrated unworthiness or incompetency to act as a real estate broker and real estate salesperson so as to endanger the public interest;

(12) While acting or attempting to act as agent or broker, purchased or attempted to purchase any business or real estate for himself or herself, either in his or her own name or by use of a straw party, without disclosing that fact to the party he or she represents;

(13) Been guilty of any other conduct, whether of the same or of a different character from that prescribed in this section, which constituted fraudulent or dishonest dealing;

(14) Used any trade name or insignia of membership in any real estate organization of which the licensee is not a member;

(15) Disregarded or violated any provision of this subchapter, the rules issued pursuant to this subchapter, or the code of ethics adopted pursuant to this subchapter;

(16) Guaranteed, authorized, or permitted any broker or salesperson to guarantee future profits which may result from the resale of real estate or a business or business opportunity, or the goodwill of any existing business;

(17) Offered any property for rent or otherwise without the written consent of the owner or the owner's authorized agent;

(18) Offered any property or business for sale or rent or placed a sign on any real estate offering it for sale or for rent without the written consent of the owner or his or her authorized agent;

(19) Made or accepted a listing contract to sell real estate or a business unless the contract is in writing and provided for a definite termination date which is not subject to prior notice from either party;

(20) Failed to furnish a copy of any listing, sale, lease, or other contract relevant to a real estate or business transaction to all signatories thereof at the time of execution;

(21) Accepted compensation from more than one party to a transaction without the knowledge and consent of all other parties to the transaction;

(22) Failed to keep an escrow or trustee accounting of funds deposited with him or her relating to real estate and business transactions, and to maintain records for a period of 3 years, showing to whom the money belongs, the date of deposit, the date of withdrawal, to whom paid, and other pertinent information as the Board may require by regulation; the records to be made available to the Board on demand or upon written notice given to the depository;

(23) Commingled escrow or trustee funds held by the licensee with his or her personal funds, other than a nominal amount necessary to keep active the escrow or trustee account;

(24) Induced any party to a written agreement in a real estate or business sales transaction to break the agreement for the purpose of substituting a new agreement where the substitution is motivated by the personal gain of the concerned licensee;

(25) As a property manager, refused or prevented, directly or indirectly, a prospective lessee inspection of residential real estate upon reasonable request and scheduling for inspections, for the purpose of reviewing, examining, or having a third party examine the real estate and the conditions of its fixtures;

(26) Made any oral or written representations, at or prior to conveyance to a prospective lessee or residential real estate that repairs, renovations, improvements, installation, or additions will be made to the property after the conveyance unless all the representations are furnished in writing to the lessee at or prior to the conveyance of the premises;

(27) Failed to advise the Board in writing within 15 days of the entry of any judgment against the licensee in a civil or criminal proceeding by a court of competent jurisdiction;

(28) Failed, as a broker, to return immediately to the Mayor the license of a salesperson employed by the broker, wherein the salesperson has been discharged or has terminated his or her employment or affiliation with the broker;

(29) Failed, as a salesperson, to place in the custody of the employing broker, as soon after receipt as is practicable, all money, valuable documents, or other property entrusted to him or her by any person dealing with him or her as the representative of the broker;

(30) Accepted, offered, agreed, or attempted to accept, employment for a fee, commission, or other valuable consideration for appraising real estate or a business, contingent upon the reporting of a predetermined value;

(31) Issued an appraisal report on real estate or a business in which the licensee has an undisclosed interest;

(32) Violated, as determined by the Mayor or a court of competent jurisdiction, any provision of Chapter 14 of this title or the rules issued pursuant to that chapter.

(33) Violated, as determined by the District of Columbia Commission on Human Rights, as established by Commissioner's Order No. 71-224, effective July 18, 1971, the Mayor, or a court of competent jurisdiction, any provision of Chapter 25 of Title 1 or the rules issued pursuant to that chapter, or failed to comply with an order of the District of Columbia Commission on Human Rights as established by Commissioner's Order No. 71-224, effective July 8, 1071, pursuant to that chapter;

(34) Violated, as determined by the Department of Consumer and Regulatory Affairs, established by the Reorganization Plan No. 1 of 1983, effective March 31, 1983, the Mayor, or a court of competent jurisdiction, any provision of Chapter 39 of Title 28 of the District of Columbia Code, or the rules issued pursuant to that chapter, or failed to comply

with an order of the Department of Consumer and Regulatory Affairs or its administrative law judge;

(35) Made any oral or written representations, after or prior to conveyance, to a prospective buyer of a business or residential real estate that repairs, renovations, improvements, installations, or additions will be made to the business or real estate after the conveyance, or continued to act on behalf of a seller who made those representations, unless all the representations are furnished in writing to the buyer at least 5 days prior to the conveyance;

(36) Entered into or became a party to any contract, agreement, or understanding, or in any manner whatsoever considered, combined, conspired, or acted with another or others:

(A) To execute a deed or other instrument conveying real estate or a business or any interest therein situated in the District that is not a bona fide sale or transfer, but which is instead a simulated sale or transfer of the real estate, business, or interest therein executed for the purpose and with the intent of defrauding others or misleading others as to the value of the business, real estate or interest therein, and which does so mislead or defraud others, to their detriment; or

(B) To execute a mortgage, deed of trust, or chattel mortgage upon any real estate, business, or interest therein situated in the District that does not represent security for a bona fide indebtedness, but which is a simulated transaction, executed for the purpose and with the intent of misleading or deceiving others as to the value of a business, real estate, or interest therein and which does mislead, deceive, or defraud others to their detriment;

(37) Offered, gave, awarded, promised, used any method, scheme or plan, offering, giving, awarding or promising, free lots in connection with the sale or the offering for sale, or attempt to sell or negotiate the sale of any real estate, business, or interest therein, wherever situated, for the purpose of attracting, inducing, persuading, or influencing a purchaser or prospective purchaser; or offered, promised, or gave prizes of any name or nature for attendance at or participation in any sale of any real estate, business, or interest therein, by auction or otherwise including an owner of the real estate, business, or interest therein;

(38) Knowingly paid a fee, commission, or compensation to anyone for the performance of any service or act within the District defined in this subchapter as the act of a real estate broker or real estate salesperson to any person who was not duly licensed at the time the service or act was performed. This subsection shall not apply to the payment of a referral fee by a real estate broker licensed under this subchapter to a nonresident cooperating real estate broker who is properly licensed in his or her own jurisdiction; or

(39) Knowingly prepared, distributed, or circulated, or caused the preparation, distribution, or circulation of, any false or misleading advertising in connection with the sale, exchange, purchase, lease, or rental of real estate or business.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

§47-2853.198. ACTS NOT REQUIRED TO BE DISCLOSED.

Notwithstanding the possibility that a fact may have a psychological impact on a purchaser, lessee, or sublessee, it shall not be a material fact that must be disclosed in a real estate transaction, nor shall it be the basis for a cause of action against an owner of real property, a real estate broker, a real estate salesperson, a property manager, a lessee, or sublessee, that the following information was not disclosed to the purchaser, lessee, or sublessee:

(1) An occupant of real property, at any time, was infected or was or is suspected to have been infected with a human immune deficiency virus;

(2) An occupant of real property, at anytime, has been diagnosed, was infected, or was suspected to have been determined by medial evidence to be highly unlikely to be transmitted through occupancy of property alone; or

(3) The property, at any time, has been or was suspected to have been the site of a suicide, homicide, or other felony.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)
Legislative history of Law 12-261. – See note to § 47-2801.

TITLE 42. REAL PROPERTY.
SUBTITLE II. BROKERS AND REALTORS.
CHAPTER 17. REAL ESTATE BROKERS' DUTIES.

Sec.

42-1701. Purposes.
42-1702. Definitions.
42-1703. Duties of real estate brokers, salespersons, and property managers.
42-1704. Escrow accounts.
42-1705. Written listing contract required.
42-1706. Establishment of Real Estate Guaranty and Education Fund; Mayor to determine sum for deposit into Fund.
42-1707. Applications for payments from Fund; maximum payment; management of Fund.
42-1708. Additional criminal penalties.
42-1709. Savings clause.

§ 42-1701. Purposes.

The purposes of this subchapter are to protect the public against incompetence, fraud and deception in real estate transactions; to establish a Real Estate Guaranty and Educational Fund to compensate victims of unlawful real estate practices; and for other purposes.

(Mar. 10, 1983, D.C. Law 4-209, § 2, 30 DCR 390; Sept. 26, 1984, D.C. Law 5- 117, § 2(a), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(a), 46 DCR 3142.)

Prior Codifications
1981 Ed., § 45-1921.

Legislative History of Laws

Law 4-209, the "District of Columbia Real Estate Licensure Act of 1982," was introduced in Council and assigned Bill No. 4-230, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-299 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 5-117, see Historical and Statutory Notes following § 45-1929.1.

Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second reading on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615, and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Miscellaneous Notes

Applicability of chapter to District of Columbia Housing Authority: Section 13 of D.C. Law 10-243, the District of Columbia Housing Authority Act of 1994, provided:

Applicability of chapter to District of Columbia Housing Authority: "(a) The provisions of Chapter 17 of Title 42 shall not apply to the property managers of housing properties within the jurisdiction of the Authority. The activities of property managers of housing properties shall be regulated by the applicable statutes, rules, and regulations of the United States in effect on March 21, 1995.

"(b) Execution or other judicial process shall not issue against the real property of the Authority nor shall any judgment against the Authority be a charge or lien upon its real property. This section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage on property of the Authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees, and revenues."

§ 42-1702. Definitions.

For purposes of this subchapter:

(1) The term "advance fee" means any fee, commission, or other valuable consideration contracted for, claimed, demanded, charged, received, or collected prior to the listing, advertisement, or offer to sell or lease real estate, paid or offered to be paid for the purpose of promoting the sale or lease of real estate, or for referral to any real estate broker, salesperson, or both, other than by newspaper of general circulation.

(1A) The term "agency" means every relationship in which a real estate licensee acts for or represents a person by such person's express authority in a real estate transaction, unless a different legal relationship is intended and is agreed to as part of the brokerage relationship. Nothing in this subchapter shall prohibit a licensee and a client from agreeing in writing to

a brokerage relationship under which the licensee acts as an independent contractor or which imposes on a licensee obligations in addition to those provided in this subchapter. If a licensee agrees to additional obligations, however, the licensee shall be responsible for the additional obligations agreed to with the client in the brokerage relationship. A real estate licensee who enters into a brokerage relationship based upon a written contract which specifically states that the real estate licensee is acting as an independent contractor and not as an agent shall have the obligations agreed to by the parties in the contract, and such real estate licensee and its employees shall have no obligations under § 42-1703(a) through (e).

(1B) Repealed.

(2) Repealed.

(2A) The term "brokerage relationship" means the contractual relationship between a client and a real estate licensee who has been engaged by such client for the purpose of procuring a seller, buyer, option, tenant, or landlord ready, able, and willing to sell, buy, option, exchange, or rent real estate on behalf of a client, or for the purposes of managing real estate on behalf of a client.

(3) Repealed.

(3A) The term "client" means a person who has entered into a brokerage relationship with a licensee.

(4) The term "Board" means the Board of Real Estate established by the Non- Health Related Occupations and Professions Licensure Act of 1998.

(4A) The term "common source information company" means any person, firm, or corporation that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

(5) The term "Council" means the Council of the District of Columbia.

(5A) The term "customer" means a person who has not entered into a brokerage relationship with a licensee, but for whom a licensee performs ministerial acts in a real estate transaction. Unless a licensee enters into a brokerage relationship with such person, it shall be presumed that such person is a customer of the licensee rather than a client.

(5B) The term "designated agent" or "designated representative" means a licensee who has been assigned by a principal or supervising broker to represent a client when a different client is also represented by such principal or broker in the same transaction.

(6) The term "District" means the District of Columbia.

(6A) The term "dual agent" or "dual representative" means a licensee who has a brokerage relationship with both seller and buyer, or both landlord and tenant, in the same real estate transaction.

(6B) The term "escrow funds" means earnest money deposits for purchase of residential and commercial property and security deposits for rental of residential and commercial property.

(7) The term "Fund" means the Real Estate Guaranty and Education Fund established by § 42-1706.

(7A) The term "licensee" means, respectively, real estate brokers, salespersons and property managers, as defined in paragraphs (10) (property manager), (12) (real estate broker), and (13) (real estate salesperson) of this section, provided that nothing in § 42-1703 shall be deemed to modify the licensure requirements otherwise set forth in this subchapter.

(7B) The term "material fact" means information that, if known, would be likely to induce a reasonable person to enter into or not enter into or consummate a real estate transaction.

(8) The term "Mayor" means the Mayor of the District of Columbia or the Mayor's authorized representative.

(8A) The term "ministerial acts" means those routine acts which a licensee can perform for a person which do not involve discretion or the exercise of the licensee's own judgment.

(9) The term "person" means any individual, partnership, association, unincorporated business, firm, business trust, or corporation.

(10) Repealed.

(10A) Repealed.

(10B) The term "property management" means leasing, renting or offering to lease or rent, managing, marketing, and the overall operation and maintenance of real estate. The term "property management" includes the physical, administrative, and fiscal management of any real property serviced by a licensee, or his or her employee or agent.

(10C) The term "psychological impact" means any fact or suspicion with respect to circumstances, other than the physical condition of the property, that creates a fear, belief, or mental condition.

(11) The term "real estate" means condominiums, leaseholds, time sharing and any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether located in the District or elsewhere. The term "real estate" includes any share or membership in a cooperative organized pursuant to Chapter 9 of Title 29, to engage in

activities relating to real estate, even though the shares or membership may be deemed to be securities or personal property for purposes of such chapter.

(12) Repealed.

(12A) The term "real estate franchise" means any real estate franchise brokerage firm practicing in the District which does not own or operate individual offices directly, but licenses its trade name, reputation, operation procedure, and referral services to independently owned and operated brokerage firms.

(13) Repealed.

(13A) Repealed.

(13B) The term "standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in this section.

(14) The term "written listing contract" means a contract between a broker and an owner in which the owner grants to the broker the right to find a purchaser for a designated property at the price and terms the owner agrees to accept, and the broker, for a fee, commission, or other valuable consideration, promises to make a reasonable effort to obtain a purchaser for the term of the contract.

(Mar. 10, 1983, D.C. Law 4-209, § 3, 30 DCR 390; Sept. 26, 1984, D.C. Law 5- 117, § 2(b), 31 DCR 4023; Mar. 6, 1991, D.C. Law 8-209, § 2(a), 37 DCR 8464; Feb. 5, 1994, D.C. Law 10-68, § 38(a), 40 DCR 6311; Apr. 9, 1997, D.C. Law 11- 242, § 2(a), 44 DCR 1128; Mar. 24, 1998, D.C. Law 12-81, § 55(a), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-261, § 1233(b), 46 DCR 3142; Apr. 20, 1999, D.C. Law 12-264, §§ 51, 57(f), 46 DCR 2118; Apr. 12, 2000, D.C. Law 13-91, § 157(a), 47 DCR 520.)

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1922.
Effect of Amendments
D.C. Law 13-91 validated a previously made technical amendment in subsec. (b)(1).
Legislative History of Laws
For legislative history of D.C. Law 4-209, see Historical and Statutory Notes following § 42-1701.
For legislative history of D.C. Law 5-117, see Historical and Statutory Notes following § 42-1746.

Law 8-209, the "Real Estate Transaction Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-514, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 13, 1990, and December 4, 1990, respectively. Signed by the Mayor on December 14, 1990, it was assigned Act No. 8-284 and transmitted to both Houses of Congress for its review.

D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Law 11-242, the "Real Estate Licensure Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-620, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first

and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-502 and transmitted to both Houses of Congress for its review. D.C. Law 11-242 became effective on April 9, 1997.

Law 12-81, the "Technical Amendments Act of 1997," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 42-1701.
Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

References in Text
The "Non-Health Related Occupations and Professions Licensure Act of 1998," referenced in (4), is title I of D.C. Law 12-261.

§ 42-1703. Duties of real estate brokers, salespersons, and property managers.

(a) Licensees engaged by sellers. –

(1) A licensee engaged by a seller shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the seller by:

(i) Seeking a sale at the price and terms agreed upon in the brokerage relationship or at a price and terms acceptable to the seller; however, the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract of sale, unless agreed to as part of the brokerage relationship or as the contract of sale so provides;

(ii) Presenting in a timely manner all written offers or counteroffers to and from the seller, even when the property is already subject to a contract of sale;

(iii) Disclosing to the seller material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(iv) Accounting for in a timely manner all money and property received in which the seller has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the seller consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective buyers honestly and shall not knowingly give them false information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a buyer for providing false information to the buyer if the false information was provided to the licensee by the seller and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. Nothing in this section shall modify or limit in any way the provisions of § 42-1755(f).

(3) A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a buyer or potential buyer by performing ministerial acts. Performing such ministerial acts that are not inconsistent with this subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the seller unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such buyer or potential buyer.

(4) A licensee engaged by a seller does not breach any duty or obligation owed to the seller by showing alternative properties to prospective buyers, whether as clients or customers, or by representing other sellers who have other properties for sale.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(b) Licensees engaged by buyers. –

(1) A licensee engaged by a buyer shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the buyer by:

(i) Seeking a property at a price and with terms acceptable to the buyer; however, the licensee shall not be obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase property unless agreed to as part of the brokerage relationship;

(ii) Presenting in a timely manner all written offers or counteroffers to and from the buyer, even when the buyer is already a party to a contract to purchase property;

(iii) Disclosing to the buyer material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall modify or limit in any way the provisions of § 42-1755(f); and

(iv) Accounting for in a timely manner all money and property received in which the buyer has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the buyer consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective sellers honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. In the case of a residential transaction, a licensee engaged by a buyer shall disclose to a seller the buyer's intent to occupy the property as a principal residence.

(3) A licensee engaged by a buyer in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to the seller, or prospective seller, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the buyer unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the seller.

(4) A licensee engaged by a buyer does not breach any duty or obligation to the buyer by showing properties in which the buyer is interested to other prospective buyers, whether as clients or customers, by representing other buyers looking at the same or other properties, or by representing sellers relative to other properties.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(c) Licensees engaged by landlords to lease property. –

(1) A licensee engaged by a landlord shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the landlord by:

(i) Seeking a tenant at the price and terms agreed in the brokerage relationship or at a price and terms acceptable to the landlord; however, the licensee shall not be obligated to seek additional offers to lease the property while the property is subject to a lease or a letter of intent to lease under which the tenant has not yet taken possession, unless agreed as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

(ii) Presenting in a timely manner all written offers or counteroffers to and from the landlord, even when the property is already subject to a lease or a letter of intent to lease;

(iii) Disclosing to the landlord material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(iv) Accounting for in a timely manner all money and property received in which the landlord has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the landlord consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective tenants honestly and shall not knowingly give them false information. A licensee engaged by a landlord shall disclose to prospective tenants all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a tenant for providing false information to the tenant if the false information was provided to the licensee by the landlord and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee

for revealing information as required by this section or applicable law. Nothing in this subsection shall limit the right of a prospective tenant to inspect the physical condition of the property. Nothing in this section shall modify or limit in any way the provisions of § 42-1755(f).

(3) A licensee engaged by a landlord in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a tenant, or potential tenant, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the landlord unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such tenant or potential tenant.

(4) A licensee engaged by a landlord does not breach any duty or obligation owed to the landlord by showing alternative properties to prospective tenants, whether as clients or customers, or by representing other landlords who have other properties for lease.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(d) Licensees engaged by tenants. –

(1) A licensee engaged by a tenant shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the tenant by:

(i) Seeking a lease at a price and with terms acceptable to the tenant; however, the licensee shall not be obligated to seek other properties for the tenant while the tenant is a party to a lease or a letter of intent to lease exists under which the tenant has not yet taken possession, unless agreed to as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

(ii) Presenting in a timely fashion all written offers or counteroffers to and from the tenant, even when the tenant is already a party to a lease or a letter of intent to lease;

(iii) Disclosing to the tenant material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall amend or limit in any way the provisions of § 42-1755(f); and

(iv) Accounting for in a timely manner all money and property received in which the tenant has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the tenant consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective landlords honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law.

(3) A licensee engaged by a tenant in a real estate transaction may provide assistance to the landlord or prospective landlord by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the tenant unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the landlord or prospective landlord.

(4) A licensee engaged by a tenant does not breach any duty or obligation to the tenant by showing properties in which the tenant is interested to other prospective tenants, whether as clients or customers, by representing other tenants looking for the same or other properties to lease, or by representing landlords relative to other properties.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(e) Licensees engaged to manage real estate. –

(1) A licensee engaged to manage real estate shall:

(A) Perform in accordance with the terms of the property management agreement;

(B) Exercise ordinary care;

(C) Disclose in a timely manner to the owner material facts of which the licensee has actual knowledge concerning the property;

(D) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless

otherwise provided by law or the owner consents in writing to the release of such information;

(E) Account for, in a timely manner, all money and property received in which the owner has or may have an interest; and

(F) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Except as provided in the property management agreement, a licensee engaged to manage real estate does not breach any duty or obligation to the owner by representing other owners in the management of other properties.

(3) A licensee may also represent the owner as seller or landlord if they enter into a brokerage relationship that so provides; in which case, the licensee shall disclose such brokerage relationships pursuant to the provisions of this section.

(f) Preconditions to brokerage relationship -- Prior to entering into any brokerage relationship provided for in this section, a licensee shall advise the prospective client of the type of brokerage relationship proposed by the broker, and the broker's compensation, and whether the broker will share such salary or compensation with another broker who may have a brokerage relationship with another party to the transaction.

(g) Commencement and termination of brokerage relationships. –

(1) The brokerage relationships set forth in this section shall commence at the time that a client engages a licensee and shall continue until (A) completion of performance in accordance with the brokerage relationship, or (B) the earlier of (i) any date of expiration agreed upon by the parties as part of the brokerage relationship or in any amendments thereto, (ii) any mutually agreed upon termination of the relationship, (iii) a default by any party under the terms of the brokerage relationship, or (iv) a termination as set forth in subsection (i)(4) of this section.

(2) Brokerage relationships shall have a definite termination date; however, if a brokerage relationship does not specify a definite termination date, the brokerage relationship shall terminate 90 days after the date the brokerage relationship was entered into.

(3) Except as otherwise agreed to in writing, a licensee owes no further duties to a client after termination, expiration, or completion of performance of the brokerage relationship, except to account for all moneys and property relating to the brokerage relationship, and keep confidential all personal and financial information received from the client during the course of the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained

confidential, unless otherwise provided by law or the client consents in writing to the release of such information.

(h) Disclosure of brokerage relationship –

(1) Upon having a substantive discussion about a specific property or properties with an actual or prospective buyer or seller who is not the client of the licensee, a licensee shall disclose any broker relationship the licensee has with another party to the transaction. Further, except as provided in subsection (i) of this section, such disclosure shall be made in writing at the earliest practical time, but in no event later than the time when specific real estate assistance is first provided. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Disclosure which complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

"DISCLOSURE OF BROKERAGE RELATIONSHIP

"The undersigned do hereby acknowledge disclosure that:
"The licensee _____
Name of Firm
represents the following party in a real estate transaction:
_____ Seller(s) or _____ Buyer(s)
_____ Landlord(s) or _____ Tenant(s)

_____ _____
Date Name

_____ _____".
Date Name

(2) A licensee shall disclose to an actual or prospective landlord or tenant, who is not the client of the licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. Such disclosure shall be in writing and included in all applications for lease or in the lease itself, whichever occurs first. If the terms of the lease do not provide for such disclosure, disclosure shall be made in writing no later than the signing of lease. Such disclosure requirement shall not apply to lessors or lessees in single or multifamily residential units for lease terms of less than 2 months.

(3) If a licensee's relationship to a client or customer changes, the licensee shall disclose that fact in writing to all clients and customers already involved in the specific contemplated transaction.

(4) Copies of any disclosures relative to fully executed purchase contracts shall be kept by the licensee for a period of 3 years as proof of having such disclosure, whether or not such disclosure is acknowledged in writing by the party to whom such disclosure was shown or given.

(i) Disclosed dual or designated representation authorized –

(1) A licensee may act as a dual representative only with the written consent of all clients to the transaction. Such written consent and disclosure of the brokerage relationship as required by this section shall be presumed to have been given as against any client who signs a disclosure as provided in this section.

(2) Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

"DISCLOSURE OF DUAL REPRESENTATION

"The undersigned do hereby acknowledge disclosure that:
"The licensee _____
(Name of Broker, Firm, Salesperson or Property Manager as applicable)
represents more than one party in this real estate transaction as indicated below:
_____ Seller(s) and Buyer(s)
_____ Landlord(s) and Tenant(s).
"The undersigned understands that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by § 45-1936(f), to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

_____	_____
Date	Name (One Party)
_____	_____
Date	Name (One Party)
_____	_____
Date	Name (Other Party)
_____	_____".
Date	Name (Other Party)

(3) No cause of action shall arise against a dual representative for making disclosures of brokerage relationships as provided by this section. A dual representative does not terminate any brokerage relationship by the making of any such allowed or required disclosures of dual representation.

(4) In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual representation, thereby terminating the brokerage relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction nor to limit the licensee from representing the client who refused the dual representation in other transactions not involving dual representation.

(5) A principal or supervising broker may assign different licensees affiliated with the broker as designated representatives to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of such designated representatives shall not constitute dual representation if a designated representative is not representing more than one client in a particular real estate transaction; however, the principal or broker who is supervising the transaction shall be considered a dual representative as provided in this article. Designated representatives may not disclose, except to the affiliated licensee's broker, personal or financial information received from the clients during the brokerage relationship and any other information that the client requests during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents in writing to the release of such information.

(6) Use of designated representatives in a real estate transaction shall be disclosed in accordance with the provisions of this section. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with such disclosure requirement:

"DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES

"The undersigned do hereby acknowledge disclosure that:
"The licensee _____
(Name of Broker and Firm)
represents more than one party in this real estate transaction as indicated below:
_____ Seller(s) and Buyer(s)
_____ Landlord(s) and Tenant(s).
"The undersigned understands that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by the Real Estate Licensure Amendment Act of 1996 to be disclosed. The undersigned by

signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

"The principal or supervising broker has assigned

_____ to act as Designated Representative

(Licensee/Sales Associate) for the one party as indicated below:

_____ Seller(s) or _____ Buyer(s)

_____ Landlord(s) or _____ Tenant(s).

and

_____ to act as Designated Representative

(Licensee/Sales Associate) for the one party as indicated below:

_____ Seller(s) or _____ Buyer(s)

_____ Landlord(s) or _____ Tenant(s)

_____	_____
Date	Name (Other Party)
_____	_____
Date	Name (Other Party)
_____	_____
Date	Name (Other Party)
_____	_____".
Date	Name (Other Party)

(j) Compensation shall not imply brokerage relationship. --

The payment or promise of payment or compensation to a real estate broker or property manager does not create a brokerage relationship between any broker, seller, landlord, buyer or tenant.

(k) Brokerage relationship not created by using common source information company. --

No licensee representing a buyer or tenant shall be deemed to have a brokerage relationship with a seller, landlord, or other licensee solely by reason of using a common source information company.

(l) Liability; knowledge not to be imputed –

(1) A client is not liable for a misrepresentation made by a licensee in connection with a brokerage relationship, unless the client knew or should have known of the misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of any property manager, broker, or broker's licensee.

(2) A licensee who has a brokerage relationship with a client and who engages another licensee to assist in providing brokerage services to such client shall not be liable for a misrepresentation made by the other licensee, unless the licensee knew or should have known of the other licensee's misrepresentation and failed to take reasonable steps to

correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of the assisting licensee or assisting licensee's licensee.

(3) Clients and licensees shall be deemed to possess actual knowledge and information only. Knowledge or information between or among clients and licensees shall not be imputed.

(4) Nothing in this section shall limit the liability between or among clients and licensees in all matters involving unlawful discriminatory housing practices.

(5) Except as expressly set forth in this section, nothing in this section shall affect a person's right to rescind a real estate transaction or limit the liability of a client for the misrepresentation, negligence, gross negligence, or intentional acts of such client in connection with a real estate transaction, or a licensee for the misrepresentation, negligence, gross negligence, or intentional acts of such licensee in connection with a real estate transaction.

(m) Commission regulations to be consistent --
Any regulations adopted by the Commission shall be consistent with this section, and any such regulations existing as of April 9, 1997 be modified to comply with the provisions of this section.

(n) Common law abrogated --
The common law of agency relative to brokerage relationships in real estate transactions to the extent inconsistent with this section shall be expressly abrogated.

(o) Applicability of criminal penalties --
The criminal penalties provided in § 42-1763, shall not be applicable to violations of this section, which shall be civil and regulatory in nature, provided that the provisions in §§ 42-1708 and 42-1753 through 42-1762, shall be applicable to such violations.

(Mar. 10, 1983, D.C. Law 4-209, § 15a, as added Apr. 9, 1997, D.C. Law 11-242, § 2(b), 44 DCR 1128; Mar. 24, 1998, D.C. Law 12-81, § 55(b), 45 DCR 745.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1934.1.
Legislative History of Laws
For legislative history of D.C. Law 11-242, see Historical and Statutory Notes following § 42-1702.
Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.
References in Text
The "Real Estate Licensure Amendment Act of 1996", referred to in the form in (i)(6), is D.C. Law 11-242, which is codified as §§ 42-1702, 42-1703, 42-1705, 42-1707, and 42-1755.

§ 42-1704. Escrow accounts.

(a) In any real estate transaction in which any person is entrusted, receives, and accepts, or otherwise holds or deposits monies or other trust instruments, of whatever kind or nature, pending consummation or termination of the transaction involved, whether or not the person is required to be licensed under this subchapter, the monies, in the absence of written instructions to the contrary signed by all parties to the transaction, shall be:

(1) Deposited within 7 days in an account in a financial institution located within the District whose deposits are insured either by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or their successors;

(2) Maintained by the escrow holder or trustee as a separate account for monies belonging to others; and

(3) (A) Retained in an account until the transaction involved is consummated or terminated, or until proper written instructions have been received by the escrow holder or trustee directing the withdrawal and disposition of the monies, at which time, all the monies shall be promptly and fully accounted for by the escrow holder or trustee. In no event shall any escrow holder or trustee commingle any of the monies with his or her own funds or use any of the monies for any purpose other than the purpose for which the monies were entrusted to him or her.

(B) The escrow holder or trustee may keep a nominal amount of his or her personal funds in an escrow or trustee account for the purpose of keeping active the escrow or trustee account.

(b) (1) Each escrow holder or trustee shall notify the Commission within 14 calendar days of the name and post office address of the financial institution in which an escrow or trust account has been established and also the name and number of the account.

(2) All escrow holders or trustees shall notify the Commission of all escrow in trust accounts existing on March 10, 1983, and within 30 calendar days after March 10, 1983.

(c) Each escrow holder or trustee shall give written authorization to the Commission to examine escrow or trust accounts maintained by him or her and shall permit the Commission to examine all books, records, and contracts relating to the escrow accounts. The examinations shall be made at any time the Commission may direct.

(d) An escrow holder or trustee shall not be entitled to any part of the earnest money or other money paid to, or held by, the escrow holder or trustee in connection with any real estate or business transaction as a part or all of his or her commission or fee or for any other purpose until the transaction has been consummated or terminated.

(e) If an escrow or trust is held for 90 days or more, it shall earn interest from the 91st day to the date the transaction is consummated or terminated, at the highest of the following interest rates:

(1) The legal maximum rate under federal law for interest on ordinary savings deposits in commercial banks;

(2) The rate on the account in which the escrow is deposited; or

(3) The rate on the certificate of deposit or other security given as the escrow or trust.

(f) A service fee of not more than $15 may be subtracted from the interest by the financial institution into which the escrow or trust funds are deposited.

(g) Nothing in this section shall be interpreted to supercede the Security Deposit Act (D.C. Law 1-48; 22 DCR 2825).

(Mar. 10, 1983, D.C. Law 4-209, § 18, 30 DCR 390; Sept. 26, 1984, D.C. Law 5- 117, § 2(p), 31 DCR 4023.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1937.
Legislative History of Laws
For legislative history of D.C. Law 4-209, see Historical and Statutory Notes following § 42-1701.
For legislative history of D.C. Law 5-117, see Historical and Statutory Notes following § 42-1746.
References in Text
The Federal Savings and Loan Insurance Corporation, referred to in (a)(1), has been abolished. For provisions relating to the abolition of the Federal Savings and Loan Insurance Corporation and the transfer of functions, personnel and property of that agency, see §§ 401 to 406 of Pub. L. 101-73, set out as a note under 12 U.S.C. § 1437.

§ 42-1705 Written listing contract required.

A written listing contract is required in the District for the sale of all real property. A licensee shall not receive payment of a commission in the absence of a written listing agreement.

(Mar. 10, 1983, D.C. Law 4-209, § 26, 30 DCR 390; Apr. 9, 1997, D.C. Law 11- 242, § 3(3), 44 DCR 1128.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1945.
Legislative History of Laws
For legislative history of D.C. Law 4-209, see Historical and Statutory Notes following § 42-1701.
For legislative history of D.C. Law 11-242, see Historical and Statutory Notes following § 42-1702.

§ 42-1706 Establishment of Real Estate Guaranty and Education Fund; Mayor to determine sum for deposit into Fund.

(a) There is established a Real Estate Guaranty and Education Fund ("Fund").

(b) Except as provided in § 42-1707(k), on or after March 10, 1983, every real estate broker, real estate salesperson and property manager licensed under this subchapter shall, as a condition for renewing his or her license, pay in addition to any other fees required under this subchapter, the sum to be established by the Mayor for deposit into the Fund. On or after March 10, 1983, any person, before receiving an original real estate broker, real estate salesperson, or property manager license, shall pay, in addition to any other fees required under this subchapter, a sum to be established by the Mayor for deposit into the Fund.

(Mar. 10, 1983, D.C. Law 4-209, § 29, 30 DCR 390; Sept. 26, 1984, D.C. Law 5- 117, § 2(t), 31 DCR 4023.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1948.
Legislative History of Laws
For legislative history of D.C. Law 4-209, see Historical and Statutory Notes following § 42-1701.
For legislative history of D.C. Law 5-117, see Historical and Statutory Notes following § 42-1746.
Delegation of Authority
Delegation of authority under Law 4-209, see Mayor's Order 83-123, May 6, 1983.

§ 42-1707 Applications for payments from Fund; maximum payment; management of Fund.

(a) Any person who: (1) obtains a final judgment, including a settlement reduced to a final judgment, in any court of competent jurisdiction in the District against any other person on the grounds of fraud, misrepresentation, deceit, embezzlement, false pretenses, forgery, failure to account for or conversion of trust funds, or violation of the provisions of this subchapter, arising directly out of any transaction which occurred when the other person was licensed under this subchapter, during the course of which the licensee performed acts for which a license is required under this subchapter, and which transaction occurred on or after March 10, 1983; and (2) meets the requirements of subsection (b) of this section; may, upon termination of all proceedings, including reviews and appeals in connection with the judgment, file a written application, under oath, with the Mayor for an order directing payment from the Fund of the amount of actual and direct loss in the transaction (excluding the amount of any interest, attorney's fees, court costs, or punitive or exemplary damages) which remains unpaid upon the judgment. The application shall be filed no later than 12 months after the date on which the judgment became final.

(b) A person filing an application meets the requirements of this subsection if:

(1) The person is not a licensee or the personal representative of a licensee and is not the spouse or child of the licensee against whom the final judgment was awarded, or the personal representative of the spouse or child;

(2) The person has made the investigation as is reasonably necessary to determine whether the judgment debtor possesses real or personal property or other assets which are liable to be sold or applied in satisfaction of the final judgment and has filed with the Board an affidavit which states that the investigation has been made; and

(3) The investigation required by paragraph (2) of this subsection has not disclosed the existence of any real or personal property or other assets, or, if the investigation has disclosed the existence of real or personal property or other assets (which shall be described in the affidavit) the person has taken all action necessary for the sale or application, and the amount so realized is insufficient to satisfy the judgment (which amount shall have been stated in the affidavit together with the balance remaining due on the judgment after the sale or application).

(c) Notwithstanding any other provision of this section, the maximum amount that may be paid from the Fund to satisfy in whole or in part a final judgment against a licensee as provided for herein shall be as follows:

Amount
$10,000 ..... Judgment is final during the first year following March 10, 1983;
$20,000 ..... Judgment is final during the second year following March 10, 1983;

$30,000 ..... Judgment is final during the third year following March 10, 1983;
$40,000 ..... Judgment is final during the fourth year following March 10, 1983; and
$50,000 ..... Judgment is final during the fifth year following March 10, 1983, and thereafter.

(d) The aggregate of claims by judgment creditors against the Fund based upon an unpaid final judgment arising out of the acts of the licensee in connection with a single transaction shall be $50,000 regardless of the number of claimants. If the aggregate of claims exceeds $50,000, the Board shall pay $50,000 to the claimants in proportion to the amounts of their final judgments against the Fund which remain unpaid. If the Mayor has reason to believe that there may be additional claims against the Fund arising out of the same transaction, the Mayor may withhold payment from the Fund involving the licensee for a period of not more than 1 year.

(e) Any person who commences an action for a judgment which could be the basis for an order of the Mayor directing payment from the Fund shall notify the Mayor in writing within 30 days after the date of the commencement of the action. Any failure to notify the Mayor as required under this subsection shall be grounds for the Mayor to deny an application of the person for payment from the Fund. The Mayor may waive this requirement if good cause is shown for failure to notify. The Mayor may, in accordance with the provisions of this subchapter, commence an investigation of the complaint and hold a hearing to determine whether any license issued pursuant to this subchapter should be suspended or revoked.

(f) Whenever an aggrieved person who has become a judgment creditor as provided in this section files an application for an order directing payment from the Fund, the Mayor shall cause a copy of the application to be served on the licensee alleged to be the judgment

debtor, by certified mail, return receipt requested, to the address of record of the licensee, and the matter shall be set for hearing before the Board. Whenever the Mayor determines that the applicant is entitled to payment from the Fund, the Mayor shall issue an order directing payment from the Fund in an amount consistent with this subchapter.

(g) If the Mayor issues an order directing payment from the Fund of any amount towards satisfaction of a judgment against a licensed real estate broker, real estate salesperson, or property manager, the license of the person shall be automatically suspended upon the issuance of the order. No real estate broker, real estate salesperson, or property manager shall be eligible to have his or her license restored until he or she has repaid in full the amount ordered paid from the Fund, plus interest at an annual rate established by the Mayor from the date of payment of the amount from the Fund, and has satisfied all rules governing licensure as set forth in this subchapter.

(h) Whenever amounts deposited in the Fund are insufficient to satisfy any duly authorized claim or portion thereof, the Mayor shall, when sufficient money has been deposited or portions thereof, satisfy the unpaid claims in the order that the applications relating thereto were originally filed with the Mayor, including accumulated interest at an annual rate established by the Mayor for a period not to exceed 1 year in duration.

(i) In addition to the requirements of this subchapter, if the Mayor determines that it is necessary to require the bonding requirements of licensees, the Mayor shall by rule establish bonding requirements as are deemed necessary to protect the public.

(j) All sums paid pursuant to § 42-1706 and subsection (c) of this section shall be deposited with the D.C. Treasurer and shall be credited to the Fund. Any interest earned from any deposits and investments of the Fund also shall be credited to the Fund. The interest to be credited to the Fund may be determined, consistent with the financial management procedures of the District and may be revised from time to time, as a pro-rata share of the interest earned on pooled cash, deposits, and investments.

(k) The Mayor shall, by rule, establish minimum and maximum balances for the Fund.

(l) Whenever the amount deposited in the Fund is less than the minimum balance established pursuant to subsection (k) of this section, the Mayor shall assess each licensee an amount, not to exceed $50 during any license year, within 30 calendar days, which is sufficient, when combined with similar assessments of other licensees, to bring the balance of the Fund up to the minimum established. Whenever the amount deposited in the Fund is more than the maximum balance established, the Mayor shall waive contributions to the Fund required by this subchapter.

(m) Notice of an assessment required pursuant to subsection (l) of this section shall be sent, by certified mail, to each licensee at his or her address of record. The Board may waive the certified mail requirement to licensees only when the Board is doing a mass mailing, the cost of which makes the application of such fee an undue financial burden on the Board and may, in such circumstances, send notice of the assessment by regular mail to each licensee at his or

her address of record. The Board shall also post notice of the assessment in at least two trade publications distributed within the metropolitan area and in a local newspaper in the real estate section. Payment of the assessment shall be made within 30 calendar days after the receipt by the licensee of the notice.

(n) A failure by any licensee to pay an assessment required pursuant to subsection (l) of this section within 30 days after the licensee has received notice of the assessment shall result in the automatic suspension of the license of the licensee. The Board shall send a notice of the suspension, by certified mail, to the address of record of the licensee within 5 days after the suspension. The license shall be restored only upon the actual receipt by the Mayor of the delinquent assessment, plus any interest and penalties as the Mayor may prescribe by rule.

(o) The Board may expend a sum not to exceed 20% of the amounts deposited in the Fund, on October 1 of each year, for the establishment and maintenance of educational programs for improving the competency of licensees and applicants for licensure so as to further protect the public interest, and for conferences, workshops, and educational programs for real estate license officials. The cost of administering the Fund shall be paid out of the Fund.

(p) When the Mayor has ordered a sum from the Fund to be paid to a judgment creditor, the Mayor shall be subrogated to all of the rights of the judgment creditor up to the amount paid and the judgment creditor shall assign to the Mayor all rights, title, and interest in the judgment up to the amount paid from the Fund. Any amount and interest so recovered by the Mayor or the judgment creditor on the judgment up to the amount paid shall be deposited in the Fund.

(Mar. 10, 1983, D.C. Law 4-209, § 30, 30 DCR 390; Sept. 26, 1984, D.C. Law 5- 117, § 2(u), 31 DCR 4023; Apr. 9, 1997, D.C. Law 11-242, § 3(4), (5), 44 DCR 1128; Apr. 20, 1999, D.C. Law 12-261, § 1233(cc), 46 DCR 3142.)

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1949.
Legislative History of Laws
For legislative history of D.C. Law 4-209, see Historical and Statutory Notes following § 42-1701.
For legislative history of D.C. Law 5-117, see Historical and Statutory Notes following § 42-1746.
For legislative history of D.C. Law 11-242, see Historical and Statutory Notes following § 42-1702.
For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 42-1701.
Delegation of Authority
Delegation of authority under Law 4-209, see Mayor's Order 83-123, May 6, 1983.

§ 42-1708. Additional criminal penalties.

(a) Any person who knowingly files with the Mayor any application, notice, or other document required to be filed under this subchapter or any rule issued thereunder, which is false or fraudulent or contains any material misstatement of fact, shall, upon conviction, be punished by a fine of no more than $3,000 or by imprisonment for no more than 1 year, or both.

(b) The Corporation Counsel of the District may enter an appearance, file an answer, appear at court hearings, defend the action, or take whatever other action he or she deems appropriate

on behalf of any party to a court proceeding in the District in which the Mayor may be interested, and may take recourse through any appropriate method of review on behalf and in the name of any party to a court action.

(c) Nothing contained in this subchapter shall be construed as limiting the authority of the Mayor to take disciplinary action against any licensee pursuant to this subchapter for any violation of this subchapter or any rules promulgated under this subchapter, nor shall repayment in full of the amount paid from the Fund on the licensee's account nullify or modify the effect of any other disciplinary proceeding brought against the licensee pursuant to this subchapter for any violation.

(Mar. 10, 1983, D.C. Law 4-209, § 31, 30 DCR 390.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1950.
Legislative History of Laws
For legislative history of D.C. Law 4-209, see Historical and Statutory Notes following § 42-1701.
Delegation of Authority
Delegation of authority under Law 4-209, see Mayor's Order 83-123, May 6, 1983.

§ 42-1709. Savings clause.

(a) The repeal of any provision of §§ 42-1721 to 42-1738, or any rule issued pursuant to this subchapter, shall not affect any act done, or any right accruing or accrued on any liability arising, or any suit or proceeding had or commenced in any civil cause under §§ 42-1721 to 42-1738 before repeal, but all rights and liabilities under §§ 42-1721 to 42-1738 shall continue and may be enforced in the same manner and to the same extent as if this subchapter had not been enacted.

(b) Any violation of any provision of §§ 42-1721 to 42-1738 or any liability arising under the provision, shall, if the violation occurred prior to repeal, be prosecuted and punished in the same manner and with the same effect as if this subchapter had not been enacted.

(Mar. 10, 1983, D.C. Law 4-209, § 33, 30 DCR 390.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-1951.
Legislative History of Laws
For legislative history of D.C. Law 4-209, see Historical and Statutory Notes following § 42-1701.

DISTRICT OF COLUMBIA OFFICIAL CODE 2001 EDITION
DIVISION VII. PROPERTY.
TITLE 42. REAL PROPERTY.
SUBTITLE I. GENERAL.
CHAPTER 13. RESIDENTIAL REAL PROPERTY SELLER DISCLOSURES.

§ 42-1301. Applicability and exceptions.

(a) (1) The provisions of this chapter shall apply only to the transfer or sale of real estate located in the District of Columbia consisting of not less than one nor more than 4 residential dwelling units, whether by sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase.

(2) This chapter shall apply only where the purchaser expresses, in writing, an intent to reside in the property to be transferred.

(b) The provisions of this chapter shall not apply to any of the following:

(1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance;

(2) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, or transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default;

(3) Transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a mortgage or deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure;

(4) Transfers by a nonoccupant fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;

(5) Transfers from one cotenant to one or more other co-tenants;

(6) Transfers made to the transferor's spouse, parent, grandparent, child, grandchild or sibling or any combination of the foregoing;

(7) Transfers between spouses resulting from a judgment of divorce or a judgment of separate maintenance or from a property settlement agreement incidental to such a judgment;

(8) Transfers or exchanges to or from any governmental entity; and

(9) Transfers made by a person of newly constructed residential property that has not been inhabited.

(Apr. 20, 1999, D.C. Law 12-263, § 2, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-951.
Legislative History of Laws
Law 12-263, the "Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998," was introduced in Council and assigned Bill No. 12-648, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first, amended first and second readings on October 6 1998, November 10, 1998, and December 1, 1998, respectively. Bill 12-648 was vetoed by the Mayor on December 29, 1998, and the Council overrode the veto on January 5, 1999, whereupon the Bill was assigned Act No. 12-625 and transmitted to both Houses of Congress for its review. D.C. Law 12-263 became effective on April 20, 1999.

§ 42-1302. Written statement; written indication of compliance.

(a) The transferor of any real property described in § 42-1301(a) shall deliver to the prospective transferee a real property disclosure statement on a form to be approved by the Mayor. The written statement shall be signed by the transferor and shall be delivered to the prospective transferee within the following time limits:

(1) In the case of a sale, before or at the time the prospective transferee executes a purchase agreement with the transferor; or

(2) In the case of a sale by an installment sales contract where a binding purchase agreement has not been executed, or in the case of a lease together with an option to purchase, before or at the time the prospective transferee executes the installment sales contract, or lease, as the case may be, with the transferor.

(b) With respect to any transfer subject to subsection (a) of this section, the transferor shall indicate compliance with this chapter either on the purchase agreement, the installment sales contract, the lease with an option to purchase, or any addendum attached to the purchase agreement, contract, or lease with an option to purchase, or on a separate document.

(c) Except as provided in subsection (d) of this section, if any disclosure required to be made by this chapter is delivered after the prospective transferee executes a purchase agreement, installment sales contract, or lease with an option to purchase, the prospective transferee may terminate any of the foregoing by delivering written notice of termination to the transferor not later than 5 calendar days after receipt of the disclosure statement by the prospective transferee, and any deposits made by the transferee to the transferor shall be promptly returned to the transferee.

(d) Notwithstanding the provisions of subsection (c) of this section, the right of a transferee to terminate is waived if not exercised before the earliest of:

(1) The making of a written application to a lender for a mortgage loan or financing, provided that the lender discloses in writing at or before the time application is made that the right to rescind terminates on submission of the application;

(2) Settlement or the date of occupancy by the purchaser in the event of a sale; or

(3) Occupancy in the event of a lease with option to purchase.

(Apr. 20, 1999, D.C. Law 12-263, § 3, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-952.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.
Delegation of Authority
Delegation of authority under D.C. Act 12-625, the "Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998", see Mayor's Order 99-82, May 21, 1999 (46 DCR 5439).

§ 42-1303. Scope of liability; information prepared by third party.

(a) The transferor is not liable for any error, inaccuracy, or omission in any information delivered pursuant to this chapter if the error, inaccuracy, or omission was not within the actual personal knowledge of the transferor, or was based entirely on information provided by public agencies or provided by other persons specified in subsection (c) of this section and ordinary care was exercised in transmitting the information. It is not a violation of this chapter if the transferor fails to disclose information that could be obtained only through inspection or observation of inaccessible portions of real estate or could be discovered only by a person with expertise in a science or trade beyond the knowledge of the transferor.

(b) The delivery to a prospective transferee of any information required by this chapter to be disclosed to a prospective transferee by a public agency or other person specified in subsection (c) of this section shall be considered to comply with the requirements of this chapter and relieves the transferor of any further duty or liability under this chapter with respect to that item of information, unless the transferor has actual personal knowledge of a known defect or condition that contradicts the information provided by the public agency or the person specified in subsection (c) of this section and knowingly fails to disclose such known defect or condition.

(c) The delivery to a prospective transferee of a report or opinion prepared by a licensed professional engineer, professional surveyor, home inspector, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, is sufficient compliance for application of the exemption provided in subsection (a) of this section if the information is provided upon the request of

the prospective transferee (provided that nothing in this chapter shall be construed as imposing on the transferor any obligation to comply with the request), unless the transferor has actual personal knowledge of a known defect or condition that contradicts the information contained in the report or opinion and knowingly fails to disclose the known defect or condition. In responding to a request by a prospective transferee, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of § 42-1305 and, if so, shall indicate the required disclosures, or parts of disclosures, to which the information being furnished applies. In furnishing the statement, the expert is not responsible for any items of information other than those expressly set forth in the statement.

(Apr. 20, 1999, D.C. Law 12-263, § 4, 46 DCR 2111.)
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-953.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

§ 42-1304. Change in conditions after delivery.

If information disclosed in accordance with this chapter becomes inaccurate as a result of any action, occurrence, or agreement after the delivery of the required disclosures, the resulting inaccuracy does not constitute a violation of this chapter. If at the time the disclosures are required to be made, an item of information required to be disclosed under this chapter is unknown or unavailable to the transferor, the transferor may comply with this chapter by advising a prospective purchaser of the fact that the information is unknown. The information provided to a prospective purchaser pursuant to this chapter shall be based upon the information available and actually known to the transferor.

(Apr. 20, 1999, D.C. Law 12-263, § 5, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-954.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

§ 42-1305. Residential disclosure requirements.

The residential real property disclosure statement approved by the Mayor shall contain the following:

(1) A list of actually known defects or information concerning the following:

(A) Water and sewer systems;

(B) Insulation;

(C) Structural systems, including roof, walls, floors, foundation, and basement;

(D) Plumbing, electrical, heating, and air conditioning systems;

(E) History of infestation by rodents or wood-boring insects, if any;

(F) Appliances;

(G) Alarm system and intercom system; and

(H) Garage door opener and remote control; and

(I) Fixtures; and

(2) Any other information required by the Mayor to be published by rulemaking, provided that nothing in this chapter or in any rules shall be deemed to modify or amend § 42-1755(f).

(Apr. 20, 1999, D.C. Law 12-263, § 6, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-955.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

§ 42-1306. Good faith disclosure.

Each disclosure required by this chapter shall be made in good faith. For the purposes of this chapter, "good faith" means honesty in fact in the making of the disclosure.

(Apr. 20, 1999, D.C. Law 12-263, § 7, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-956.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

§ 42-1307. Scope of disclosure.

The specification of items for disclosure in this chapter does not limit or abridge any obligation for disclosure created by any other provision of statutory law regarding fraud, misrepresentation, or deceit in transfer transactions. If the transferor provides to the prospective transferee the residential real property disclosure statement required by this chapter (or the other information described § 42-1303(b) or (c)), any licensed agent of the transferor shall be deemed to have complied with the licensee's obligations under § 42-1703 to disclose to a customer material adverse facts concerning the physical condition of the property.

(Apr. 20, 1999, D.C. Law 12-263, § 8, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES

Prior Codifications
1981 Ed., § 45-957.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

§ 42-1308. Amendment of disclosure.

Any disclosure made pursuant to this chapter may be amended in writing by the transferor, but the amendment is subject to the requirements of § 42-1302.

(Apr. 20, 1999, D.C. Law 12-263, § 9, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-958.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.
DC CODE § 42-1308

§ 42-1309. Method of delivery.

Delivery of a disclosure statement required by this chapter shall be by personal delivery, facsimile delivery, or by registered mail to the prospective transferee. Execution by the transferor of a facsimile counterpart of the disclosure statement shall be considered to be execution of the original.

(Apr. 20, 1999, D.C. Law 12-263, § 10, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-959.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

§ 42-1310. Failure to comply.

A transfer subject to this chapter shall not be invalidated solely because of the failure of any person to comply with any provisions of this chapter.

(Apr. 20, 1999, D.C. Law 12-263, § 11, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-960.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

§ 42-1311. Duty imposed on transferor only.

The duty to comply with this chapter is imposed on a transferor, and not on any real estate agent or real estate broker of a transferor. A real estate agent or real estate broker of a transferor shall

not be liable for any error, inaccuracy or omission in any information delivered to any prospective transferee, or for any failure of a transferor to deliver any information or a real property disclosure statement to the prospective transferee, or for any violation of this chapter by a transferor, unless such real estate agent or real estate broker knowingly acts in concert with such transferor to commit fraud.

(Apr. 20, 1999, D.C. Law 12-263, § 12, 46 DCR 2111.)
HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
HISTORICAL AND STATUTORY NOTES
Prior Codifications
1981 Ed., § 45-961.
Legislative History of Laws
For legislative history of D.C. Law 12-263, see Historical and Statutory Notes following § 42-1301.

CHAPTER 26 REAL ESTATE LICENSES AND AMENDMENTS

Sec.

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2600 BOARD OF REAL ESTATE

2600.1 This chapter is adopted by the D.C. Board of Real Estate to protect the public against incompetence, fraud, and deception in real estate transactions.

2600.2 The Board of Real Estate (hereinafter referred to as the "Board"), established by the Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12- 261; D.C. Official Code § 47-2853.01 *et seq*.), shall be under the administrative control of the Mayor through the Department of Consumer and Regulatory Affairs (hereinafter referred to as the "Department").

2600.3 The Board shall adopt a seal with the design as the Board may prescribe engraved thereon, by which it shall authenticate its proceedings.

2600.4 Copies of all records and papers pertaining to licensure, certification, registration, inspections, investigations, and other matters under the jurisdiction of the Board shall be maintained by the Department on behalf of the Board. Copies of all records and papers duly certified and authenticated by the seal of the Board shall be received in evidence in all courts equally and with like effect as the original.

2600.5 Records kept by the Department on behalf of the Board under the authority of this section shall be open to public inspection pursuant to the D.C. Freedom of Information Act.

2600.6 The Board may meet at least once a month in public session, but shall not meet less than four times per year. The Board shall publish public notice of the time and place of the meeting in the D.C. Register at least one week in advance of the meeting. The public has the right to appear before the Board and testify on subjects within the Board's jurisdiction.

2600.7 The Chairperson shall be elected from among the members of the Board and shall have authority to sign all official documents issued on behalf of the Board, after approval by the Board.

2600.8 Five (5) members of the Board shall constitute a quorum.

2600.9 A majority vote of all Board members present and voting is necessary for any action taken by the Board.

2600.10 Board members may convene in committees of no less than three Board members to carry out specific functions of the Board if the full Board ratifies the actions of the small committees.

2601 LICENSURE OF REAL ESTATE BROKERS

2601.1 Every applicant for a real estate broker license shall apply for the license in writing upon an application prescribed and provided by the Board. If the applicant is an individual, the applicant shall include a business and a home addresses, which cannot be a post office box number, on the application. If the applicant is not an individual the applicant shall provide a business address, which cannot be a post office box, on the application.

2601.2 The proper fees and all required documents shall accompany the application at the time of filing. Each application shall be sworn to or affirmed before a notary public or, if applicable, by electronic signature or other authentication methods as authorized by the Council and the Mayor.

2601.3 All applicants for licensure as a real estate broker shall furnish at the time of filing an application, evidence of having satisfactorily completed the approved course(s) pursuant to § 2606 of this chapter. The coursework shall consist of a minimum of 135 clock hours and shall include the following subject areas:

(a) Real Estate Law;

(b) Fair Housing Law;

(c) Real Property Ownership/Transfer;

(d) Principles and Practices for Brokers;

(e) Agency Relationships/Principles and Practices for Brokers;

(f) Real Estate Appraisal;

(g) Real Estate Financing;

(h) D.C. Real Estate Licensing Law and Regulations; and

(i) Code of Ethics.

2601.4 Except as provided in § 2611 of this chapter, applicants for licensure as real estate brokers shall furnish at the time of filing an application evidence of having satisfactorily completed an examination, the type and form to be determined by the Board. The applicant must have a passing score of at least 75 on the examination.

2601.5 Within six (6) months of having successfully passed the required examination, the applicant shall pay the prescribed fee and comply with the filing requirements. Failure to comply with the requirements of this subsection shall require reexamination.

2601.6 An applicant for licensure as a real estate broker shall establish to the satisfaction of the Board that the applicant has met the requirements for licensure as a real estate salesperson.

2601.7 An applicant must have been actively engaged in business as a licensed real estate broker or licensed real estate salesperson in the District or elsewhere for the two (2) years immediately preceding the date on which the application for a real estate broker license is filed, or must have equivalent experience acceptable to the Board.

2601.8 The Board shall accept the following as proof of two (2) years equivalent experience:

(a) Certification by a licensed real estate broker; or

(b) Certification by the Real Estate Board in the jurisdiction where the applicant is licensed.

2601.9 As an alternative to the experience requirement of § 2601.8 of this section, an applicant for a real estate broker's license shall be deemed to have equivalent experience if the applicant complies with the following:

(a) Has been licensed and actively engaged in business as a licensed real estate broker or licensed real estate salesperson in the District or elsewhere for at least two (2) years immediately preceding the date on which the application for real estate broker's license is filed; or

(b) If the applicant does not have the two (2) years of experience required by paragraph (a) of this subsection, the applicant must have been actively engaged in the real estate business for two continuous years or more prior to the date of receiving his or her real estate broker's or real estate salesperson's license and actively involved in six (6) verified real estate transactions per year in one or more of the following capacities:

(1) Builder;

(2) Investor;

(3) Land or Condominium Developer;

(4) Attorney; or

(5) Related Occupation where the applicant worked at least 1920 hours per year for two consecutive years in a field that is directly related to the acquisition, financing, or conveyance of real estate, or positions in which the applicant has been directly involved in real estate business, including serving as the decision-making authority in any of the following positions:

(i) A loan or trust officer of a federal or state-regulated depository institution;

(ii) A loan or trust officer of a mortgage company;

(iii) A real estate officer of a corporation, which is not a licensed real estate broker;

(iv) A title insurance company officer engaged in the closing of escrow accounts and real estate closings; or

(v) A real estate property appraiser.

(c) Active engagement under paragraph (b) of this subsection means personal involvement with decision-making authority in negotiating the terms of a transaction, supervising the execution of agreements, managing the purchase or sale of properties, or direct involvement in the zoning, subdivision, or other related land use processes.

(d) Where state law requires a person to be licensed to perform an activity listed in paragraph (b) of this subsection, credit shall not be granted for experience obtained without proper licensure.

2601.10 An applicant whom the Board determines is eligible for licensure as a real estate broker by waiver or reciprocity under § 2611 of this chapter shall, prior to receiving the broker's license, pass the D.C. Real Estate Law Examination and complete a D.C. Fair Housing course approved by the Board.

2601.11 An applicant for licensure as a real estate broker who is not an individual but instead is a firm, franchise, partnership, association, or corporation may be issued a real estate broker license by the Board if the Board finds that:

(a) The applicant is properly organized under applicable District and federal law;

(b) Every person, member, partner, trustee, or officer who is engaged in any activity regulated under this chapter is licensed under this chapter;

(c) Every employee who will render services regulated under this chapter holds a valid license issued by the Board; and

(d) Every branch office within the District is managed by a real estate broker.

2602 LICENSURE OF REAL ESTATE SALESPERSONS

2602.1 Every applicant for a license shall apply for a salesperson license in writing upon an application prescribed and provided by the Board. The applicant shall include a business and a home addresses, which cannot be a post office box, on the application.

2602.2 The proper fees and all required documents shall accompany the application at the time of filing. Each application shall be sworn to or affirmed before a notary public.

2602.3 Unless the application is based upon waiver or reciprocity pursuant to § 2611 of this chapter, all applicants for licensure as a real estate salesperson shall furnish, at the time of filing an application, evidence of having satisfactorily completed a course of instruction in the Principles and Practices of Real Estate pursuant to § 2606 of this chapter. The course shall consist of a minimum of sixty (60) clock hours and shall be distributed in clock hours, as indicated, among the following subject areas:

A. Principles of Real Estate	2
B. Salesperson's Duties and Responsibilities	2
C. Rules of Agency and Listings	2
D. Deposits, Escrow, and Recordkeeping	2
E. Interests and Rights in Real Property	2
F. Forms of Ownership	2
G. Forms of Legal Description	1
H. Real Estate Contracts and the Law	2
I. Fair Housing/Equal Opportunity in Housing	2
J. Ethical Practices in Real Estate (National)	1
K. Code of Ethics - District of Columbia	2
L. D.C. Real Estate Licensing Laws and Regulations	2
M. D.C. Law and Common Violations of the Real Estate Licensure Act of 1982 - Case Studies and Review	1
N. Regulatory and Consumer Affairs	1
O. Reciprocity and Dual Licenses (Tri - area issues)	1
P. Federal and Regional Laws and Practices	2
Q. The Property Manager	3
R. Landlord/Tenant Relationship	2
S. Condominiums, Cooperatives	1
T. Transfer of Title to Real Property	2
U. Real Estate Economics and Fiscal Policy	1
V. Real Estate Financing	4
W. Real Estate Mathematics	3
X. Pricing Property and the Appraisal Process	2
Y. Taxes and Assessments	2
Z. Real Property Insurance and Investments	1
AA. Title Insurance and Settlements	3
BB. Introduction to Commercial Property	1
CC. Land-Use Control	1

DD. Securities and Syndication	1
EE. Residential Construction and Home Inspection	1
FF. Environmental Issues	2
GG. Real Estate Office Management	1
HH. Technology and Real Estate Trends	1
II. New Home Sales and Marketing	1

Total Required Hours 60

2602.4 Unless a waiver is granted pursuant to § 2611 of this chapter an applicant for licensure as a real estate salesperson shall furnish, at the time of filing, a completed application and evidence of having satisfactorily completed an examination, the type and form to be determined by the Board. The applicant must achieve a passing score on the examination of at least 75 percent.

2602.5 An applicant for a real estate salesperson's license who has passed the required examination shall submit an application for a license to the Board with the required fees within six (6) months of passing the examination. An applicant who fails to comply with the requirements of this section shall be required to retake and pass the examination.

2602.6 An applicant whom the Board determines is eligible for licensure as a real estate salesperson by waiver or reciprocity shall take and pass the D.C. Real Estate Law Examination and a D.C. Fair Housing course approved by the Board.

2603 LICENSURE OF PROPERTY MANAGERS

2603.1 An applicant for licensure as a property manager shall do the following:

(a) Furnish evidence of having satisfactorily completed an examination approved by the Board;

(b) Submit a completed application on a prescribed form;

(c) Include the applicant's business and home addresses, which cannot be a post office box, on the application;

(d) Have the application sworn to or affirmed before a notary public;

(e) Pay the required application fee; and

(f) Meet the requirements for licensure set forth in § 2610 of this chapter and D.C. Official Code §§ 47-2853.12(a) and 47-2853.142(a).

2603.2 An applicant for a property manager's license who has passed the required examination shall submit an application for a license to the Board with the required fees within six

(6) months of passing the examination. An applicant who fails to comply with the requirements of this section shall be required to retake and pass the examination.

2603.3 A person licensed as a real estate broker pursuant to § 2601 of this chapter shall be deemed to have satisfied the educational and examination requirements for licensure as a property manager under this chapter, but is required to satisfy all other requirements for licensure as a property manager prior to acting as a property manager.

2603.4 An applicant may satisfy continuing education requirements by taking distance-learning courses approved by the Board.

2603.5 An applicant on inactive status who submits an application to reactivate a license shall submit proof pursuant to § 2605.8 of having completed all continuing education credits that the applicant would have been required to take per licensing cycle if the applicant's license had not been inactive.

2604 REGISTRATION AND CERTIFICATION OF RESIDENT MANAGER [REPEALED]

2605 CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE BROKERS, PROPERTY MANAGERS, AND SALESPERSONS

2605.1 This section shall apply to all applicants for the renewal or reinstatement of a real estate broker, real estate salesperson, or property manager license, except those applicants seeking first renewal of a license granted by examination.

2605.2 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 2607 of this chapter. Licensees are responsible for ensuring that continuing education courses taken to satisfy the Board's renewal or reinstatement requirements are Board certified or approved.

2605.3 The continuing education renewal requirements of a real estate broker's, real estate salesperson's, or property manager's license shall be as follows:

(a) An applicant for renewal of a real estate broker's license expiring on February 28 of each odd year, a real estate salesperson's license expiring on August 31 of each odd year, or a property manager's license on February 28 of each odd year shall submit proof pursuant to § 2605.7 of this section that the applicant has completed no less than fifteen (15) hours of acceptable continuing education credit during the two (2) year period preceding the date the license expires. Nine (9) of these hours shall consist of mandated courses with curriculums administratively established and approved by the Board. Six (6) of these hours will be general elective courses as approved by the Board.

2605.4 A licensee applying to renew a property manager's license who also possesses an active real estate broker's or real estate salesperson's license shall be considered to have

satisfied the continuing education requirements for renewal of the property manager license if the licensee has satisfied the renewal requirements for the real estate broker's or real estate salesperson's license.

2605.5 Licensees who also hold equivalent licenses in another jurisdiction may, at the Board's discretion, substitute continuing education credit completed in the other jurisdiction for the general elective continuing education requirements under this section if the licensee earned the continuing education credit during the two (2) year period proceeding the date that the licensee's District license expires.

2605.6 An applicant shall prove completion of required continuing education credits by submitting with the application a certification of completion that includes the following:

(a) The name and address of the sponsor of the program;

(b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;

(c) The dates on which the applicant attended the program;

(d) The hours of credit claimed; and

(e) A verification of completion with the signature or stamp of the sponsor.

2605.7 An applicant for renewal of an expired license or reinstatement of a suspended or revoked real estate broker's, real estate salesperson's, or property manager's license which was suspended or revoked, shall submit proof pursuant to § 2605.7 of this section of having completed all continuing education credits that the applicant would have been required to take per licensing cycle if the applicant's license had not been revoked, suspended, or expired.

2605.8 An applicant for the renewal of a license who fails to submit proof of having completed the continuing education requirements by or before the expiration date may renew the license within sixty (60) days after expiration by submitting proof pursuant to § 2605.8 of this section and by paying the required late fee. Upon renewal, the Board will deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal.

2605.9 If an applicant for the renewal of a license fails to submit proof of completion of continuing education requirements within sixty (60) days after the expiration of the applicant's license, the license shall be deemed to have lapsed on the date of expiration, and the applicant shall be required to apply for reinstatement of the expired license pursuant to § 2622 of this chapter.

2605.10 The Board may grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause. For purposes of this subsection, "good cause" includes proof of the following:

(a) Serious and protracted illness of the applicant who submits a doctor's statement verifying the illness;

(b) The death or serious and protracted illness of a member of the applicant's immediate family which death or illness resulted in the applicant's inability to complete the continuing education requirements within the specified time. For the purposes of this subsection, the term "immediate family" means the applicant's spouse and any parent, brother, sister, or child of the applicant and the spouse of any such parent, brother, sister, or child; or

(c) The applicant due to age (seventy (70) years of age or older) is unable to complete the requirements within the specified time.

2605.11 An applicant may satisfy the general elective courses portion of the continuing education requirement by taking distance-learning courses approved by the Board pursuant to § 2607 of this chapter.

2606 ACCREDITATION AND CERTIFICATION OF PRE-LICENSE EDUCATION PROGRAMS

2606.1 The Board shall approve schools or organizations offering pre-license education programs or courses.

2606.2 The Board shall approve a school or organization for pre-license education programs if the Board has certified the school or organization or if the Educational Licensure Commission has accredited the school or organization.

2606.3 The proper fees and all required documents shall accompany the application for approval at the time of filing. The application must be in writing and on a form approved by the Board. Each application shall be sworn to or affirmed by the Applicant before a notary public and shall be on a form approved by the Board.

2606.4 Applicants seeking certification from the Board instead of accreditation from the Educational Licensure Commission only need to apply for Board certification. Certification by the Board includes approval under this section.

2606.5 Schools or organizations offering pre-license education programs or courses to persons intending to apply for a license under this chapter may be certified by the Board if the school or organization qualifies as an exempt institution pursuant to section 10 of the Educational Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1310 *et seq*.), as amended.

2606.6 Schools or organizations that provide pre-license education programs or courses that do not qualify for an exemption under section 10 of the Educational Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1310 *et seq.*), as amended, must be accredited by the Educational Licensure Commission pursuant to the applicable portions of 16 DCMR Chapters 21 and 22.

2606.7 If a school or organization is required to receive accreditation from the Educational Licensure Commission prior to offering a program or course intended to provide pre-licensure education credit, that school or organization shall receive Board approval for each program or course prior to enrolling any person into the program or course.

2606.8 Applicants denied certification by the Educational Licensure Commission that seek an opportunity for a hearing shall do so pursuant to the rules set forth in 16 DCMR Chapter 22.

2606.9 A sponsor of a pre-license program that has been approved by the Board for one (1) license period shall reapply for approval at least sixty (60) days prior to the beginning of each licensing cycle.

2606.10 Schools or organizations accredited by the Educational Licensure Commission shall notify the Board within fifteen (15) calendar days if the school or organization loses its accreditation.

2606.11 Loss of Educational Licensure Commission accreditation shall result in the immediate suspension and revocation of the Board's approval.

2606.12 The Board may revoke its approval of a school if officials, instructors, or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a real estate broker, real estate salesperson, or property manager.

2606.13 The Board may revoke its approval of a school if the school, its instructors, or a designee of the school or its instructors solicit information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.

2607 APPROVED CONTINUING EDUCATION PROGRAMS

2607.1 The Board, in its discretion, may approve continuing education programs that contribute to the growth in professional competence of a real estate broker, real estate salesperson, or property manager, and that meet the other requirements of this section.

2607.2 Unless the school or organization offering the program or course is exempt from the accreditation requirements of the Educational Licensure Commission, the school or organization shall obtain certification or licensure from the Educational Licensure Commission.

2607.3 Schools or organizations accredited by the Educational Licensure Commission that offer continuing education programs or courses shall be considered certified for the purposes of this section.

2607.4 All approved or accredited education programs shall be available to all licensees regardless of broker affiliation.

2607.5 The Board may approve the following types of continuing education programs, if the programs meet the requirements of § 2607.8 of this section:

(a) A seminar or workshop;

(b) An educational program given at a conference, institute, or academy;

(c) An undergraduate or graduate course given at a college or university accredited by the Council on Postsecondary Accreditation or the Secretary of the United States Department of Education; or

(d) A distance learning course that has been approved by the Board pursuant to § 2607.9 of this section.

2607.6 A sponsor of a continuing education program shall submit a completed application to the Board no less than sixty (60) days prior to the date of the presentation for each program for which the sponsor seeks approval.

2607.7 A sponsor of a continuing education program shall have the burden of verifying whether the Board, pursuant to this section, has approved a program prior to advertising the program as approved by the Board.

2607.8 In order to be approved by the Board for continuing education credit, a program shall meet the following requirements:

(a) The program shall contribute to the professional competence of participants;

(b) The program shall be directly related to increasing the participants' knowledge and skills in the real estate profession;

(c) The stated program objectives shall specify the level of knowledge the participant should have attained, or the level of competency the participant should be able to demonstrate, upon completing the program;

(d) The program shall be developed by persons qualified in the subject matter and in instructional design;

(e) The program shall be instructed by an individual approved by the Board;

(f) The program content shall be current in its subject matter;

(g) All providers shall have a system of written evaluation by students in which the activity and instructor is evaluated at the end of each offering. The evaluation form shall accompany the application. Providers shall keep the completed evaluation forms on each course and instructor for four (4) years from the end of the offering; and

(h) The sponsor shall agree to allow the Board to conduct an audit of the written student evaluations at any time.

2607.9 Distance learning courses may be approved as follows:

(a) Distance learning courses that are certified by the Association of Real Estate Licensing Law Officials (ARELLO) shall be considered for approval by the Board under this section if they provide the Board with appropriate documentation that ARELLO certification is in effect, that the distance learning course meets the content requirements of § 2607.8 of this section, and the course meets the following other requirements of the Board:

(1) Distance learning courses shall not include pre-licensing education courses and shall only include elective continuing education courses;

(2) Distance learning courses shall only include elective continuing education courses;

(3) Distance learning courses shall be a mastery-based format defined as follows:

(i) Having at least one objective;

(ii) Having a method for measuring student progress;

(iii) Having delivery formats that are interactive, which may include computer based instruction via CD-ROM or the Internet; and

(iv) Having a delivery format that does not deliver course material in a passive, text only format consisting primarily of questions similar to those found on the licensing examination.

(4) Distance learning courses shall be in a mastery-based format;

(5) Distance learning courses shall be equivalent to in-class continuous instruction and attendance formats; and

(6) Distance learning providers located outside of the District of Columbia (District) approved by ARELLO shall offer courses through District based and approved distance-learning providers.

(b) Approval under this section shall be revoked immediately should ARELLO certification be discontinued for any reason;

(c) The distance-learning provider shall inform the Board immediately if ARELLO certification is discontinued for any reason; and

(d) A student shall complete the distance-learning course within three-months of the date of enrollment in the course.

2607.10 The Board may approve programs with a minimum of one (1) instructional hour.

2607.11 Any significant changes in program content or program instructor shall be submitted to the Board in writing no less than thirty (30) days prior to the change for Board approval.

2607.12 Approval of a program or course by the Board shall continue until the end of the two (2) year licensing period during which approval is given.

2607.13 A program sponsor shall issue a certificate of successful completion to a licensee who completes the program. A program sponsor shall not issue a certificate to a licensee who fails to complete the entire program.

2607.14 Within ten (10) days after the completion of the continuing education program, the program sponsor shall forward to the Board, on the program sponsor's letterhead (bearing the sponsor's name, address, and telephone number), a list of all participants, which includes each participant's license number and employing broker's name and address.

2607.15 A program sponsor shall retain records of the following information:

(a) The outline of the program;

(b) The program date(s);

(c) The program location(s);

(d) The instructors; and

(e) The number of instructional hours.

2607.16 A program sponsor shall retain a copy of the information required by §§ 2607.13 and 2607.14 f of this section for a period of not less than five (5) years.

2607.17 A sponsor of a program that has been approved by the Board for one (1) license period shall reapply for approval at least sixty (60) days prior to the beginning of the next license renewal period.

2607.18 A sponsor of a continuing education program that has been approved by the Board may apply for renewal of that program by submitting a renewal application and, in alternate renewal cycles, providing an updated syllabus outlining the course content.

2607.19 Sponsors or schools offering continuing education programs are required to notify the Board, within thirty (30) days if ARELLO certification ceases.

2608 LICENSURE OF MORTGAGE BROKERS [REPEALED]

2609 CODE OF ETHICS FOR REAL ESTATE BROKERS, REAL ESTATE SALESPERSONS, AND PROPERTY MANAGERS

2609.1 A licensee shall not discriminate or assist any party in discriminating in the sale, rental, leasing, exchange, or transfer of property to any person or group of persons because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, physical handicap, source of income, matriculation, or place of residence or business, and shall comply with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), as amended, and any other applicable District or federal anti-discrimination rule, regulation, or act. Nothing in this section shall supersede any federal rule, regulation, or act.

2609.2 A licensee who has information that would lead a reasonable person to believe that a real estate broker, real estate salesperson, or property manager has engaged in fraud, misrepresentation, or unethical practices shall promptly report the information to the Board in any investigation or proceeding concerning any conduct prohibited by the Act.

2609.3 The provisions of § 2609.2 of this section shall not require the reporting by a licensee acting as an officer, director, investigator, committee member, or hearing panel member of a trade association, a majority of the members of which is comprised of licensees, of such information obtained during the course of an investigation of, or hearing on, an arbitration or ethics complaint pursuant to a program established by the trade association.

2609.4 A real estate broker shall not advertise without disclosing the broker's name or the company's name as it appears on the license.

2609.5 A real estate broker shall not knowingly permit a real estate salesperson to use the salesperson's name in any advertisement without the name of the brokerage company with whom the salesperson is affiliated.

2609.6 A real estate salesperson shall not knowingly permit the use of the salesperson's name in any advertisement without the name of the brokerage company with whom the salesperson is affiliated.

2609.7 A licensee shall make a reasonable effort to ensure that all written agreements for the sale, purchase, rental, lease, or exchange or real property set forth the exact agreement of the parties and that the copies of the agreements are made available to each party when the party signs the agreement.

2609.8 A licensee shall not prepare or be a party to the preparation of any written agreement for the sale, purchase, rental, lease, or exchange or real property that falsely recites the purchase price.

2609.9 A licensee shall make a reasonable effort to ascertain all material facts concerning each property for which an agency is accepted.

2609.10 A licensee shall make a reasonable effort to keep informed about laws and rules, governmental policies, and current market conditions in order to advise a client properly.

2609.11 A licensee shall exercise fidelity and good faith to a client in all matters within the scope of the licensee's employment. The obligation of fidelity to the client's interest does not relieve the licensee from any statutory or regulatory obligations toward the other parties to the transaction.

2609.12 A licensee shall not accept compensation from more than one (1) party to a transaction without the full knowledge and consent of the other party or parties.

2609.13 A licensee shall disclose in writing to all parties to a real estate transaction any ownership interest in the property that is the subject of the real estate transaction held directly or indirectly by the licensee, an immediate member of the licensee's family, the licensee's firm, or a member of the licensee's firm.

2609.14 A licensee who manages property on behalf of the owner of the property shall not accept any commission, rebate, profit, or other valuable consideration on expenditures made for an owner without the owner's knowledge and consent.

2609.15 A licensee may give an opinion of the price of real estate for the purpose of a prospective listing or sale or when making a Competitive Market Analysis (CMA) if:

(a) The licensee physically inspects the property; and

(b) The resulting opinion or CMA does not refer to an appraisal and is not presented as an appraisal.

2609.16 A licensee shall not give an opinion of the price of real estate for the purpose of a prospective listing or sale, make a competitive market analysis (CMA), or render an opinion of value on any property in which the licensee has a present interest without disclosing that interest to the client.

2609.17 A licensee shall not give an opinion of the price of real estate for the purpose of a prospective listing or sale or make a competitive market analysis (CMA) if the licensee's employment or fee is contingent upon the amount of the appraisal.

2609.18 A licensee shall not attempt to provide specialized professional services concerning a type of property or service that is outside the field of the licensee's experience, unless the licensee obtains the assistance of an expert, or discloses the licensee's lack of experience to the client.

2609.19 If a licensee engages an expert, the licensee shall identify the expert to the client and inform the client of the expert's contribution to the assignment.

2609.20 A licensee who has a listing with the owner of real property shall transmit to the owner all formal written offers received by the licensee, whether made by a prospective purchaser directly or through another licensee, unless the owner has accepted a previous offer.

2609.21 A licensee shall not attempt to contact the owner of real property directly for the purpose of inducing the owner to break a listing agreement when another licensee has a listing on the property.

2609.22 A licensee shall not place any signs on any property without the owner's written consent.

2609.23 In addition to complying with the requirements set forth in this section, a licensee shall comply with the requirements set forth in the Act, the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Official Code § 42-1701 *et seq.*), as amended, and the rules issued pursuant thereto.

2610 LICENSE REQUIREMENTS APPLICABLE TO ALL APPLICANTS

2610.1 All applicants shall be at least 18 years of age.

2610.2 Applicants shall not have been convicted of an offense that bears directly on the fitness of the applicant to be licensed.

2610.3 Prior to receiving a license, all applicants shall complete the requirements for licensure specified within this chapter.

2610.4 All applicants shall be a high school graduate or holder of a high school equivalency certificate.

2610.5 All applicants shall be able to read, write, and understand the English language.

2610.6 All applicants shall not have had a real estate broker's, real estate salesperson's, or property manager's license denied for any reason other than failure to pass an examination or examinations, in the District or elsewhere, for one year prior to the date on which the application is filed with the Board.

2610.7 An applicant shall not file an application for renewal if the Board has suspended the applicant's license and the suspension is in effect on the date that the applicant files the renewal application with the Board.

2610.8 All applicants shall not have had a real estate broker, real estate salesperson, or property manager license revoked for three years prior to the date on which the application is filed with the Board.

2610.9 The Board may refuse to issue or renew a license in a name that is as follows:

(a) Misleading or would constitute false advertising;

(b) Implies a partnership, association, or corporation where one does not exist;

(c) Includes the name of a salesperson;

(d) Is in violation of the law;

(e) Is a name that has been used by any person whose license has been suspended;

(f) Includes the name of a person not otherwise licensed; or

(g) Is a name that is deceptively similar to that used by another licensee.

2611 LICENSURE BY WAIVER OR RECIPROCITY

2611.1 Subject to any additional requirements set forth in §§ 2602, 2603, and 2604 of this chapter, applicants for licensure as real estate brokers, real estate salespersons, or property managers shall be granted a license by waiver or reciprocity upon submission to the Board of an application that includes proof of the following:

(a) That the applicant is licensed or certified in the same or a substantially similar profession or occupation;

(b) That the license or certification that the application is relying upon is in good standing;

(c) That the license or certification is from a jurisdiction which, on the date the license or certification was granted, had standards that were at least as high as the standards required for licensure or certification in the District; and

(d) That the jurisdiction referred to in (c) admits professionals licensed by the District in the same manner.

2611.2 Documents provided to the Board as proof under this section shall be originals or notarized copies.

2611.3 If the applicant provides original documents to the Board as part of the application, the Board shall return the documents to the applicant at the time the license is issued.

2612 INACTIVE STATUS

2612.1 Upon application by a licensee and payment of the required fee, the Board shall place a licensee on inactive status.

2612.2 While on inactive status, an individual shall not practice, attempt to practice, or offer to practice as a real estate broker, real estate salesperson, or property manager in the District.

2612.3 Subject to § 2612.4 of this section, a licensee may remain on inactive status for a period not to exceed five (5) consecutive years. If a person has been on inactive status for five (5) consecutive years or more that person shall be considered a new applicant and shall be required to meet all current requirements for licensure, unless the Board in its discretion determines that the failure to renew during the five (5) year inactive period was due to reasonable cause or excusable neglect.

2612.4 Section 2612.3 of this section shall not apply to an active employee of the government of the United States, the District, or other jurisdiction of the United States if the employee is required as a condition of his or her employment not to practice as a real estate broker, real estate salesperson, or property manager in the District. However, the employee shall pay the fee required by § 2612.1 of this section.

2612.5 The Board shall issue a license to an individual who is on inactive status and who desires to resume practice as a real estate broker, real estate salesperson, or property manager if the individual meets the following requirements:

(a) Pays the required fee to reactivate the license as well as any current assessment for the Fund;

(b) Demonstrates compliance with the continuing education requirements set forth in § 2605 of this chapter, as appropriate; and

(c) Complies with all current requirements for renewal of the license.

2612.6 A person on inactive status shall not be subject to the renewal fee.

2613 AGENCY DISCLOSURE

2613.1 Upon having a substantive discussion about a specific property or properties with an actual or prospective buyer or seller or an actual or prospective landlord or tenant who is not the client of the licensee, a licensee shall disclose any broker relationship the licensee has with another party to the transaction on a written notice, substantially in the form approved by the Board, which clearly discloses the relationship of the broker or salesperson with the parties to the transaction.

2613.2 The notice required by § 2613.1 of this section shall be made in writing at the earliest practicable time and in a form substantially in the form approved by the Board, but not later than the time when specific real estate assistance is first provided, excluding a non-substantive discussion held during an open house. In instances where the parties to the transaction are an actual or prospective landlord or tenant the disclosure shall be included in all applications for a lease or in the lease itself, whichever occurs first.

2613.3 A broker or salesperson shall request that the actual or prospective purchaser or seller of residential real estate, or actual or prospective landlord or tenant, who is not the client of the licensee, to sign, date, and return a copy of the required notice to the broker or salesperson. If an actual or prospective purchaser or seller, or actual or prospective landlord or tenant, declines to sign the notice, the broker or salesperson shall make a notation on the agency disclosure notice indicating the date that he or she presented the notice to the actual or prospective purchaser, or actual or prospective landlord or tenant, and that the person declined to sign the agency disclosure notice and the reason therefore, if any, given. In the event of a fully executed purchase contract, the licensee shall keep a copy of the disclosure notices relative to the contract for three (3) years.

2613.4 If a licensee's relationship to a client or customer changes, the licensee shall disclose that fact in writing to all clients and customers already involved in the specific contemplated transaction.

2613.5 The disclosure notices required by this section and the Act are set forth below. Each disclosure form developed by licensees shall be in substantially the same following format as the examples set forth in this section:

(a) Disclosure of Brokerage Relationship.

THIS NOTICE IS REQUIRED BY LAW AND IS NOT A CONTRACT.

THIS DISCLOSURE DOES NOT CREATE A BROKERAGE RELATIONSHIP.

Disclosure of Brokerage Relationship
District of Columbia

Prior to providing specific real estate assistance, District of Columbia law requires that a licensee disclose to any party who the licensee does NOT represent the identity of the party to the proposed transaction who the licensee does represent. Even though a licensee may not represent you, that licensee must still treat you honestly in the transaction.

We, the undersigned ☐ Buyer(s)/Tenant(s) or ☐ Seller(s)/Landlord(s) acknowledge receipt of this Disclosure, and understand we are **NOT** represented by the licensee identified below.

_____and _____
(Licensee & License #) (Brokerage Firm)

The licensee and brokerage firm named above represent the following party in the real estate transaction:

[ ] Seller(s)/Landlord(s) (The licensee has entered into a written listing agreement with the seller(s) or
landlord(s) or is acting as a sub-agent of the listing broker.)

[ ] Buyer(s)/Tenant(s) (The licensee has entered into a written agency agreement with the buyer/tenant.)

[ ] Designated Agent of the ☐ Buyer(s)/Tenant(s) or ☐ Seller(s)/Landlord(s)
(Both the buyers and sellers have previously consented to "Designated Agency", and the licensee listed above is indicating the parties represented.

_____
Acknowledged Date

_____
Acknowledged Date

(b) Consent for Dual Representation and Designated representation in the District of Columbia.

Consent for Dual Representation and Designated Representation in the District of Columbia

(To be attached to all listing agreements and buyer or tenant brokerage agreements for transactions in the District of Columbia.)

"Designated Representation" occurs when the Seller or Landlord has entered into a listing agreement with a licensee and the Buyer or Tenant has entered into a buyer brokerage agreement with a different licensee affiliated with the same firm. Each of the licensees, known as Designated Representatives, represents fully the interest of his/her individual clients. The Supervising Broker is a Dual Representative of both the Buyer and Seller, and must not disclose information obtained in confidence to other parties in the transaction.

- If the Seller or Landlord does not consent to Designated Representation, the property may not be shown by any licensees affiliated with the brokerage firm who have entered into a representation agreement with a prospective Buyer or Tenant.
- If the Buyer or Tenant does not consent to Designated Agency, the Buyer or Tenant may not be shown any properties listed by other licensees affiliated with the brokerage firm.

Prior to entering into a contract in which the buyer and seller are represented by Designated Representatives, the relationship of both Designated Agents must be disclosed/confirmed in writing.

"Dual Representation" occurs when Seller or Landlord has entered into a listing agreement with a licensee and the Buyer or Tenant has entered into a buyer brokerage agreement with the same licensee. When the parties agree to dual representation, the ability of the licensee and the brokerage firm to represent either party fully and exclusively is limited. The confidentiality of all clients shall be maintained.

- If the Seller or Landlord does not consent to Dual Representation, the property may not be shown by the licensee to any prospective Buyers or Tenants who have entered into a buyer brokerage agreement with the licensee.
- If the Buyer or Tenant does not consent to Dual Agency, the licensee may not show any properties listed by the licensee.
- Prior to entering into a contract in which the buyer and seller are represented by Dual Agency, this relationship must be disclosed/confirmed in writing.

[ ] I (We) consent to Designated Representation, acknowledging the broker/firm _____, license # _____, may represent both the seller(s) and buyer(s) or landlords and tenants, and the sales associate, _____, license # _____, as the Designated Representative for the party indicated below:

[ ] Sellers(s) or [ ] Buyer(s)
[ ] Landlord(s) [ ] Tenant(s)

[ ] I (We) do not consent to Designated Representation

[ ] I (We) consent to Dual Representation, acknowledging the broker/firm _____, and the sales associate, _____, license# _____, may represent both the seller(s) and buyer(s) (or landlord(s) and tenant(s)), as the Dual Representatives for the both parties indicated below:

[ ] Sellers(s) and Buyer(s)
[ ] Landlord(s) and Tenant(s)

[ ] I (We) do not consent to Dual Representation

_____
Signed Date

_____
Signed Date

(c) Washington, DC Disclosure/Confirmation of Dual Representation and/or Designated Representation.

Washington, DC Disclosure/Confirmation of Dual Representation and/or Designated Representation

(To be attached to the Regional Sales Contract or Lease Agreement whenever Dual Agency or Designated Representation occurs on a DC transaction.)

With respect to the property located at _____
the undersigned, having previously consented to Dual Agency of the brokerage firm, do hereby acknowledge disclosure that:

_____
(Name of brokerage firm acting as Dual Representative)

represents more than one party to the real estate transaction as indicated below:

☐ Seller(s) and Buyer(s) or ☐ Landlord(s) and Tenant(s)

The Seller(s) or Landlord(s) and the Buyer(s) or Tenant(s) are proceeding with the transaction acknowledging:
(choose one below)

[ ] Designated Representation:

The brokerage firm has assigned _____
(Name of Licensee & License #)
to act as the Designated Representative of the Seller(s) or Landlord(s) and,

The brokerage firm has assigned _____
(Name of Licensee & License #)
to act as the Designated Representative of the Buyer(s) or Tenant(s)

---------- **OR** ----------

[ ] Dual Representation

The Licensee:_____
(Name of Licensee & License #)
And the Brokerage Firm represents more than one party to the contract as indicated above.

Seller or Landlord	Date	Buyer or Tenant	Date
Seller or Landlord	Date	Buyer or Tenant	Date

2614 SUPERVISION

2614.1 A real estate broker is responsible for the day-to-day supervision of real estate salespersons, associate real estate brokers, and property managers affiliated with the real estate broker.

2614.2 A property manager is responsible for the day-to-day supervision of each person who engages in property management, ministerial, or clerical functions on behalf of the property manager.

2614.3 If the real estate broker is an organization licensed pursuant to § 2601.11 of this chapter, the supervision shall be carried out by the licensed real estate broker that manages the particular branch where the subordinate licensee is employed.

2614.4 Supervision performed under this chapter shall be reasonable and adequate and shall be over the activities of the persons affiliated or registered with that office.

2614.5 The exercise of reasonable and adequate supervision may not be construed as or deemed to create the existence of an employer-employee relationship between the supervisor and the licensed real estate organization and the associate real estate broker or real estate salesperson or to alter the status of an independent contractor.

2614.6 Reasonable and adequate supervision shall be determined by considering the characteristics of the firm, which shall include the following:

(a) The number of licensed real estate salespersons and associate real estate brokers affiliated with the real estate broker;

(b) The number of branch offices and salespersons and associate real estate brokers assigned to each office;

(c) The number of management personnel assigned to each office;

(d) The normal and routine working days and hours of management and supervisory personnel; and

(e) The type of real estate activities of the firm.

2614.7 Factors to be considered in determining whether supervision is reasonable and adequate shall include, but are not limited to, the following:

(a) The frequency of mandatory and voluntary training and education sessions;

(b) The availability of experienced supervisory personnel to review and discuss contract provisions, listing provisions, and advertising matters;

(c) The availability and enforcement of written procedures and policies that provide clear guidance for the following:

(1) The handling of deposit monies and other funds in accordance with the escrow provisions of the chapter;

(2) Compliance with federal and District fair housing laws and regulations;

(3) Compliance with advertising requirements applicable to real estate transactions;

(4) Review of contracts, leases, and brokerage agreements upon execution by all parties to the contract, lease, or brokerage agreement;

(5) Use and limitations of unlicensed personal assistants or resident managers;

(6) Disclosure of agency relationships by licensees in residential real estate transactions;

(7) Distribution and dissemination of information on new or amended requirements in the real estate licensing and real property laws, rules, and regulations of the governments and regulatory agencies of the District, the federal government, and adjacent states and municipalities;

(8) The obligation of all licensees to comply with all applicable provisions of the Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.01 *et seq*.), the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Official Code § 42-1701 *et seq*.), as amended, and the Code of Ethics in this chapter;

(9) Requirements, restrictions, and limitations applicable to the sale or lease of real property personally owned by a licensee and the purchase or lease of real property by a licensee for the licensee's personal use; and

(10) The unauthorized practice of law by a licensee.

(d) Evidence of the following;

(1) Records of attendance at staff meetings;

(2) Review by the broker, branch office manager, or designee of the broker or branch office manager of contracts of sale, leases, and brokerage agreements executed by all parties to the contract, lease, or brokerage agreement;

(3) Review by the broker, branch office manager, or designee of the broker or manager of advertisements to be placed by licensees affiliated with the broker;

(4) Compliance with the written policies and procedures of subsection (c) of this section; and

(5) Dissemination of the written policies and procedures listed in subsection (c) of this section to licensees affiliated with the broker.

2614.8 Upon a showing that the broker has not provided reasonable and adequate supervision in the areas under this section of this chapter, the burden of proof shall be on the broker to show that the supervision that the broker did provide was reasonable and adequate.

2615 ADVERTISING REQUIREMENTS

2615.1 Advertising real property in any communications medium, by persons licensed under this chapter, is subject to the disclosure, agency, and duty requirements of this chapter, the Act, the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Official Code § 42-1701 *et seq.*), as amended, and any other applicable District or federal law, rule, or regulation.

2615.2 Institutional advertising may not contain false or misleading information.

2615.3 All advertising shall be under the direct supervision of the principal broker or supervising broker and shall be in the name of the firm. The firm's licensed name shall be displayed clearly and legibly on all advertising.

2615.4 Individual licensees shall not use a nickname in any advertising medium.

2615.5 Online advertising, including e-mail, web pages, message board postings, instant messages, chat, or any other method of communication that may be transmitted over any computer network, is subject to the requirements of this chapter, 17 DCMR Chapter 27, the Act and the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Official Code § 42-1701 *et seq.*), as amended.

2615.6 Online advertising undertaken for the purpose of any licensed activity that can be viewed or experienced as a separate unit such as e-mail messages or web pages shall contain a on-line disclosure as follows:

(a) If a firm or licensee owns a web page or controls its content, the viewable page shall include an on-line disclosure or a link to an on-line disclosure;

(b) E-mail, newsgroups, discussion lists, and bulleting boards shall include an on-line disclosure at the beginning or end of each message. The provisions of this subsection do not apply to correspondence with persons with whom the licensee has already established a brokerage relationship and which are made in the ordinary course of business;

(c) On-line disclosure is not necessary in an instant message, IRC, or ICQ format if the firm or licensee has provided the on-line disclosure via another format prior to providing, or offering to provide, services licensed under this chapter;

(d) On-line disclosure is required prior to providing, or offering to provide, licensable services during a chat session. On-line disclosure may appear in the text visible on the same webpage that contains the chat session if the licensee controls the website hosting the chat session;

(e) On-line disclosure is required prior to advertising in Voice Over Net (VON) format or the disclosure text shall be visible on the same webpage that contains the VON session;

(f) Banner, Pop-up, and Pop-under ads, or any variation thereof, shall include a link to an on-line disclosure unless the banner or pop-up ad contains the on-line disclosure; and

(g) Licensees shall not use unsolicited commercial e-mail (Spam) to promote licensed activity. Licensees are responsible for the actions of third parties that provide commercial e-mail advertising and marketing services for the benefit of the licensee.

2615.6 Only persons licensed as real estate brokers may use the title or designation "real estate broker", the abbreviation "R.E.B.", or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is a licensed real estate broker in the District.

2615.7 Only persons licensed as real estate salespersons may use the title or designation "real estate salesperson", the abbreviation "R.E.S.", or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is a licensed real estate salesperson in the District.

2620 TERM OF A LICENSE

2620.1 A license or certificate issued to a real estate broker, associate real estate broker, or property manager between January 1 and February 28 of an odd-numbered year shall be

valid from the date of issuance through the end of the two-year (2) licensing period commencing on March 1 of that year.

2620.2 A real estate salesperson license issued pursuant to this chapter shall expire on August 31 of each odd-numbered year.

2620.3 The Board may change the license cycle to another system for administrative convenience.

2620.4 If the Board changes the license cycle under § 2620.3 of this section, the term of a license that is in effect on the date of the Board's determination to change the system may be extended up to three (3) years in order to permit an orderly transition.

2621 RENEWAL OF A LICENSE

2621.1 At least sixty (60) days prior to the expiration of a license, the Board shall send a renewal application by certified or registered first class mail to the holder of a license at the licensee's last known address.

2621.2 A holder of a license shall meet all of the requirements for license renewal prior to the issuance of the renewal.

2621.3 A holder of a license shall provide the Board a street address for the licensee's residence, not a post office box, and shall notify the Board in writing of any change of home or business address within thirty (30) days of the change.

2621.4 The failure of a holder of a license to receive the notice required by § 2621.1 of this section does not relieve the holder of the responsibility of renewing the license.

2621.5 A holder of a license who fails to renew before the expiration date may renew the license within sixty (60) days after expiration upon paying the required late fee. Upon renewal, the holder shall be deemed to have possessed a valid license during the period between the expiration of the license and its renewal.

2621.6 If a holder of a license fails to renew the license within sixty (60) days after its expiration, the license shall be deemed to have lapsed on the date of expiration and the holder shall be required to apply for reinstatement of the expired license and pay the required reinstatement fee.

2621.7 An applicant for renewal of a property manager’s license shall submit the renewal application in a timely manner and shall complete the continuing education requirements before the expiration date of the license.

2621.8 The Board shall deny an application for renewal if the applicant has not completed the continuing education requirements prior to the expiration date of the license.

2621.9 Denial of an application for renewal for failure to complete the continuing education requirements shall require the applicant to complete the continuing education requirements prior to submitting an application for reinstatement pursuant to § 2622 of this chapter.

2622 REINSTATEMENT OF AN EXPIRED LICENSE

2622.1 This section shall apply to an applicant for reinstatement of an expired license issued under the Act.

2622.2 An applicant for reinstatement under this section shall file an application with the Board on the prescribed form and shall pay the required reinstatement fee as well as any current assessment for the Fund.

2622.3 An applicant for reinstatement under this section shall demonstrate fitness to resume practice by submitting evidence satisfactory to the Board that the applicant has the competency and knowledge of District and federal laws necessary to resume practice and that the applicant's resumption of practice will not be detrimental to the public interest or the integrity of the real estate profession.

2622.4 In making a determination pursuant to § 2622.3, the Board shall consider the following:

(a) The length of time that the applicant has practiced in the District or another jurisdiction;

(b) The length of time after expiration of the applicant's license that the applicant was not practicing in either the District or another jurisdiction;

(c) The applicant's violations of any laws;

(d) The applicant's present character; and

(e) The applicant's present qualifications and competency to practice.

2622.5 The Board may require an applicant to complete certain educational or training requirements, in addition to any continuing education requirements, prior to or after reinstatement, to ensure that the applicant is competent to practice.

2622.6 The Board shall not reinstate the license of a real estate broker, a real estate salesperson or property manager who fails to apply for reinstatement of a license within five (5) years after the license expires. Any person who is ineligible for reinstatement may become licensed by meeting the requirements for initial licensure under this chapter.

2622.7 An applicant for reinstatement of an expired license shall submit proof of having completed all continuing education credits required to have been taken during the period the license lapsed.

2622.8 In an application for reinstatement of an expired license, if the applicant is an individual, the applicant shall provide the street address, not a post office box, for the applicant's residence.

2623 REINSTATEMENT OF SUSPENDED OR REVOKED LICENSE

2623.1 A person whose license to practice as a real estate broker, real estate salesperson, or property manager has been revoked shall be ineligible to apply for reinstatement for a period of three (3) years from the date of revocation unless otherwise provided in the Act or the Board's order of revocation.

2623.2 An applicant for reinstatement under this section shall file an application with the Board on the prescribed form and shall pay the required reinstatement fee.

2623.3 An applicant shall satisfy the continuing education requirements of § 2622.7 of this chapter and shall demonstrate fitness to resume practice by submitting evidence satisfactory to the Board that the applicant has the moral qualifications, competency, and knowledge of District and federal laws necessary to resume practice, and that the applicant's resumption of practice will not be detrimental to the public interest or the integrity of the real estate profession.

2623.4 In making a determination pursuant to § 2623.3 of this chapter, the Board may consider, among other factors, the following:

(a) The nature and circumstances of the conduct for which the applicant's license was suspended or revoked;

(b) The applicant's recognition and appreciation of the seriousness of any misconduct;

(c) The applicant's conduct since the suspension or revocation, including steps taken by the applicant to remedy prior misconduct and prevent future misconduct;

(d) The applicant's present character;

(e) The applicant's present qualifications and competency to practice in the real estate profession;

(f) Whether the applicant has paid all fines, and where applicable, has complied with the requirements of § 2706.1 of this chapter; and

(g) Whether the documents submitted by the applicant as proof of completion of the continuing education requirements necessary for reinstatement comply with the requirements of § 2605 of this chapter.

2623.5 The Board may require an applicant to complete specified educational or training requirements, in addition to any continuing education requirements, prior to or after reinstatement, to ensure that the applicant is competent to practice.

2623.6 A person whose application for reinstatement has been denied shall be ineligible to apply for reinstatement for a period of one (1) year from the date of the denial.

2623.7 In an application for reinstatement of a suspended or revoked license, if the applicant is an individual, the applicant shall provide the street address, not a post office box, for the applicant's residence.

2623.8 The Board's order of revocation shall include the applicable conditions for reinstatement as set forth in this section.

2624 EXEMPTIONS FROM LICENSING REQUIREMENTS

2624.1 All persons within the District regularly engaged in conducting any activity licensed by the Board, unless appointed or acting under the judgment or order of any court while acting in that capacity shall obtain a license prior to engaging in the activity unless specifically exempted by this chapter or the Act.

2624.2 Persons exempted from licensure under this chapter shall not hold themselves out as real estate brokers, salespersons, or property managers. Failure to abide by this section may result in civil and criminal prosecution under this chapter and the Act.

2624.3 Persons acting in the following capacities are exempt from the licensing requirements of this chapter:

(a) Receivers, referees, administrators, executors, guardians, conservators, trustees, or other persons appointed or acting under the judgment or order of any court while acting in that capacity, or attorneys-at-law in the ordinary practice of their profession;

(b) Any person who, as an owner or lessor of real estate, performs any of the acts specified in this subsection, where the acts are performed in the regular course of, or incident to, the management of real estate, business and the investments therein owned by that person;

(c) Any trustee or auctioneer acting under authority of a power of sale in a mortgage, deed of trust, or similar instrument securing the payment of a bona fide debt;

(d) Except for title companies, any bank, trust company, building and loan or savings and loan association, or insurance company, having a fiduciary interest such as a receiver, referee, administrator, executor, guardian, conservator or trustee, when the bank, trust company, building and loan or savings and loan association, or insurance company is so engaged;

(e) Any person who is employed by a licensed real estate broker or property manager in a solely stenographic or clerical capacity and who does not perform, offer, agree, or attempt to perform, any of the activities licensed by the Board;

(f) Any officer or employee of the federal or District government while performing his or her official duties, or any person, or employee thereof, who is employed on a contractual or other basis, by the federal or District government to make appraisals of real estate for real property tax or other government purposes;

(g) Any person who, for a fee, commission, or other valuable consideration, identifies for another person, or provides any other information about, any rental unit available for rent; or

(h) Any qualifying nonprofit housing organization as defined by D.C. Official Code § 47-3505(a).

2624.4 A person is not required to possess a property manager's license, and shall not be considered a property manager, when performing the following actions:

(a) Delivering a lease application, a lease, or any amendment of a lease to any person;

(b) Receiving a lease application, a lease, an amendment of a lease, a security deposit, a rent payment, or any related payment for delivery to a property manager;

(c) Showing a rental unit to any person;

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

(e) Assisting an owner or another person in the performance of property management functions by carrying out ministerial, administrative, or clerical tasks;

(f) Other actions that do not create or offer to create a contractual obligation on the person's employer; or

(g) Any person who, as an owner or lessor of real estate, performs any of the acts specified in this chapter that are performed in the regular course of, or incident to, the management of real estate, business, and the investments therein owned by that person.

2699 DEFINITIONS

2699.1 As used in chapters 26 and 27 of this title, the following terms and phrases shall have the meanings ascribed:

Act – Title I of the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261, § 1002; D.C. Official Code § 47-2853.01 *et seq*.).

Affiliated - A person licensed under this chapter whose license or license status requires maintaining an employer-employee or independent contractor relationship with a real estate broker licensed in the District with a fixed street address that is registered with the Board.

ARELLO – The Association of Real Estate Licensing Law Officials; a global, nonprofit association made up of entities involved in regulating the practice of real estate salespersons, real estate brokers, and property managers.

Associate Real Estate Broker - any person licensed as a real estate broker who is employed by a real estate broker, franchise, firm, association, business, or corporation, but who is not a partner, an officer, or a principal broker within a licensed legal entity.

Banner Ads – a graphic image that announces the name or identity of a site or is an advertising image.

Board – the Board of Real Estate, established by the Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12- 261; D.C. Official Code § 47-2853.01 *et seq*.) and previously known as the D.C. Real Estate Commission.

Builder – a person that purchases and develops property by constructing structures to sell to the public.

Bulletin Board System (BBS) – a service for sharing or exchanging of messages or files via the Internet, Telnet, or private dial-up service.

Chat Session – the exchange of text messages in real time between one or more participants who take part from anywhere on the Internet.

Competitive Market Analysis - A comparison of the prices of recently sold homes that are similar to a listing seller's home in terms of location, style and amenities.

Director - the Director of Department of Consumer and Regulatory Affairs.

Discussion Lists – known also by various names such as discussion board, discussion group, discussion forum, message board, and online forum – discussion list is a general term for any online "bulletin board" where a person can read messages or leave and expect to see responses to messages the person has left.

Distance learning - courses in which instruction does not take place in a traditional classroom setting but rather through other media where instructor and student are separated by distance and sometimes by time.

District - the District of Columbia.

E-mail – the exchange of computer stored messages by telecommunication usually in text format, but may also include non-text files, such as graphic images or sound files, as attachments sent in binary streams.

Fund - the Real Estate Guaranty and Education Fund.

Instant Messaging – sometimes called IM or IMing, is the ability to see whether a person is connected to the Internet and, if so, exchange text-only messages with that person. The recipient shall be willing to accept the message or the transmission cannot be completed. Similar services are IRC and ICQ.

Institutional advertising - advertising that does not identify any real property.

Leasing – Leasing is a financial instrument enabling the utilization of a given fixed asset without possessing its ownership.

Mastery Based Format – A structured interactive learning program divided into modules of instruction where students are required to demonstrate mastery of the material covered.

Newsgroup – a discussion about a particular subject consisting of notes written to a central Internet site and redistributed through Usenet, a worldwide network of news discussion groups.

Office of Investigations - the Department of Consumer and Regulatory Affairs Office of Compliance, Investigations Division.

On-line Disclosure – a notice that contains the firm's licensed name, the city and state in which the firm's main office is located, and the jurisdiction in which the firm holds a license or advertising that contains the licensee's name, the name of the firm with which the licensee is affiliated, the city and state in which the licensee's office is located, and the jurisdiction in which the licensee holds a license.

Person - any individual, partnership, association, unincorporated business, firm, business trust, or corporation, whether foreign or domestic.

Pop-Up/Pop-Under Ads – A window used for advertising, smaller than the main browser window, that appears in front or behind the main browser window.

Proof of Age - when proof of age is required by this Chapter, the applicant shall present an original or notarized copy of the following; birth certificate, current passport, current driver's license or such other proof as is acceptable to the Board.

Property manager - an agent for the owner of real estate in all matters pertaining to the operation of the property or properties which are under his or her direction, including the leasing or renting of property, and who is paid a commission, fee or other valuable consideration for his or her services, but does not perform any activities that relate to the listing for sale, offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, or negotiating a loan on real estate for a fee, commission, or other valuable consideration.

Real Estate - condominiums, leaseholds, time sharing, any other interest, or non-freehold, whether located in the District or elsewhere. For the purposes of this chapter, the term also means any share or membership in a cooperative organized pursuant to the District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Code §§ 29-801 *et seq*.), to engage in activities relating to real estate, even though the shares or membership may be considered to be securities or personal property for purposes of the Act.

Real Estate Broker - Any person, firm, association, partnership, or corporation (domestic or foreign) who:

(1) For a fee, commission, or other valuable consideration, lists for sale, or sells, exchanges, purchases, rents, or leases real property. A real estate broker may collect or offer to collect rent or income for the use of real estate, or negotiate a loan secured by a mortgage, deed of trust, or other encumbrance upon the transfer of real estate. A real estate broker may also engage in the business of erecting housing for sale and may sell or offer to sell that housing, or who as owner may sell or, through solicitation or advertising, offer to sell or negotiate the sale of any lot in any subdivision of land comprising five (5) lots or more. This definition shall not apply to the sale of space for the advertising of real estate in any newspaper, magazine, or other publication; and

(2) May employ real estate brokers, associate real estate brokers, real estate salespersons, property managers and resident managers. The real estate broker shall be held accountable for the day-to-day job-related activities of his or her employees. These activities include, but are not limited to, property management, leasing or renting of property, listing for sale, buying or negotiating the purchase or sale, or exchanging real estate or negotiating a loan on real property.

Real Estate Salesperson - any person affiliated with or employed by a licensed real estate broker to manage or lease; rent or offer to lease for rent; list for sale, sell, or offer for sale; buy or offer to buy; negotiate the purchase or sale, or exchange of real estate; or to negotiate a loan on real estate.

Resident Manager - a individual responsible for the day-to-day management of a contiguous cluster of rental real estate who serves as principal onsite representative of the contracting property manager but who does not perform any function requiring licensure under this chapter.

Supervision – The direction and review, by a real estate broker acting as a branch office manager or property manager, of the acts performed by an affiliated licensee, such as an associate real estate broker or real estate salesperson, or an unlicensed person performing clerical, ministerial, or other functions exempt from licensure under this chapter.

Voice Over Net – voice communication delivered using Internet Protocol rather than the public switched telephone network.

CHAPTER 27 REAL ESTATE PRACTICE AND HEARINGS

Sec.

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2700 CHANGE OF LICENSEE STATUS

2700.1 Upon receipt of a properly filed written request on a form approved by the Board and payment of the appropriate fees, the Board may approve the change of status of a real estate broker licensee.

2700.2 An individual licensed as a real estate broker may request to change the status of the license to the following:

(a) That of a member, partner, trustee or officer of a firm, partnership, association, business trust or corporation; or

(b) That of an associate real estate broker with a firm, partnership, association, business trust, or corporation.

2700.3 A change of status shall be effective for any unexpired portion of the licensure term.

2700.4 Upon receipt of a licensee's completed change of status request the Board shall issue a new license to the licensee reflecting the change of status but that contains the same expiration date as the original license.

2700.5 The Board shall change the status of a real estate broker to an associate broker only if the real estate broker meets the definition of an associate broker established by D.C. Official Code § 47-2853.182(d).

2700.6 A firm, partnership, association, business trust, and corporate licensee shall notify the Board, by certified mail, of any change in the status of affiliation with real estate brokers and real estate salespersons.

2700.7 Licenses issued by the Board are not transferable to another person.

2701 PLACE OF BUSINESS; DISPLAY OF LICENSE; NOTICE OF CHANGE OF ADDRESS

2701.1 Each place of business shall have a phone, desk, and pertinent files and shall conspicuously display therein the license of all persons licensed to act as a broker or salesperson and shall likewise conspicuously display on the door or outside of the premises named in the license a sign bearing the word "Real Estate" or where authorized, "Realtor" or "Realtist." The sign shall be visible from a public highway or public hallway, and shall include the licensee's name. Neither a post office box nor an answering service shall satisfy the requirements of D.C. Official Code § 47-2853.184.

2701.2 A duplicate real estate broker or property manager license shall be obtained and displayed in each branch office maintained by the real estate broker or property manager within the District.

2701.3 Each real estate brokerage or property management firm shall be managed by a licensed real estate broker or property manager who shall adhere to the supervision requirements of 17 DCMR 2614 *et seq*.

2701.4 Real estate brokers and property managers shall notify the Board of any change in the location of his or her principal place of business upon a form provided by the Board.

2701.5 The change of address notice required by § 2701.4 of this section shall include the effective date of the relocation and shall be submitted in writing within fifteen (15) days prior to the relocation.

2701.6 The real estate broker's license and the licenses of all real estate salespersons employed by him or her shall accompany the notice required by § 2701.4 of this section.

2701.7 Upon receipt of a properly filed notice and payment of fees, the Board shall issue new licenses for the unexpired term within thirty (30) days.

2701.8 Failure to notify the Board of a change of address or to return the licenses as required by this section shall result in the immediate suspension of the license until the real estate broker or property manager has complied with this section.

2702 ESCROW FUND

2702.1 This section applies to any real estate transaction in which any person is entrusted, receives, accepts, or otherwise holds or deposits monies or other trust instruments, of whatever kind or nature, pending the consummation or termination of the transaction involved, whether or not the person requires licensure under this chapter. For the purposes of this section, the person receiving the monies or trust instruments shall be referred to as the escrow holder or trustee.

2702.2 In the absence of written instructions to the contrary signed by all parties to a real estate transaction, monies or other trust instruments received by a person for deposit pending the consummation or termination of the transaction shall, within seven calendar (7) days, be deposited in a financial institution located within the District whose deposits are insured either by the Federal Deposit Insurance Corporation or the Savings Association Insurance Fund, or their successors.

2702.3 The escrow holder or trustee shall maintain the escrow account as a separate account for monies belonging to others.

2702.4 Each escrow holder or trustee shall notify the Board within fourteen (14) calendar days of the name and post office address of the financial institution in which any escrow or trustee account has been established on a form provided by the Board.

2702.5 The form shall include the following:

(a) Name of escrow account;

(b) Account number;

(c) Financial institution where account is located;

(d) Address of institution;

(e) Licensee's name, address, telephone number, and license number; and

(f) Written authorization from the escrow holder or trustee allowing the Board to examine all documents held by the financial institution related to the escrow or trust accounts listed on the form.

2702.6 Monies or other trust instruments shall be maintained in the account until the transaction involved is consummated or terminated, or until proper written instructions have been received by the escrow holder or trustee directing the withdrawal and disposition of the monies, at which time, all the monies shall be promptly and fully accounted for by the escrow holder or trustee.

2702.7 The escrow holder or trustee shall not commingle any of the monies held in an escrow or trustee account with his or her own funds or use any of the escrow or trust monies for any purpose other than the purpose for which the monies were entrusted to him or her. However, the escrow holder or trustee may keep a nominal amount of his or her personal funds in an escrow or trustee account for the purpose of keeping the escrow or trustee account active.

2702.8 An escrow holder or trustee shall not be entitled to any part of the earnest money or other money paid to, or held by, the escrow holder or trustee in connection with any real estate or business transaction as a part or all of his or her commission or fee or for any other purpose until the transaction has been consummated or terminated.

2702.9 Monies held in a escrow or trust account for 90 days or more shall earn interest beginning on the 91st day until the day that the transaction is consummated or terminated.

2702.10 Interest owed under § 2702.9 of this chapter shall be earned at the highest of the following rates:

(a) The legal maximum rate under federal law for interest on ordinary savings deposits in commercial banks;

(b) The rate on the account in which the escrow is deposited; or

(c) The rate on the certificate of deposit or other security given as the escrow or trust.

2702.11 A service fee of no more than fifteen dollars ($15.00) may be subtracted from the interest by the financial institution into which the escrow or trust funds are deposited.

2702.12 In the event of any direct conflict between this section and the Security Deposit Act, effective February 20, 1976 (D.C. Law 1-48; 22 DCR 2825), the Security Deposit Act and any rules or regulations issued under the authority of the Security Deposit Act shall prevail.

2703 EXCEPTION TO INSURANCE COMPANY EXEMPTION

2703.1 Title insurance companies shall not be construed to be included in the insurance company exemption provided by D.C. Official Code § 47-2853.181(4).

2704 REAL ESTATE GUARANTY AND EDUCATION FUND ASSESSMENT

2704.1 An applicant for a license as a real estate broker, real estate salesperson, or property manager shall pay, in addition to the applicable license fee, the sum of sixty dollars ($60.00) into the Real Estate Guaranty and Education Fund ("Fund"). An applicant for a license in the second half of the biennial license period shall pay, in addition to the applicable license fee, thirty dollars ($30.00) into the Fund.

2704.2 Upon renewal of a license, a licensee shall pay, in addition to the applicable renewal fee, the sum of sixty dollars ($60.00) into the Fund.

2704.3 The Fund shall, at all times, be maintained with a balance of no less than one million forty thousand dollars ($1,040,000) and not more than three million five hundred thousand dollars ($3,500,000).

2704.4 The Board shall suspend collection of the assessment for the Fund from licensees and applicants on January 1 of any year, if on the prior October 1, the balance of the Fund is within fifty thousand dollars ($50,000) of the maximum established under this section.

2704.5 The Board may resume collection of the assessment for the Fund of licensees and applicants on January 1, if on the prior October 1, the balance of the Fund is within fifty thousand dollars ($50,000) of the minimum amount established under this section.

2704.6 Any time the amount of the Fund falls below the minimum amount established under this section, the Board shall assess each licensee up to twenty dollars ($20.00) during any license year to bring the balance of the Fund up to the minimum amount.

2704.7 A licensee whose license has been suspended for failure to pay an assessment required to bring the balance of the Fund up to the minimum established pursuant to § 2704.6 of this section shall have his or her license restored only upon receipt of the delinquent assessment plus six percent (6%) interest calculated from the date the assessment was due to the date of payment and penalties in the amount of fifty dollars ($50.00).

2705 REAL ESTATE GUARANTY AND EDUCATION FUND PAYMENT TO APPLICANTS

2705.1 The Department shall make a payment from the Fund to an applicant for payment within sixty (60) days after an order is signed by the Board; provided, that sufficient money is on deposit in the Fund.

2705.2 For purposes of this section, "sufficient fund" means the amount of money necessary to satisfy a duly authorized claim.

2705.3 A duly authorized claim that remains unsatisfied due to insufficient money or deposit in the Fund shall accumulate interest at the rate of four percent (4%) per annum.

2706 REAL ESTATE GUARANTY AND EDUCATION FUND RESTORATION OF LICENSE

2706.1 A licensee whose license has been suspended pending payment in full of an amount ordered paid from the Fund shall not be eligible to have his or her license reinstated until he or she has paid the full amount ordered paid from the Fund plus six percent (6%) interest per annum.

2707 REAL ESTATE GUARANTY AND EDUCATION FUND USE FOR PROGRAMS

2707.1 The Board may use the Fund to pay that proportion of the cost of a program that is equal to the percentage of the program directly related to establishing or maintaining an educational program to improve the competency of licensees or applicants for licensure.

2707.2 The Board may authorize the Fund to be used for expenditures for conferences, workshops and educational programs, for real estate license officials as provided in § 2707.4 of this section.

2707.3 For purposes of this subsection, a "real estate license official" means an employee of the District of Columbia whose duties involve the enforcement of real estate license laws, including but not limited to Board members, legal counsel, and other employees as designated by the Board.

2707.4 The Board may use the Fund to pay the entire permissible cost of participation for a real estate license official to attend a conference, workshop, or educational program if the Board determines the following;

(a) That the conference, workshop, or educational program is qualified pursuant to § 2707.5; and

(b) That the real estate license official's duties relate in whole or in part to the enforcement of real estate license laws.

2707.5 In deciding whether a conference, workshop, or educational program is qualified, the Board shall consider the following:

(a) The educational objective of the proposed program;

(b) The length of the proposed program, the schedule of instruction, location, and anticipated number of participants;

(c) A list of instructors and their credentials; and

(d) Any other information about the conference, workshop, or program as the Board may require.

2708 REAL PROPERTY SELLER'S DISCLOSURE STATEMENT

2708.1 The requirements of this section shall apply to the transfer or sale of real property located in the District consisting of at least one (1) but not more than four (4) dwelling units, where:

(a) The transfer is effected through a sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase; and

(b) The purchaser of the property to be transferred has expressed in writing an interest to reside in the property.

2708.2 This section shall not apply to the following kinds of transfers:

(a) Court ordered transfers, including;

(1) Transfers ordered by a probate court in the administration of an estate;

(2) Transfers pursuant to a writ of execution;

(3) Transfers by a foreclosure sale;

(4) Transfers by a trustee in bankruptcy;

(5) Transfers by eminent domain; and

(6) Transfers from a decree for specific performance.

(b) Transfers to a mortgagee by a mortgagor or successor in interest who is in default;

(c) Transfers by;

(1) A sale under a power of sale;

(2) A foreclosure sale under a decree of foreclosure after default in an obligation secured by a mortgage or deed of trust or any other instrument containing a power of sale; or

(3) A mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.

(d) Transfers by a non-occupant fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust;

(e) Transfers from one cotenant to one or more other cotenants;

(f) Transfers made to the transferor's spouse, parent, grandparent, child, grandchild or sibling, or any combination of the foregoing;

(g) Transfers between spouses resulting from the following:

(1) A judgment of divorce;

(2) A judgment of separate maintenance; or

(3) From a property settlement agreement incidental to a judgment;

(h) Transfers or exchanges to or from a governmental entity; and

(i) Transfers made by a person of newly constructed residential property that has not been inhabited.

2708.3 The transferor or seller of real property described in § 2708.1 of this section shall provide a completed Seller's Disclosure Statement in the form prescribed under § 2708.13 of this section. This shall be the form for the disclosure statement required under section 3 of the Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Services Board Independent Procurement Authority Act of 1998, vetoed by the Mayor on December 29, 1998, and overridden by the Council on January 5, 1999, effective April 20, 1999 (D.C. Law 12-263, §2; D.C. Official Code § 42-1301 *et seq.*).

2708.4 The transferor or seller shall sign the Seller's Disclosure Statement and deliver it to the purchaser or transferee as follows:

(a) In the case of a sale, before or at the time the prospective purchaser or transferee executes a purchase agreement with the transferor; or

(b) In the case of an installment sales contract where a binding purchase contract has not been executed or in the case of a lease with an option to purchase; before or at the time the prospective purchaser or transferee executes the installment sales contract or lease with the transferor or seller.

2708.5 The transferor or seller shall complete the items set forth in Seller's Disclosure Statement as follows:

(a) The transferor or seller shall answer all questions on the Seller's Disclosure Statement;

(b) If an item does not apply to the subject property, the transferor or seller shall check "N/A" (not applicable) on the Seller's Disclosure Statement; and

(c) If the information regarding a specific item is not known, the transferor or seller shall check "UNKNOWN" on the Seller's Disclosure Statement.

2708.6 Responses to items on the Seller's Disclosure Statement shall be made in good faith, which means honesty in fact in the making of the disclosure. Information provided in the statement shall be based on information available and actually known to the transferor or seller.

2708.7 If additional space is required in responding to an item, the transferor or seller shall attach an additional page for that item. Each additional page shall bear the signature of the transferor or seller.

2708.8 The transferor or seller of a condominium unit, cooperative unit, or a lot in a homeowners association shall provide information only as to the transferor's or seller's unit or lot and not as to any common elements, common areas, or other areas outside the unit or lot.

2708.9 If the transferor or seller fails to provide a completed Seller's Disclosure Statement before the purchaser executes a purchase agreement, installment sales contract, or lease with an option to purchase, the purchaser or transferee may terminate the agreement, contract or lease by delivering written notice to the transferor or seller not more than five (5) calendar days after the receipt of the disclosure statement. If the agreement, contract, or lease is terminated, the transferor or seller shall return the deposit to the transferee.

2708.10 The purchaser waives the right to terminate a purchase agreement, installment sales contract, or lease with an option to purchase under § 2708.9 of this section if the right to terminate is not exercised before the earliest of the following:

(a) The making of a written application to a lender for a mortgage loan or financing, provided that the lender discloses in writing at or before the time application is made that the right to rescind terminates on submission of the application;

(b) Settlement or date of occupancy by the purchaser or transferee in the event of a sale; or

(c) Occupancy in the event of a lease with an option to purchase.

2708.11 If the information provided in the Seller's Disclosure Statement becomes inaccurate as a result of any action, occurrence or agreement, the inaccuracy shall not be grounds for terminating the transaction under § 2708.9 of this section.

2708.12 The Seller's Disclosure Statement shall be furnished by personal delivery, facsimile, or registered mail. The execution of a facsimile counterpart of the statement by the transferor or seller shall be considered execution of the original.

2708.13

SELLER'S DISCLOSURE STATEMENT

Instructions to the Seller for Seller's Disclosure Statement:

These Instructions are to assist the Seller in completing the required Seller's Disclosure Statement in order to comply with the District of Columbia Residential Real Property Seller Disclosure Act.

1. Who must complete the Seller's Disclosure Statement? The Seller, not the broker and not the management company, condominium association, cooperative association or homeowners association.

2. In what types of transactions must the Seller provide the Seller's Disclosure Statement to the Purchaser? The Act applies to the following types of transfers or sales of District of Columbia real estate:

(a) where the property consists of one to four residential dwelling units, and,
(b) the transactions a sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase, and,
(c) the purchaser expresses, in writing, an interest to reside in the property to be transferred.

However, the Act does not apply to:

(a) court ordered transfers;
(b) transfers to a mortgagee by a mortgagor in default;
(c) transfers by sale under a power of sale in a deed of trust or mortgage or any foreclosure sale under a decree of foreclosure or deed in lieu of foreclosures;
(d) transfers by a non-occupant fiduciary administering a decedent's estate, guardianship, conservatorship or trust;
(e) transfers between co-tenants;
(f) transfers made to the transferor's spouse, parent, grandparent, child, grandchild or sibling(or any combination of the foregoing);
(g) transfer between spouses under a divorce judgment incidental to such a judgment;
(h) transfers or exchanges to or from any governmental entity; and
(i) transfers made by a person of newly constructed residential property that has not been inhabited.

3. When does the Seller's Disclosure Statement have to be provided to the Purchaser? In a sale, before or at the time the prospective transferee executes a purchase agreement with the transferor. In an installment sales contract (where a binding purchase contract has not been executed), or in the case of a lease with no option to purchase, before or at the time the prospective transferee executes the installment sales contract or lease with the transferor.

4. What information must the Seller disclose? Answer ALL questions on the Seller's Disclosure Statement. If some items do not apply to your property, check "N/A" (not applicable). If you do not know the facts, check "UNKNOWN". Report actually known conditions referred to in the questions. Each disclosure must be made in "good faith" (honesty in fact in the making of the disclosure). Attach additional pages with your signature if additional space is required.

The Seller of a condominium unit, cooperative unit, or a lot in a homeowners association, is to provide information only as to the Seller's unit or lot, and not as to any common elements, common areas or other areas outside of the unit or lot.

5. What is the remedy if the Seller does not provide the Seller's Disclosure Statement to the Transferee? If the Seller's Disclosure Statement is delivered after the purchaser executes the purchase agreement, installment sales contract or lease with an option to purchase, the purchaser may terminate the transaction by written notice to the seller not more than five (5) calendar days after receipt of the Seller's Disclosure Statement by the purchaser, and the deposit must be returned to the purchaser. The right to terminate is waived if not exercised before the earliest of:

(a) the making of an application for a mortgage loan (if the lender discloses in writing that the right to rescind terminates on submission of the application);
(b) settlement or date of occupancy in the case of a sale; or
(c) occupancy in the case of a lease with an option to purchase.

6. If the Seller finds out different information after providing the Seller's Disclosure Statement to the Purchaser, how does this impact a ratified contract? If information becomes inaccurate after delivery of the disclosure form, the inaccuracy shall not be grounds for terminating the transaction.

7. How must a Seller deliver the Seller's Disclosure Statement to the Transferee? The Seller's Disclosure Statement must be delivered by personal delivery, facsimile delivery, or by registered mail to the transferee. Execution by the transferor of a facsimile is considered execution of the original.

SELLER'S PROPERTY CONDITION STATEMENT

For Washington, DC

Property Address: _____

Is the property included in a:

condominium association? ☐ Yes ☐ No
cooperative? ☐ Yes ☐ No
homeowners association with mandatory participation and fee?
☐ Yes ☐ No

If this is a sale of a condominium unit or cooperative unit, or in a homeowners association, this disclosure form provides information only as to the unit (as defined in the governing documents of the association) or lot (as defined in the covenants applicable to the lot), and not as to any common elements, common areas or other areas outside of the unit or lot.

Purpose of Statement: This Statement is a disclosure by the Seller of the defects or information actually known by the Seller concerning the property, in compliance with the District of Columbia Residential Real Property Seller Disclosure Act. Unless otherwise advised, the Seller does not possess an expertise in construction, architecture, engineering, or any other specific area related to the construction of the improvements on the property or the land. Also, unless otherwise advised,

the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. THIS STATEMENT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR BY ANY AGENT REPRESENTING THE SELLER IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE BUYER MAY WISH TO OBTAIN.

Seller Disclosure: The Seller discloses the following information with the knowledge that, even though this is not a warranty, the Seller specifically makes the following statements based on the seller's actual knowledge at the signing of this document. Upon receiving this statement from the Seller, the Seller's agent is required to provide a copy to the Buyer or the agent of the Buyer. The Seller authorizes its agent (s) to provide a copy of this statement to any prospective buyer or agent of such prospective buyer in connection with any actual or anticipated sale of property. The following are statements made solely by the Seller and are not the statements of the Seller's agent (s), if any. This information is a disclosure only and is not intended to be a part of any contract between Buyer and Seller.

The seller(s) completing this disclosure have owned the property from _____ to _____.
The seller(s) completing this disclosure have occupied the residence from _____ to _____.

A. Structural Conditions

1. **Roof** ☐ roof is a common element maintained by condominium or cooperative (no further roof disclosure required).

   Age of Roof ☐0-5 years ☐ 5-10 years ☐10-15 years ☐15+ years ☐ Unknown

   Does the seller have actual knowledge of any current leaks or evidence of moisture from roof?

   ☐Yes ☐No If yes, comments:_____

   Does the seller have actual knowledge of any existing fire retardant treated plywood?

   ☐Yes ☐No If yes, comments:_____

2. **Fireplace/Chimney(s)**

   Does the seller have actual knowledge of any defects in the working order of the fireplaces?

   ☐Yes ☐No ☐No fireplace(s)

   If yes, comments: _____

   _____

   Does the seller know when the chimney(s) and/or flue were last inspected and/or serviced?

   ☐Yes ☐No ☐No chimneys or flues

   If yes, when were they last serviced or inspected?

   _____

3. Basement

Does the seller have actual knowledge of any current leaks or evidence of moisture in the basement?

☐Yes ☐No ☐Not Applicable

If yes,
comments:_____

Does the seller have actual knowledge of any structural defects in the foundation?

☐Yes ☐No

If yes,
comments:_____

4. Walls and floors

Does the seller have actual knowledge of any structural defects in walls or floors?

☐Yes ☐No

If yes,
comments:_____

5. Insulation

Does the seller have actual knowledge of presence of urea formaldehyde foam insulation?

☐Yes ☐No

If yes,
comments:_____

6. Windows

Does the seller have actual knowledge of any windows not in normal working order?

☐Yes ☐No

If yes,
comments:_____

B. Operating Condition of Property Systems

1. Heating System ☐ heating system is a common element maintained by condominium or cooperative (no further disclosure on heating system required).

Type of system ☐Forced Air ☐Radiator ☐Heat Pump ☐Electric baseboard ☐Other

Heating Fuel ☐Natural Gas ☐Electric ☐Oil ☐Other

Age of system ☐0-5 years ☐5-10 years ☐10-15 years ☐Unknown

Does the seller have actual knowledge that heat is not supplied to any finished rooms?

☐Yes ☐No

If yes,
comments:_____

Does the seller have actual knowledge of any defects in the heating system?

☐Yes ☐No

If yes,
comments:_____

Does the heating system include:

Humidifier ☐Yes ☐No ☐Unknown

Electronic air filter ☐Yes ☐No ☐Unknown

If installed, does the seller have actual knowledge of any defects with the humidifier and electronic filter?

☐Yes ☐No ☐Not Applicable

If no,
comments:_____

2. Air Conditioning System ☐ air conditioning is a common element maintained by condominium or cooperative (no further disclosure on air conditioning system required).

Type of system: ☐Central AC ☐Heat Pump ☐Window/wall units ☐Other ☐Not Applicable

Air Conditioning Fuel ☐Natural Gas ☐Electric Oil ☐Other

Age of system ☐0-5 years ☐5-10 years ☐10-15 years ☐Unknown

If central AC, does the seller have actual knowledge that cooling is not supplied to any finished rooms? ☐Yes ☐No ☐Not Applicable

If yes,
comments:_____

Does the seller have actual knowledge of any problems or defects in the cooling system?

☐Yes ☐No ☐Not Applicable

If yes,
comments:_____

3. Plumbing System

Type of system: ☐Copper ☐Galvanized ☐Plastic Polybutelene ☐Unknown

Water Supply: ☐Public ☐Well

Sewage Disposal ☐Public ☐Well

Water Heater Fuel ☐Natural Gas ☐Electric ☐Oil ☐Other

Does the seller have actual knowledge of any defects with the plumbing system?

☐Yes ☐No

If yes,
comments:_____

4. Electrical System

Does the seller have actual knowledge of any defects in the electrical system, including the electrical fuses, circuit breakers, outlets, or wiring?

☐Yes ☐No

If yes,
comments:_____

C. Appliances and Fixtures

Does the seller have actual knowledge of any defects with the following appliances?

Range/Oven	☐Yes	☐No	☐Not Applicable
Dishwasher	☐Yes	☐No	☐Not Applicable
Refrigerator	☐Yes	☐No	☐Not Applicable
Range hood/fan	☐Yes	☐No	☐Not Applicable
Microwave oven	☐Yes	☐No	☐Not Applicable
Garbage Disposal	☐Yes	☐No	☐Not Applicable
Sump Pump	☐Yes	☐No	☐Not Applicable
Trash compactor	☐Yes	☐No	☐Not Applicable
TV antenna/controls	☐Yes	☐No	☐Not Applicable
Central vacuum	☐Yes	☐No	☐Not Applicable
Ceiling fan	☐Yes	☐No	☐Not Applicable
Attic fan	☐Yes	☐No	☐Not Applicable
Sauna/Hot tub	☐Yes	☐No	☐Not Applicable
Pool heater & equip.	☐Yes	☐No	☐Not Applicable
Security System	☐Yes	☐No	☐Not Applicable
Intercom System	☐Yes	☐No	☐Not Applicable
Garage door opener	☐Yes	☐No	☐Not Applicable
& remote controls	☐Yes	☐No	☐Not Applicable
Lawn sprinkler system	☐Yes	☐No	☐Not Applicable
Water treatment system	☐Yes	☐No	☐Not Applicable
Smoke Detectors	☐Yes	☐No	☐Not Applicable
Carbon Monoxide detectors	☐Yes	☐No	☐Not Applicable
Other Fixtures or Appliances	☐Yes	☐No	☐Not Applicable

If yes to any of the above, describe defects:_____

_____

_____

D. Exterior/Environmental Issues

1. Exterior Drainage

Does the seller have actual knowledge of any problem with drainage on the property?

☐Yes ☐No

If yes, comments:_____

2. Damage to property

Does the seller have actual knowledge whether the property has previously been damaged by:

Fire	☐Yes	☐No
Wind	☐Yes	☐No
Flooding	☐Yes	☐No

If yes,

comments:_____

_____

3. **Wood destroying insects or rodents:**
   Does the seller have actual knowledge of any infestation or treatment for infestations?
   ☐Yes ☐No
   If yes, comments:_____
   Does the seller have actual knowledge of any prior damage or repairs due to a previous infestation?
   ☐Yes ☐No
   If yes, comments:_____

4. **Does the seller have actual knowledge of any substances, materials or environmental hazards (including but not limited to asbestos, radon gas, lead based paint, underground storage tanks, formaldehyde, contaminated soil, or other contamination) on or affecting the property?**
   ☐Yes ☐No
   If yes, comments:_____

5. **Does the seller have actual knowledge of any zoning violations, nonconforming uses, violation of building restrictions or setback requirements, or any recorded or unrecorded easement, except for utilities, on or affecting the property?**
   ☐Yes ☐No
   If yes, comments:_____

6. **Does the seller have actual knowledge that this property is a D.C. Landmark, included in a designated historic district or is designated a historic property?**
   ☐Yes ☐No
   If yes, comments:_____

7. **Has the property been cited for a violation of any historic preservation law or regulation during your ownership?**

   ☐Yes ☐No
   If yes, comments:_____

8. **Does the seller have actual knowledge if a façade easement or a conservation easement has been placed on the property?**
   ☐Yes ☐No
   If yes, comments:_____

The seller(s) certifies that the information in this statement is true and correct to the best of their

knowledge as known on the date of signature.

Seller	Date
Seller	Date

Buyer(s) have read and acknowledge receipt of this statement and acknowledge that this statement is made based upon the seller's actual knowledge as of the above date. This disclosure is not a substitute for any inspections or warranties which the buyer(s) may wish to obtain. This disclosure is NOT a statement, representation, or warranty by any of the seller's agents or any sub-agents as to the presence or absence of any condition, defect or malfunction or as to the nature of any condition, defect or malfunction.

Buyer	Date
Buyer	Date

2709 [RESERVED]

2710 OPPORTUNITY FOR A HEARING

2710.1 Every applicant for or holder of a license, or applicant for reinstatement after revocation or suspension, shall be afforded notice and an opportunity to be heard prior to the action of the Board, pursuant to D.C. Official Code § 47-2853.22(a), the effect of which would be as follows:

(a) To deny a license for any cause other than failure to qualify;

(b) To suspend a license;

(c) To revoke a license;

(d) To restore a license;

(e) To refuse to issue renewals by annual registration for any cause other than failure to pay the prescribed fees;

(f) To impose a civil fine or other penalty;

(g) To require a course of remediation or period of probation; or

(h) To deny an application for reinstatement.

2711 NOTICE OF CONTEMPLATED ACTION

2711.1 When the Board contemplates taking action of the type specified in § 2710.1(a) or (h) of this chapter, it shall give to the applicant a written notice containing the following statement:

(a) That the applicant has failed to satisfy the Board as to his or her qualifications to sit for examination or to be approved for licensure, as the case may be;

(b) Indicating in what respect the applicant has failed to satisfy the Board; and

(c) That a hearing before the Board has been scheduled not less than thirty (30) or more than sixty (60) days from receipt of the notice.

2711.2 When the Board contemplates taking any action of the type specified in §§ 2710(b), (c), (d), (e), (f), or (g) of this chapter, it shall give the person concerned a written notice containing the following statement:

(a) Citing the specific rule, regulation, or act violated, stating that the Board has sufficient evidence, and setting forth the nature of the same, which, if not rebutted or explained, justifies the Board taking the contemplated action; and

(b) That a hearing before the Board has been scheduled not less than thirty (30) or more than sixty (60) days from receipt of the notice.

2711.3 Written notice under § 2711.1 or § 2711.2 of this section shall be made pursuant to § 2713 of this chapter.

2712 PROCEDURES WHEN A PERSON FAILS TO RESPOND TO A HEARING NOTICE

2712.1 If the person concerned does not respond to the hearing notice within the time specified, the Board may conduct the hearing without the person concerned and take the action contemplated in the notice.

2712.2 If the action taken by the Board requires seeking injunctive relief from a Court of competent jurisdiction or involves seeking criminal penalties and fines against the person concerned the Board shall, in writing, inform the person concerned, the Corporation Counsel, and the Director, of the Board's action.

2712.3 If the action taken by the Board is a civil fine, other penalty, or fee issued under the authority of the Act and the Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et. seq*.), the Board shall, in writing, inform the person concerned and the Director, of the Board's action.

2713 NOTICE OF A HEARING

2713.1 Any notice required by this chapter may be served either personally by the Director, or his or her agent, or by certified mail, return receipt requested, directed to the person concerned at his or her last known residence or business address as shown by the records of the Department of Consumer and Regulatory Affairs. Notice shall be served at least fifteen days prior to the hearing.

2713.2 If notice is served personally, it shall be considered to have been served at the time when delivery is made to the person concerned. If notice is served by certified mail, it shall be considered to have been served on the date borne upon the return receipt showing delivery of the notice to the person concerned or refusal of the person concerned to receive notice.

2713.3 If the person concerned is no longer at the last known address as shown by the records of the Department of Consumer and Regulatory Affairs and no forwarding address is available, the notice shall be considered to have been served on the date the return receipt bearing the notification is received by the Director.

2713.4 If a person scheduled for a hearing does not appear and no continuance has been or is granted, the Board shall hear the evidence of the witnesses as may have appeared, and the Board may proceed to consider the matter and render a decision on the basis of evidence before it.

2714 CONDUCT OF HEARINGS

2714.1 Every hearing authorized by § 2710 of this chapter and held before the Board or its designee shall be open to the public.

2714.2 Except when a hearing officer is designated, a majority of the members of the Board shall be present to hear the evidence and render a decision unless the Board has delegated authority to a hearing panel of three or more Board members as described in § 2714.10 of this section.

2714.3 A person entitled to a hearing shall have the right to the following:

(a) To be represented by counsel;

(b) To present all relevant evidence by means of witnesses and books, papers, and documents;

(c) To examine all opposing witnesses on any matter relevant to the issues; and

(d) To have subpoenas issued to compel the attendance of witnesses and the production of relevant books, papers, and documents upon making written request to the Board.

2714.4 In connection with any hearing held pursuant to this chapter, the Board or its designee shall have the power to do the following:

(a) To request of the Director that counsel from the Office of the Corporation Counsel be appointed to represent the District in any case before the Board;

(b) To administer oaths or affirmations, either personally or through their designated agent, to witnesses called to testify;

(c) To subpoena respondents and other witnesses and relevant books, papers, and documents;

(d) To take testimony;

(e) To examine witnesses; and

(f) To direct continuance of any case without regard to the limitation in § 2711 of this chapter.

2714.5 In proceedings before the Board, if any person refuses to respond to a subpoena or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or refuses to obey any lawful Order of the Board contained in its decision rendered after hearing, the Board may apply to the proper court for an Order requiring obedience thereto.

2714.6 In all proceedings held by the Board, the Board shall receive and consider any evidence or testimony. However, the Board may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence or testimony.

2714.7 In Board proceedings resulting from the Board's contemplated action to deny licensure, the applicant shall have the burden of satisfying the Board of his or her qualifications.

2714.8 In any Board proceeding resulting from the Board's contemplated action to refuse to renew, to suspend, or to revoke a license, or to refuse transfer or restore a license or to impose a penalty, the District shall have the burden of proving that the action should be taken.

2714.9 In all hearings conducted by the Board, a complete record shall be made of all evidence presented during the course of a hearing. Any party to the proceedings desiring it shall be furnished with a copy of the record, upon payment of the fee as the Board shall prescribe.

2714.10 The Board may delegate its authority to hold hearings and issue final decisions to a panel of three (3) or more members of the Board. Final decisions of a hearing panel shall be considered final decisions of the Board for purposes of appeal to the D.C. Court of Appeals, except that the person against whom an action is contemplated may ask for a rehearing before the full Board. If a rehearing before the full Board is requested no appeal to the D.C. Court of Appeals, as described in § 2716.3 of this chapter, shall be permitted until the full Board has issues a ruling.

2714.11 The Board may request the licensee to attend a settlement conference prior to holding a hearing, and may enter into settlement agreements and consent decrees to carry out its functions.

2715 FINDINGS AND DECISIONS

2715.1 The Board shall issue its final decision, in writing, as soon as practicable, but no later than ninety (90) days after the date the hearing is completed.

2715.2 The decision of the Board shall contain the following:

(a) Findings of fact made by the Board;

(b) Application by the Board of the Act and these Rules to the facts as found by the Board; and

(c) The decision of the Board based upon paragraphs (a) and (b) of this subsection.

2715.3 The Board’s decision shall be served upon the person concerned, or his or her attorney of record, either personally or by certified mail, return receipt requested. If sent by

certified mail, it shall be considered to have been served on the date contained on the return receipt, or refusal of the person concerned to receive notice or the date of the unsuccessful attempt of the postal service to make delivery.

2716 REOPENING, JUDICIAL REVIEW AND RECONSIDERATION

2716.1 If, because of accident, sickness, or other good cause, a person fails to appear for a hearing which has been scheduled, the person may, within thirty (30) days from the date of the decision of the Board, apply to the Board to reopen the proceedings; and the Board upon finding the cause sufficient, shall immediately fix a time and place for hearing and give that person, the Corporation Counsel, and the Director notice as applicable.

2716.2 The Board may reopen a proceeding for any other cause if the decision rendered by the Board has not been appealed to a court or has been decided by a court.

2716.3 A person aggrieved by an adverse decision of the Board, issued after a hearing, may seek a review of the Board's decision by the D.C. Court of Appeals. Failure to seek judicial review in the manner and within the time as the Court by rule may prescribe, shall result in the Board's decision becoming final.

2716.4 Within the time as may be fixed by rule of the reviewing Court, the Board shall certify and file with the Clerk of the Court, the record of the case, including the following:

(a) A copy of the notice of hearing and action contemplated by the Board;

(b) A complete transcript of the testimony taken at the hearing;

(c) Copies of all pertinent documents and other written evidence introduced at the hearings; and

(d) A copy of the Board's written decision.

2717 SUSPENSION OF LICENSE THROUGH AFFILLIATION

2717.1 When a real estate broker’s license is suspended or revoked, all real estate salespersons employed by that real estate broker shall mail their licenses to the Board within fifteen (15) days of the revocation or suspension.

2717.2 When a real estate salesperson either is discharged by a real estate broker or terminates his or her employment under a real estate broker both the real estate salesperson and the real estate broker shall notify the Board within fifteen (15) days. Within fifteen (15) days of the discharge or termination, the real estate broker shall notify the real estate salesperson that his or her license has been mailed to the Board.

2717.3 A real estate salesperson shall not perform any of the acts permitted within the scope of a real estate salesperson license until becoming reemployed with a real estate broker and a license has been reissued by the Board.

2717.4 In the event of a revocation or suspension of a real estate broker license issued to a firm, franchise, partnership, association, or corporation, the license issued to the principal real estate broker, or any member of a partnership or director or officer of an association or corporation, shall be summarily revoked or suspended by the Board unless:

(a) In a partnership, the connection with the member whose license has been suspended or revoked is severed within the time prescribed and that partner's activities with the partnership are terminated; or

(b) In an association or corporation, the director whose license has been suspended or revoked is discharged and has no further participation in association or corporate activities.

2799 DEFINITIONS

2799.1 The provisions of 17 DCMR § 2699 and the definitions set forth in that section shall be incorporated by reference in this section.

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
TITLE 14 HOUSING

Chapter 2 Housing Business Licenses

Sec.

200 General Licensing Requirements
201 Inspection of Premises
202 Registration and Certification of Managers
203 Renewal of Housing Business Licenses
204 Denial, Suspension, and Revocation of Licenses
205 - 219 [Reserved]
220 License and User Fees
299 Definitions

200 GENERAL LICENSING REQUIREMENTS

200.1 The provisions of this chapter shall be applicable to housing businesses licensed under the authority contained in paragraph 28 of section 7 of the Act approved July 1, 1902, as amended, D.C. Official Code § 47-2828 (2001).

200.2 Whenever any provision of this chapter 2 that specifically applies to housing businesses conflicts with, or supersedes, a general provision of this subtitle, the provision specifically applicable to housing businesses shall apply.

200.3 No person shall operate a housing business in any premises in the District of Columbia without first having been issued a housing business license for the premises by the District.

200.4 No license to operate a housing business shall be issued or retained if the Chief of Police determines that the applicant for the license or the licensee is not a person of good character. An adverse report by the Chief may be appealed to the Board of Appeals and Review.

200.5 No license to operate or conduct a particular housing business in premises not approved during the immediately preceding license period and currently zoned or excepted for that use in the District of Columbia shall be issued until the Director has determined that the applicable provisions of this subtitle have been observed.

200.6 The licensee shall have each valid license framed under clear glass or plastic and shall post the license (or cause the license to be posted) in a conspicuous place in the residential building for which that license is issued.

AUTHORITY: Unless otherwise noted, the authority for this chapter is contained in paragraphs 28 and 46 of section 7 of An Act To Make appropriations to provide for the expenses of the

government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, Public, 218, 32 Stat. 590, approved July 1, 1902; as amended by: An Act approved July 1, 1932, to amend section 7 [of the Act of 1902], 47 Stat. 550; and An Act approved July 22, 1947, Public Law 215, 61 Stat. 402.
SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR §§ 3101, 3102 and 3105, Commissioners' Order 55-1503, dated August 11, 1955; as amended by Commissioners' Order 57-3191, dated November 27, 1957.

14-201. INSPECTION OF PREMISES

201.1 The Fire Chief and the Directors of the District agencies responsible for enforcement of the housing and health regulations shall inspect every licensed housing business and any premises for which a housing business license application has been filed with the District, and the Chief of Police shall inspect every licensed housing business in accordance with the provisions of this section.

201.2 The Director of the applicable agency shall determine conformity with the applicable provisions of the license laws and regulations, and shall require that the building or part of the building to be licensed complies with the applicable provisions of the laws and regulations enforced by him or her relating to buildings and appurtenances.

201.3 The Director of the agency responsible for enforcement of public health regulations shall require that the premises comply with the applicable provisions of the laws and regulations enforced by him 9or her relating to public health.

201.4 The Fire Chief shall require that the premises comply with the applicable provisions of the laws and regulations enforced by him or her relating to fire prevention and control.

201.5 The Chief of Police shall require that the operator comply with the applicable provisions of the laws and regulations enforced by him or her relating to the operation of housing businesses.

201.6 The Director of the District agency responsible for enforcement of the housing regulations shall report to the Director of the agency responsible for enforcement of the health regulations the presence of peeling, chipping, flaking, or loose paint observed or lead hazards identified during a routine inspection, on the interior or exterior surface of any housing built before 1978, where a child under 8 years of age resides or is a regular visitor, or is expected to reside or be a regular visitor.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 3103, Commissioners' Order 55-1503 (August 11, 1955); amended by D.C. Act 15-769 at 52 DCR 2627 (March 18, 2005).
History of Regulations since Last Compilation (July 1991)
March 18, 2005 14 DCMR 201.6 new at 52 DCR 2627 by D.C. Act 15-769
August 6, 2004 14 DCMR 201.6 emergency at 51 DCR 7587 by D.C. Act 15-468 [EXPIRED]
June 4, 2004 14 DCMR 201.6 emergency at 51 DCR 5718 by D.C. Act 15-430 [EXPIRED]

May 7, 2004 14 DCMR 201.6 emergency at 51 DCR 4677 by D.C. Act 15-411 [Replaced by D.C. Act 15-430]
August 9, 2002 14 DCMR 201.6 emergency at 49 DCR 7676 by D.C. Act 14-438 [EXPIRED]

202 REGISTRATION AND CERTIFICATION OF MANAGERS

202.1 If the manager of a housing business is someone other than the licensee, that manager shall register his or her full name and address, and the location of the housing business of which he or she is manager, with the license officer for the police precinct in which the housing business is located.

202.2 The manager of a housing business that is first opened for business after promulgation of these regulations shall register within five (5) business days after the opening of the business.

202.3 If the position of manager is created for an existing housing business, or a change in management of an existing housing business is made, the new manager shall register with the license officer of the police precinct within five (5) business days.

202.4 No person shall manage a housing business if the Chief of Police determines that the person is not of good character. An adverse report by the Chief of Police may be appealed to the Board of Appeals and Review.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 3106, Commissioners' Order 55-1503 (August 11, 1955).

203 RENEWAL OF HOUSING BUSINESS LICENSES

203.1 The Director may, upon application, issue a renewal of a valid housing business license subject to subsequent determination that the applicable provisions of this subtitle are being observed.

203.2 Concurrent with filing the application for renewal of a housing business license, the licensee shall file with the Director a report itemizing total security deposits being held for that business pursuant to chapter 3 of this subtitle. The report shall include the nature, location, and amount of the escrow account in which the deposits are being held, and any additional information that may be required by the Director regarding the status of the deposits.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 3102.3, Commissioners' Order 55-1503 (August 11, 1955); as amended by section 4 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823, 2828 (November 28, 1975).

204 DENIAL, SUSPENSION, AND REVOCATION OF LICENSES

204.1 Refusal to permit the District of Columbia to inspect the premises occupied or to be occupied by a housing business shall be cause for withholding the issuance of a license for the premises until such time as inspection is permitted.

204.2 Refusal to permit the District of Columbia to inspect the premises occupied by a licensed housing business shall be cause for revocation of the license.

204.3 The violation of any applicable provision of this subtitle or the failure to comply with any of the applicable requirements of this subtitle shall be cause for the institution of proceedings as provided for in the License Act.

204.4 Any licensee who fails to comply with the applicable provisions of this subtitle after due notice of deficiencies may have his or her license suspended or revoked.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR §§ 3102, 3104, 3302, Commissioners' Order 55-1503 (August 11, 1955); as amended by section 4 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823, 2827 (November 28, 1975).

205 - 219 [RESERVED]

14-220. LICENSE AND USER FEES

220.1 The Mayor shall institute the following fees:

(a) A license fee for one (1) or two (2) unit properties of seven dollars ($ 7.00) base fee plus twenty eight dollars ($ 28.00) per unit;

(b) A reinspection fee for routine housing inspections of ninety dollars ($ 90.00) per reinspection; and

(c) A fee to cover the administrative costs of the fund established pursuant to subsection 1(b)(1) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of the District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 6-711.01 (2001), of one hundred twenty-two dollars ($ 122.00) base fee and twenty six dollars and forty cents ($ 26.40) for each additional hour.

SOURCE: Section 501(a) of Omnibus Budget Support Act of 1994, D.C. Law 10-128, incorporating by reference the text of D.C. Act 10-225, 41 DCR 2096, 2109 (April 22, 1994); as amended by Final Rulemaking as published at 51 DCR 6835 (July 9, 2004).
History of Regulations since Last Compilation (July 1991)
July 9, 2004 14 DCMR 220.1 amended at 51 DCR 6835 by the Department of Consumer and Regulatory Affairs; statutory authority §§ 6-711.01 et seq., Mayor's Order 83-92
April 22, 1994 14 DCMR 220.1 new at 41 DCR 2096, 2109 by D.C. Act 10-225

299 DEFINITIONS

299.1 The provisions of section 199 of chapter 1 of this title and the definitions set forth in that section shall be applicable to this chapter.

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
TITLE 4 HUMAN RIGHTS

Chapter 10 Housing And Commercial

Sec.

1000 General Provisions: Scope and Purposes
1001 Prohibited Practices
1002 Exceptions
1099 Definitions

1000 GENERAL PROVISIONS: SCOPE AND PURPOSES

1000.1 This chapter shall apply, with specifically defined exceptions, to all transactions in real estate pertaining to dwelling and commercial space accommodations within the District of Columbia.

1000.2 The D.C. Office of Human Rights ("OHR") shall adopt this chapter for the following purposes:

(a) To provide for fair housing throughout the District of Columbia to all its residents regardless of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, familial status, matriculation, disability, source of income, and place of residence or business; and to that end to prohibit discriminatory practices with respect to residential housing or commercial space accommodations by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the residents of the District of Columbia may be protected and ensured;

(b) To facilitate the Office of Human Rights in carrying out its mandate under the District of Columbia Human Rights Act of 1977, as amended (hereinafter referred to as "the Act"), and specifically §§ 221 through 224 of the Act (D.C. Official Code §§ 2-1402.21 through 2-1402.24 (2001));

(c) To notify interested and affected persons as to the Office of Human Rights' interpretation of the housing and commercial space provisions of the Act as pertaining to the implementation of its mandate under the Act; to specify the application of the housing and commercial space provisions to specific circumstances; and to establish principles of interpretation for guidance in other circumstances; and

(d) To facilitate the Office of Human Rights' internal processing of cases relating to discrimination in housing and commercial space accommodations.

AUTHORITY: Unless otherwise noted, the authority for this chapter is § 301 of the District of Columbia Human Rights Act of 1977, D.C. Law 2-38, D.C. Official Code § 2-1403.01(c) (2001).

SOURCE: Final Rulemaking published at 35 DCR 5464 (July 15, 1988); as amended by Final Rulemaking published at 46 DCR 4339 (May 14, 1999), incorporating by reference the text of Final Rulemaking published at 46 DCR 2817 (March 19, 1999).

1001 PROHIBITED PRACTICES

1001.1 It shall be an unlawful discriminatory practice for any person, on the basis of the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, familial status, matriculation, disability, source of income, or place of residence or business of any individual, to do the following:

(a) Refuse to sell or rent or to negotiate for the sale or rental of a dwelling or commercial space or otherwise to make a dwelling or commercial space unavailable;

(b) Discriminate in the terms or conditions of a transaction in real property, including but not limited to a transaction involving the buying or renting of a dwelling or commercial space;

(c) Make, print, publish, or cause to be made, printed, or published any statement or advertisement with respect to the sale or rental of a dwelling indicating a limitation on, or a preference for, or an intention to make any such preference, limitation, or discrimination against persons on the basis of race, color, sex, religion, national origin, marital status, personal appearance, sexual orientation, family responsibilities, familial status, disability, place of residence or business, or source of income. Prohibited discrimination may take the form of:

(1) A word, phrase, photograph, illustration, symbol or form indicating availability or unavailability;

(2) An expression to an agent, broker, employee, prospective seller or renter, or any other person of a preference for or limitation on any purchaser or renter for a prohibited reason;

(3) Selecting a medium or location for advertising the sale or rental of a dwelling that denies information about housing opportunities to a particular segment of the housing market; or

(4) Refusing to publish advertising for the sale or rental of a dwelling or requiring different charges or terms for such advertising.

(d) Represent that a dwelling is unavailable for inspection, sale, or rental when, in fact, it is available, or similarly to fail to disclose or offer to show all properties

listed or held for sale or rent within a requested price or rental range, regardless of location. Prohibited practices include, but are not limited to:

(1) Providing inaccurate or untrue information about the availability of a dwelling for sale or rental to any person, including a tester, based on one of the proscribed criteria;

(2) Enforcing a covenant or other deed, trust, or lease provision that precludes the sale or rental of a dwelling on such basis; and

(3) Limiting information, by word or conduct, regarding suitably priced dwellings available based on one of the proscribed criteria.

(e) Include in any document related to a transaction in real property any restrictive covenant purporting to restrict occupancy or ownership of real property;

(f) Designate any block, neighborhood, or area of the District of Columbia as unsuitable for the making of mortgage loans, or reject applications for mortgage loans, or vary the terms of a mortgage loan upon property within that block, neighborhood, or area;

(g) Deny a loan or other financial assistance; refuse to guarantee, extend, or renew a loan; refuse to accept a deed of trust or mortgage; or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair, maintenance of real property; to impose different terms or conditions on the financing or failing or refusing to provide information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for review and approval of loans or other financial assistance or providing inaccurate information;

(h) Refuse to provide title insurance or other insurance relating to the ownership or use of any interest in real property, or to vary the terms or premiums of the insurance;

(i) Discriminate in appraising the value of real estate or in the fixing of any appraisal fee;

(j) Act as real estate broker, salesperson, or agent, including a rental agent, with respect to any transaction in real estate, which requires the broker, salesperson, or agent to discriminate on a prohibited basis. This shall include entering into a listing agreement which has the effect or purpose of discriminating on a prohibited basis;

(k) Deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization, or other service, organization, or facility relating to the business of selling or renting real property, or to discriminate

against any person in the terms and conditions of such access, membership, or participation. Prohibited actions include:

(1) Setting different fees for access to or membership in a multiple listing service;

(2) Denying or limiting benefits accruing to members in a real estate brokers' organization;

(3) Imposing different standards or criteria for membership in a real estate sales or rental organization; or

(4) Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in a multiple listing service, real estate brokers' organization or other service, organization or facility relating or the business of selling or renting dwellings.

(l) Discriminate in furnishing repairs, improvements, or any related services to a tenant or lessee in connection with real property;

(m) Solicit or to cause to be made, in connection with any transaction in real property, any written or oral inquiry or record concerning a prohibited basis, except inquiries or records made or kept in connection with a legitimate business purpose. Inquiries regarding source of income shall be made only to verify an applicant's total lawful income;

(n) Employ a prohibited basis in determining whether a person satisfies any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which applicants must satisfy respecting any transaction in real property;

(o) Engage in any of the following credit practices in connection with a transaction in real property:

(1) Deny credit to an applicant or class of applicants where other applicants of like overall credit worthiness are granted credit;

(2) Impose special requirements or conditions upon an applicant or class of applicants, such as requiring co-obligors or larger than usual down-payments, where similar requirements or conditions are not imposed upon applicants of like overall credit worthiness;

(3) Impose credit terms or conditions which unintentionally have a discriminatory effect, and which cannot be justified by business necessity;

(4) Refuse to consider all lawful sources of an applicant's income in evaluating an applicant's credit worthiness and income eligibility; or

(5) Employ a prohibited basis in a decision to grant, withhold, extend, or renew credit, or in the fixing of credit lines or rates, or of the terms or conditions of credit;

(p) Restrict or limit the number of occupants using any real property, except in accordance with health, safety, and other regulations promulgated by an authorized agency of the District of Columbia government; or

(q) Coerce, intimidate, threaten, interfere with, or otherwise harass anyone exercising or encouraging others to exercise their rights granted under the Act or this chapter in the ownership, occupancy, or leasing of any real property; or to retaliate or discriminate against any person because he or she has opposed any practice forbidden under this chapter or the Act, or because he or she has filed a complaint, testified, or assisted in any proceeding under the Act.

(r) For profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood. It is not necessary that there was in fact profit as long as profit was a motivating factor. Prohibited actions include:

(1) Engaging in conduct that conveys the impression that a neighborhood is undergoing or is about to undergo a change in order to encourage the person to offer a dwelling for sale or rental; or

(2) Encouraging any person to sell or rent a dwelling through assertions that the entry or prospective entry of person can or will result in the undesirable consequences for the project, neighborhood, or community such as the following:

(i) A lowering of property values in an area;

(ii) An increase in criminal or antisocial behavior in an area;

(iii) A decline in the quality of schools and other public services in an area;

(iv) A material change in the racial or ethnic composition of an area;

(v) A decrease in the desirability of occupying property in an area.

(s) To make, print or publish, or cause to be made, printed or published, a discriminatory notice, statement or advertisement, which includes, but is not limited to:

(1) Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons;

(2) Expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation of any purchaser or renter;

(3) Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities;

(4) Refusing to publish advertising for the sale or rental of dwellings requiring different charges or terms for such advertising.

(t) Discriminate in the purchasing of loans. Unlawful conduct includes but is not limited to:

(1) Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of race, color, religion, sex, age, national origin, marital status, disability, family responsibilities, familial status, personal appearance, sexual orientation, matriculation, source of income, and place of residence or business;

(2) Pooling or packaging loans or other debts or securities which relate to or which are secured by, dwellings differently because of race, color, religion, sex, age, national origin, marital status, disability, family responsibilities, familial status, personal appearance, sexual orientation, matriculation, source of income, and place of residence or business;

(3) Imposing or using different terms or conditions on the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by dwellings because of race, color, religion, sex, age, national origin, marital status, disability, family responsibilities, familial status, personal appearance, sexual orientation, matriculation, source of income, and place of residence or business;

1001.2 It shall be an unlawful discriminatory practice to engage in any act prohibited in the Act or this chapter wholly or partially based on the fact that a person has one or more children who reside with that person.

1001.3 There shall be a rebuttable presumption that an unlawful discriminatory practice has occurred if the person alleging discrimination has one or more children who reside with that person and any of the acts prohibited in the Act or this chapter are done to maintain residential occupancies more restrictive than the following:

(a) In an efficiency apartment, two persons; or

(b) In an apartment with one or more bedrooms, two times the number of bedrooms plus one.

1001.4 When occupancy limitations are imposed, the presumption of discrimination referred to in § 221 of the Act (D.C. Official Code § 2-1402.22(c)(2) (2001)) may be overcome by demonstrating that occupancy limitations are in accord with District of Columbia regulations or law in effect at the time the occupancy limitations were imposed.

1001.5 It shall be an unlawful discriminatory practice to make any representation, whether explicit or implicit, with the intent or effect of restricting or limiting the housing choice of any person, in connection with seeking, negotiating for, buying, or renting a dwelling, that on account of a prohibited basis discourages any person from inspecting, purchasing, or renting a dwelling by, but is not limited to, conduct:

(a) Exaggerating drawbacks or not informing any person of desirable features of a community, neighborhood, or development;

(b) Communicating that any prospective purchaser would not be comfortable or compatible with existing residents of a community, neighborhood, or development; or

(c) Assigning any person to a particular section of a community, neighborhood or development.

1001.6 It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or any person associated with that person, has a disability or to determine the nature or severity of any disability, except that the following inquiries are not prohibited if these inquiries are made of all applicants, regardless of disability:

(a) Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(b) Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or the persons with a particular type of disability;

(c) Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;

(d) Inquiry whether an applicant for a dwelling is a current alleged abuser or addict of a controlled substance; or

(e) Inquiry whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

1001.7 It shall be an unlawful discriminatory practice for any person to refuse to permit, at the expense of a disabled person, reasonable modifications of existing premises, occupied by or to be occupied by a disabled person, if the proposed modifications may be necessary to afford the disabled person full enjoyment of the premises of a dwelling. The following provisions apply with respect to rental property:

(a) A landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the premises to the condition that existed prior to the modification;

(b) A landlord may not increase for disabled persons any required security deposits; and

(c) A landlord may condition permission for modification on the renter providing a reasonable description of the proposed modifications as well as assurances that the work will be completed in a workmanlike manner.

1001.8 It shall be an unlawful discriminatory practice to engage in conduct relating to the provision of housing or of services related to the provision of housing that, on account of a prohibited basis, results in the following:

(a) Discharging or taking other adverse action against an employee because he or she refused to participate in discriminatory housing practice;

(b) Employing codes or other devices to segregate or reject applicants, purchasers, or renters, refusing to take or to show listings of dwellings , or refusing to deal with certain brokers or agents because they or their clients are of a particular race, color, religion, national origin, sex, age, marital status, disability, or familial status or because of family responsibilities, personal appearance, sexual orientation, matriculation, source of income, or place of residence or business;

(c) Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium on a prohibited basis.

SOURCE: Final Rulemaking published at 35 DCR 5464, 5465 (July 15, 1988); as amended by Final Rulemaking published at 46 DCR 4339 (May 14, 1999), incorporating by reference the text of Proposed Rulemaking published at 46 DCR 2817, 2817-23 (March 19, 1999).

1002 EXCEPTIONS

1002.1 The provisions of this chapter shall not apply to rental or leasing of real property used for a dwelling, if the following conditions exists:

(a) The owner or a member of the owner's family resides on the property in question; and

(b) No more than one family resides independently on the property with the owner but in a separate living unit; or

(c) The owner or a member of the owner's family resides on the property with five (5) or fewer families and the owner or the owner's family member shares a kitchen or bathroom with a residing family.

1002.2 The provision regarding familial status in this chapter shall not apply to housing intended for and solely occupied by persons 62 years of age or older. Further, the prohibition regarding housing for older persons does not apply to the following:

(a) Housing intended and operated for occupancy by at least one person 55 years of age or older per unit.

(b) In order to qualify as housing for older persons under this subsection, at least 80% of the units in the housing facility must be occupies by at least one person 55 years of age or older.

1002.3 Nothing in this chapter shall be construed to prohibit any private or government supported educational institution, hospital, nursing home, homeless shelter, youth correctional institution, or other organization, with a bona fide business necessity to so do, from limiting occupancy or use of a dwelling on the basis of sex or age.

1002.4 Nothing in this chapter shall be considered to repeal any regulations previously enacted.

1002.5 Nothing in this chapter shall prohibit a religious, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from limiting the sale or rental of housing accommodations to persons of the same religion, or from giving preference to persons of the same religion.

1002.6 Nothing in this chapter shall prohibit a person engaged in the business of furnishing appraisals or residential real property from taking into consideration factors other than race, color, religion, sex, age, marital status, national origin, disability, family responsibilities, familial status, personal appearance, sexual orientation, matriculation, source of income, and place of residence or business.

1002.7 Nothing in this chapter shall prohibit discrimination against a person because the person has been convicted under federal law or the law of any other state of the illegal manufacture or distribution of a controlled substance as defined in § 102 of the Control Substance Act (21 U.S.C. § 802).

SOURCE: Final Rulemaking published at 35 DCR 5464, 5468 (July 15, 1988); as amended by Final Rulemaking published at 46 DCR 4339 (May 14, 1999), incorporating by reference the text of Proposed Rulemaking published at 46 DCR 2817, 2823-24 (March 19, 1999).

1099 DEFINITIONS

1099.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Commercial space - any building, structure, or designated portion thereof which is occupied as, or designed or intended for, occupancy as an accommodation for business activity, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion of the building or structure.

Dwelling - any building, structure, or portion of the building or structure, including a house or apartment, which is occupied as, or designed or intended for occupancy as, a residence by one or more families or business entities, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Familial status- has the same meaning found in § 102 of the Act (D.C. Official Code § 2-1401.02 (2001)).

Family - a single individual or two or more related or unrelated persons who share a dwelling.

Owner - has the same meaning as found in § 102 of the Act (D.C. Official Code § 2-1401.02 (2001)).

Owner's family - the owner's spouse, the owner's children, and the parents of the owner and the owner's spouse.

Person - has the same meaning as found in § 102 of the Act (D.C. Official Code § 2-1401.02(21) (2001)).

Prohibited basis - any one or a combination of the following: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, physical handicap, source of income, and place of residence or business of any individual.

Real Property - land and generally whatever is erected or affixed to the land, including condominiums and cooperatives.

Restrictive covenant - any written statement in a deed or other document related to the transfer of an interest in real property purporting to limit transfer, sale, or rental on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, physical handicap, source of income, and place of residence or business of any individual.

Sale - a transaction in real property where there is a transfer of ownership of and title to real property from one person to another for consideration.

Source of income - has the same meaning as found in § 102 of the Act (D.C. Official Code § 2-1401.02(29) (2001)).

To rent - leasing, subleasing, to let, or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Transaction in real property - has the same meaning as found in § 102 of the Act (D.C. Official Code § 2-1401.02(30) (2001)).

SOURCE: Final Rulemaking published at 35 DCR 5464, 5469 (July 15, 1988); as amended by Final Rulemaking published at 46 DCR 4339 (May 14, 1999), incorporating by reference the text of Proposed Rulemaking published at 46 DCR 2817, 2824 (March 19, 1999).

RENTAL HOUSING CONVERSION

A. Offer of Sale & Tenant Opportunity to Purchase With A Third Party Contract for Either a Single Family House, Rented Condominium Unit, or Rented Cooperative Unit

1. Offer of Sale:

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86; D.C. Official Code § 42-3201.01 et seq.)(2001)). This offer describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. Statement of Interest:

Upon receipt of the Offer of Sale, you have thirty (30) days to provide me and the Condominium and Cooperative Conversion and Sales branch of the D.C. Department of Consumer and Regulatory Affairs (the Conversion and Sales Office) with a written statement of interest to purchasing this accommodation. If you fail to provide a written statement of interest to me and the Conversion and Sales Office within the thirty (30) day response time period, your rights under this Offer of Sale will expire, except as to the right of first refusal discussed below.

3. Negotiation:

If you submit a written statement of interest in accordance with the above paragraph, you will have a minimum of sixty (60) days to negotiate a sales contract. The sixty (60) day negotiation time period does not include the thirty (30) day response time period.

4. Price and Material Terms:

The selling price for the accommodation is $_____ . You must be informed of the type of financial arrangements, if any, I will accept at settlement. I may not require that you prove financial ability to perform as a prerequisite to entering into a contract. However, in the event the third party contract provides for deferred purchase money financing, I may require that you prove, prior to settlement, either alone or in conjunction with a third party, that you have financial ability to at least equal the third party purchaser before I grant you deferred purchase money financing. The material terms of the sale are as follows:
_____.

5. Deposit:

At the time of contracting, you are required to deposit no more than five (5) percent of the contract price. This deposit, with interest accrued thereon, is refundable in case there is a good faith liability to perform under the contract.

6. Settlement Time:

If you decide to purchase and your offer is accepted by me, you will have a minimum of sixty (60) days to secure financing or financial assistance and go to settlement for the purchase of this accommodation. However, if a lending institution or agency estimates that a decision regarding financing of financial assistance will be made within ninety (90) days after the date of contracting, I will provide you with an extension of time consistent with the written estimate.

7. Information:

I will provide you with a copy of: 1) a floor plan or the accommodation, if available; 2) an itemized list of monthly operation expenses; 3) utility consumption rates and capital expenditures for each of the two (2) calendar years; and 4) the most recent rent roll, listing of tenants and a list of vacant apartments within seven (7) days of receiving a written request for the information.

8. Third Party Contract and Right of First Refusal:

As of this date, there is a contract to sell the accommodation to another party, if you do not purchase. I have enclosed a copy of the contract for your review. In accordance with the Act, in addition to your rights stipulated in this offer, you must be given a fifteen (15) day right of first refusal to match the enclosed third party contract, even if you do not submit a written statement of interest or if you reject this offer to negotiate. If a Statement of Interest is submitted, the 15-day right of first refusal time period will commence at the end of the negotiation time period.

9. New Offer of Sale:

You will be issued a new Offer of Sale Notice if I sell or sign a contract with a third party purchaser for a price that is more than 10% less than the price offered to you or for other terms which would constitute a bargaining without good faith. In addition, if I have not sold this accommodation within one hundred eighty (180) days from the date of this Offer of Sale, and, if I still desire to sell the accommodation at that time, I must comply anew with the provisions of the Act.

10. Waiver:

You are prohibited from waiving your right to receive this Offer of Sale. However, upon receipt of this Offer, you may waive any other tenant's rights in exchange for any consideration, which you find acceptable. Any waiver of the rights must be in writing and signed by you. I will provide the Conversion and Sales office with a copy of the signed waiver document.

11. Assistance:

If you would like information concerning technical and financial assistance to help you purchase, you may contact the University Legal Services on (202) 547-4747, the D.C. Department of

Housing and Community Development Multi-Family Right Purchase Office on (202) 442-7156 or the Conversion and Sales Office on (202) 442-4680.

** If the owner presents a Notice of Offer of Sale to the tenant and there is no third party contract of sale replace paragraph 8 (above) with the following text.*

8. Third Party Contract and Right of First Refusal:

As of this date, I have not accepted a third party sales contract on the accommodation. In addition to your rights stipulated in this offer of sale, you must be given a fifteen (15) day right of first refusal to match the third party sales contract even if you did not submit a written statement of interest or if you reject the offer to negotiate. Therefore, if I accept a third party contract I will send you a Right of First Refusal Notice and a copy of the sales contract. You will have an additional fifteen (15) days right of first refusal to match the third party contract. If a statement of interest is submitted the fifteen (15) day right of first refusal time period will commence at the end of the negotiation time period.

One (1) copy of the Notice with a copy of the sales contract must be sent to the Department of Consumer and Regulatory Affairs Condominium and Cooperative Sales Branch, 941 North Capitol Street, Room 7100, Washington, D.C. 20002.
Telephone (202) 442-4610 Fax (202) 727-8852

Right of First Refusal Notice for either a Single Family House, rented Condominium Unit, or Rented Cooperative Unit

Dear: _____:

Pursuant to Section 408 of D.C. Law 3-86, as amended (the "Act"), I have enclosed a copy of the Third Party Sales contract dated _____, which has been accepted (ratified) for the sale of the :

Single-Family House _____ Condominium Unit Number _____ Cooperative Unit Number _____

In which you live at _____.

In accordance with the Act, in addition to the statutory time periods of which you were notified in my Offer of Sale Notice Without a Third Party Contract, dated _____, you have an additional fifteen (15) days to match the enclosed contract. If you have provided a written statement of interest in purchasing, the fifteen (15) day time period will come at the end of the statutory sixty (60) day negotiation time period. If you did not provide a written statement of interest in purchasing or if the statutory sixty (60) day negotiation time period has expired you will have fifteen (15) days from receipt of this Notice and enclosed contract to match the third party sales contract.

The selling price of the accommodation is $_____ and the material terms of the sale are _____.

If you provide me with an offer matching the contract I have accepted (ratified), and a sales contract is signed, you will have a minimum of sixty (60) days to obtain financing or financial assistance and go to settlement for the purchase of this accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within ninety (90) days after the date of contracting I will provide you with an extension of time consistent with the written estimate.

If you would like information concerning technical and financing assistance to help you purchase, you may contact the D.C. Department of Housing and Community Development's Home Purchase Assistance Program Office on (202) 442-7156 or the Conversion and Sales Office on (202) 442-4680.

If you have any questions regarding this matter, please call this telephone number (____) _____. THIS NOTICE IS AN OFFER OF SALE AND NOT A NOTICE TO VACATE.

B. Offer of Sale & Tenant Opportunity to Purchase with a Third Party Contract for Housing Accommodations with Two, Three, or Four Rental Units.

1. Offer of Sale:

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86; D.C. Official Code § 42-3201.01 et seq.)(2001)). This offer describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. Statement of Interest:

Upon receipt of the Offer of Sale, you have fifteen (15) days to provide me and the Condominium and Cooperative Conversion and Sales Branch of the D.C. Department of Consumer and Regulatory Affairs (the CCC&SB) with a written joint statement of interest in purchasing the accommodation. After the fifteen (15) days, if the tenants, acting jointly, fail to submit a written statement of interest, you, as an individual tenant, will have seven (7) days to provide me and the CCC&SB with a written statement of interest in purchasing the accommodation. If you fail to provide a written statement of interest in purchasing to me and the CCC&SB within the fifteen (15) day and seven (7) day response time periods, your rights under this Offer of Sale will expire, except as to the right of first refusal as discussed below.

3. Negotiation:

Upon receipt by me, of a written statement of interest from a tenant group or a tenant, you will be given a minimum of ninety (90) days to negotiate a sales contract.

If at the end of the ninety (90) day negotiation time period, or any extension thereof, the tenants jointly have not contracted with me, I will provide an additional thirty (30) day period, during which any one (1) of the individual tenants may contract with me for the purchase of the accommodation.

If I receive a written statement of interest from more than one (1) individual tenant I will negotiate with each tenant separately, or jointly if you agree to negotiate jointly. However, if I am required to negotiate with more than one (1) tenant I will decide which contract is more favorable without liability to the other tenants(s). Any reference to the "tenant group" means the tenants from more than one unit acting jointly. Any reference to an "individual tenant" means all of the tenants (if more than one) from one unit who sign the statement of interest.

4. Price and Material Terms:

The selling price for the accommodation is $_____ . You must be informed of the type of financial arrangements, if any, I will accept at settlement. I may not require that you prove financial ability to perform as a prerequisite to entering into a contract. However, in the event the third party contract provides for deferred purchase money financing, I may require that you prove, prior to settlement, either alone or in conjunction with a third party, that you have financial ability to at least equal the third party purchaser before I grant you deferred purchase money financing. The material terms of the sale are as follows:
_____.

5. Deposit:

At the time of contracting, you are required to deposit no more than five (5) percent of the contract price. This deposit, with interest accrued thereon, is refundable in case there is a good faith liability to perform under the contract.

6. Settlement Time:

If you decide to purchase and your offer is accepted by me, you will have a minimum of ninety (90) days to secure financing or financial assistance and go to settlement for the purchase of this accommodation. However, if a lending institution or agency estimates that a decision regarding financing of financial assistance will be made within one-hundred twenty (120) days after the date of contracting, I will provide the tenant group or the individual tenant with an extension of time consistent with the written estimate.

7. Information:

I will provide you with a copy of: 1) a floor plan or the accommodation, if available; 2) an itemized list of monthly operation expenses; 3) utility consumption rates and capital expenditures for each of the two (2) calendar years; and 4) the most recent rent roll, listing of tenants and a list of vacant apartments within seven (7) days of receiving a written request for the information.

8. Third Party Contract and Right of First Refusal*:

As of this date, there is a contract to sell the accommodation to another party, if you do not purchase. I have enclosed a copy of the contract for your review. In accordance with the Act, in addition to your rights stipulated in this offer, you must be given a fifteen (15) day right of first refusal to match the enclosed third party contract, even if you do not submit a written statement of interest or if you reject this offer to negotiate. If a Statement of Interest is submitted, the 15 day right of first refusal time period will commence at the end of the negotiation time period.

9. New Offer of Sale:

You will be issues a new Offer of Sale Notice if I sell or sign a contract with a third party purchaser for a price that is more than 10% less than the price offered to you or for other terms which would constitute a bargaining without good faith. In addition, if I have not sold this accommodation within two hundred and forty (240) days from the date of this Offer of Sale, and, if I still desire to sell the accommodation at that time, I must comply anew with the provisions of the Act.

10. Waiver:

You are prohibited from waiving your right to receive this Offer of Sale. However, if you and the other tenants form a tenant organization and comply with statutory requirements as discussed in this Offer of Sale Notice, the tenant organization may waive any other tenants rights in exchange for any consideration which it finds acceptable. Any waiver of the rights must be in writing and signed by you. I will provide the Conversion and Sales office with a copy of the signed waiver document.

11. Assistance:

If you would like information concerning technical and financial assistance to help you purchase, you may contact the University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development Multi-Family Right Purchase Office on (202) 442-7156 or the Conversion and Sales Office on (202) 442-4680.

** If the owner presents a Notice of Offer of Sale to tenants and there is no third party contract of sale replace paragraph 8 (above) with the following text.*

8. Third Party Contract and Right of First Refusal:

As of this date, I have not accepted a third party sales contract on the accommodation. In addition to your rights stipulated in this offer of sale, you must be given a fifteen (15) day right of first refusal to match the third party sales contract even if you did not submit a written statement of interest or if you reject the offer to negotiate. Therefore, if I accept a third party contract I will send you a Right of First Refusal Notice and a copy of the sales contract. You will have an additional fifteen (15) days right of first refusal to match the third party contract. If a statement

of interest is submitted the fifteen (15) day right of first refusal time period will commence at the end of the negotiation time period.

One (1) copy of the Notice and a list of all tenants must be sent to the Department of Consumer and Regulatory Affairs Condominium and Cooperative Sales Branch, 941 North Capitol Street, Room 7100, Washington, D.C. 20002. Telephone (202) 442-4610 Fax (202) 727-8852

Right of First Refusal Notice for Two, Three, and Four Rental Unit Housing Accommodations

Dear: _____:

Pursuant to Section 408 of D.C. Law 3-86, as amended (the "Act"), I have enclosed a copy of the Third Party Sales contract dated _____, which has been accepted (ratified) for the sale of the _____ unit housing accommodation in which you live at _____.

In accordance with the Act, in addition to the statutory time periods of which you were notified in my Offer of Sale Notice Without a Third Party Contract, dated _____, you have an additional fifteen (15) days to match the enclosed contract. If you have provided a written statement of interest in purchasing, the fifteen (15) day time period will come at the end of the statutory ninety (90) day negotiation time period. If you did not provide a written statement of interest in purchasing or if the statutory ninety (90) day negotiation time period has expired you will have fifteen (15) days from receipt of this Notice and enclosed contract to match the third party sales contract.

The selling price of the accommodation is $_____ and the material terms of the sale are _____.

If you provide me with an offer matching the contract I have accepted (ratified), and a sales contract is signed, you will have a minimum of ninety (90) days to obtain financing or financial assistance and go to settlement for the purchase of this accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within one hundred twenty (120) days after the date of contracting I will provide you with an extension of time consistent with the written estimate.

If you would like information concerning technical and financing assistance to help you purchase, you may contact the D.C. Department of Housing and Community Development's Home Purchase Assistance Program Office on (202) 442-7156 or the Conversion and Sales Office on (202) 442-4680.

If you have any questions regarding this matter, please call this telephone number (____) _____. THIS NOTICE IS AN OFFER OF SALE AND NOT A NOTICE TO VACATE.

C. An Offer of Sale Notice with a Third Party Contract for Five (5) or More Rental Unit Housing Accommodations

1. Offer of Sale:

As a tenant of a housing accommodation in the District of Columbia, you must be given an opportunity to purchase this accommodation in accordance with Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended (D.C. Law 3-86; D.C. Official Code § 42-3201.01 et seq.)(2001)). This offer describes your tenant rights and responsibilities and the statutory time periods under the Act.

2. Application for Registration:

Any response to this offer to purchase must be made by a tenant organization. Any response to this offer to purchase must be made by a tenant organization. Therefore, upon receipt of this Offer of Sale Notice, you and the other tenants in the accommodation have forty five (45) days to organize a tenant organization with the legal capacity to hold real property and deliver a notarized Application for Registration to me and the Condominium and Cooperative Conversion and Sales branch of the D.C. Department of Consumer and Regulatory affairs (the Conversion and Sales Office). The Application for Registration must include a list of tenant members, which represents the majority of the heads of households in the housing accommodation as of the time of registration. In addition, information regarding the elected officers and copies of the Articles of Incorporation, certification of incorporation and the bylaws must be included with the Application for Registration.

If a tenant organization exists in a form desired by the tenants the application for registration must be delivered to the Conversion and Sales Office and me within thirty (30) days. If you and the other tenants fail to organize and deliver the application for registration within the applicable time period your tenant's rights under this offer to purchase will expire.

3. Negotiation:

If a tenant organization submits an application for registration in accordance with the above paragraphs the tenant organization will have a minimum of one hundred twenty (120) days to negotiate a sales contract.

4. Price and Material Terms:

The selling price for the accommodation is $_____ . You must be informed of the type of financial arrangements, if any, I will accept at settlement. I may not require that the tenant organization prove financial ability to perform as a prerequisite to entering into a contract. However, in the event the third party contract provides for deferred purchase money financing, I may require that you prove, prior to settlement, either alone or in conjunction with a third party, that you have financial ability to at least equal the third party purchaser before I grant you deferred purchase money financing. The material terms of the sale are as follows:

_____.

5. Deposit:

At the time of contracting, you are required to deposit no more than five (5) percent of the contract price. This deposit, with interest accrued thereon, is refundable in case there is a good faith liability to perform under the contract.

6. Settlement Time:

If the tenant organization decides to purchase and the offer is accepted by me, the tenant organization will have a minimum of one hundred twenty (120) days to secure financing or financial assistance and go to settlement for the purchase of this accommodation. However, if a lending institution or agency estimates that a decision regarding financing of financial assistance will be made within two hundred forty (240) days after the date of contracting, I will provide the tenant group or the individual tenant with an extension of time consistent with the written estimate. If the tenant organization's articles of incorporation provide, by the date of contracting, that the purpose of the tenant organization is to convert the accommodation to non-profit housing cooperative with appreciation of share value limited to a maximum of an annual rate of inflation the tenant organization will have a minimum of one hundred eighty (180) days after the date of contracting to secure financing or financial assistance.

7. Information:

I will provide the tenant organization with a copy of: 1) a floor plan or the accommodation, if available; 2) an itemized list of monthly operation expenses; 3) utility consumption rates and capital expenditures for each of the two (2) calendar years; and 4) the most recent rent roll, listing of tenants and a list of vacant apartments within seven (7) days of receiving a written request for the information.

8. Third Party Contract and Right of First Refusal*:

As of this date, there is a contract to another party, if you do not purchase. If a tenant organization is formed and registered I will send a copy of the contract to the tenant organization. The tenant organization will have an additional fifteen (15) days right of first refusal to match the third party contract. If a valid Application of Registration is filed the fifteen (15) day right of first refusal time period will commence at the end of the negotiation time period.

9. New Offer of Sale:

You will be issues a new Offer of Sale Notice if I sell or sign a contract with a third party purchaser for a price that is more than 10% less than the price offered to you or for other terms which would constitute a bargaining without good faith. In addition, if I have not sold this accommodation within three hundred sixty (360) days from the date of this Offer of Sale, and, if I still desire to sell the accommodation at that time, I must comply anew with the provisions of the Act.

10. Waiver:

You are prohibited from waiving your right to receive this Offer of Sale. However, if you and the other tenants form a tenant organization and comply with statutory requirements as discussed in this Offer of Sale Notice, the tenant organization may waive any other tenants rights in exchange for any consideration which it finds acceptable. Any waiver of the rights must be in writing and signed by you. I will provide the Conversion and Sales office with a copy of the signed waiver documents.

11. Assistance:

If you would like information concerning technical and financial assistance to help you purchase, you may contact the University Legal Services on (202) 547-4747, the D.C. Department of Housing and Community Development Multi-Family Right Purchase Office on (202) 442-7156 or the Conversion and Sales Office on (202) 442-4610.

** If the owner presents a Notice of Offer of Sale tenants and there is no third party contract of sale replace paragraph 8 (above) with the following text.*

8. Third Party Contract and Right of First Refusal:

As of this date, I have not accepted a third party sales contract on the accommodation. If a tenant organization is formed and registered, and I accept a third party contract, I will send the tenant organization the Right of First Refusal Notice and a copy of the sales contract. The tenant organization will have an additional fifteen (15) days right of first refusal to match the third party contract. If a valid Application of Registration is filed the fifteen (15) day right of first refusal time period will commence at the end of the negotiation time period.

One (1) copy of Notice with a list of all tenants must be sent to the Department of Consumer and Regulatory Affairs Condominium and Cooperative Sales Branch, 941 North Capitol Street, Room 7100, Washington, D.C. 20002. Telephone (202) 442-4610 Fax (202) 727-8852

Right of First Refusal Notice for Five or More Rental Unit Housing Accommodations

Dear: _____:

Pursuant to Section 408 of D.C. Law 3-86, as amended (the "Act"), I have enclosed a copy of the Third Party Sales contract dated _____, which has been accepted (ratified) for the sale of the _____ unit housing accommodation in which you and the members of the tenant organization live at _____.

In accordance with the Act, in addition to the statutory time periods of which you were notified in my Offer of Sale Notice Without a Third Party Contract, dated _____, the tenant organization has fifteen (15) days to match the enclosed contract. The fifteen (15) day time

period will come at the end of the statutory one hundred twenty (120) day negotiation time period. If the statutory one hundred twenty (120) day negotiation time period has expired the tenant organization will have fifteen (15) days from receipt of this Notice and enclosed contract to match the third party sales contract.

The selling price of the accommodation is $_____ and the material terms of the sale are _____.

If the tenant organization provides a contract offer matching the third party contract I have accepted (ratified), and a sales contract is signed, the tenant organization will have a minimum of one hundred twenty (120) days to obtain financing or financial assistance and go to settlement for the purchase of this accommodation. However, if a lending institution or agency estimates that a decision regarding financing or financial assistance will be made within two hundred forty (240) days after the date of contracting I will provide the tenant organization with an extension of time consistent with the written estimate.

If the tenant organization would like information concerning technical and financing assistance to help you purchase, you may contact the University legal services on (202) 547-4747, the D.C. Department of Housing and Community development's Multi-Family Right Purchase Office on (202) 442-7156, or the Conversion and Sales Office on (202) 442-4610.

If you have any questions regarding this matter, please call this telephone number (____) _____. THIS NOTICE IS AN OFFER OF SALE AND NOT A NOTICE TO VACATE.

D. CONTACT INFORMATION

District of Columbia Department of Consumer and Regulatory Affairs
Condominium and Cooperative Conversion and Sales Branch
941 North Capitol Street
Room 7100
Washington, DC 20002
Telephone: (202) 442-4477
Fax: (202) 727-8852