

TREC POCKET PART—UPDATED Tennessee Real Estate Broker License Act of 1973 and UPDATED RULES (last updated 8/06/2015)

CAUTION: CONTAINS ONLY BROKER ACT STATUTORY PROVISIONS AND RULES WHICH HAVE BECOME EFFECTIVE SINCE 2008 MANUAL. Rules and Statutes presented separately in numerical order

RULES:

1260-01-.01 APPLICATIONS FOR EXAMINATIONS.Effective August 4, 2015

(1) Affiliate Brokers. Applicants for the affiliated broker's examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing information required, and deadlines for submission of examination applications.

(2) Brokers. Applications for the broker's examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing, information required, and deadlines for submission of examination applications.

(3) An applicant who passes an examination is not necessarily qualified for licensure.

(4) No person shall be eligible for examination or be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is later in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.

(5) Notwithstanding the provisions of paragraph (4) of this rule, if a person possesses a certificate of employability pursuant to T.C.A. § 40-29-107, that person shall not be denied the issuance of a license based solely on the person's past record of criminal activity but shall instead be required to appear before the Commission for the purpose of the Commission considering on a case-by-case basis whether to grant or deny the issuance of the license.

Authority: T.C.A. §§ 62-13-112, 62-13-203, 62-13-301, 62-13-303, 62-13-312, and 40-29-207.

Administrative History: Original rule certified June 7, 1974. Repeal and refiled March 3, 1980; effective April 27, 1980. Repeal and new rule filed April 17, 1985; effective May 17, 1985. Amendment filed September 16, 1987; effective October 31, 1987. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed July 31, 2006; effective October 14, 2006. Amendment filed December 3, 2007; effective February 16, 2008. Amendment filed May 6, 2015; effective August 4, 2015.

1260-01-.12 FEES Effective March 3, 2013

(6) When any individual applies for an original license as a broker, affiliate broker or time-share salesperson, the applicant shall pay, in addition to the original license fee, a fee in the amount of ten dollars (\$10.00) for deposit into the real estate education and recovery account

TREC Rules Effective 5/8/2014

1260-01-.16 Lapsed Errors and Omissions Insurance

(1) Licensees Who Fail to Maintain Errors & Omissions (E&O) Insurance

(a) Penalty fees for Reinstatement of a Suspended License: Any licensee whose license is suspended for more than thirty (30) days pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance must provide proof of insurance that complies with the required terms and conditions of coverage to the Commission and must pay the following applicable penalty fee in order to reinstate the license:

1. For a license suspended due to a lapse in E&O coverage for more than thirty (30) days but within one hundred twenty (120) days:

(i) Two Hundred Dollars (\$200.00) if the licensee's insurance carrier back-dated the licensee's E&O insurance policy to indicate continuous coverage; or

(ii) Four Hundred Dollars (\$400.00) if the licensee's insurance carrier did not back-date the licensee's E&O insurance policy to indicate continuous coverage.

2. For a license suspended due to a lapse in E&O coverage for more than one hundred twenty (120) days but less than six (6) months, a Five Hundred Dollar (\$500.00) penalty fee;

3. For a license suspended due to a lapse in E&O coverage for six (6) months up to one (1) year, a Five Hundred Dollar (\$500.00) penalty fee plus a penalty fee of One Hundred Dollars (\$1 00.00) per month, or portion thereof, for months six (6) through twelve (12).

(b) Conditions for Reissuance of a Revoked License: Upon revocation of a license pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, any individual seeking reissuance of such license shall:

1. Reapply for licensure, including payment of all fees for such application;

2. Pay the penalty fees outlined in subparagraph (a) above;

3. Pass all required examinations for licensure, unless the Commission waives such examinations; and

4. Meet any current education requirements for licensure, unless the Commission waives such education requirements.

(2) Principal Brokers of Licensees Who Fail to Maintain E&O Insurance:

(a) A principal broker shall ensure, at all times, that all licensees affiliated with that principal broker shall hold E&O insurance as required by law. A failure to do so shall constitute failing to exercise adequate supervision over the activities of a licensed affiliated broker.

(b) For any principal broker who has an affiliated licensee whose license is suspended pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, there shall be no penalty to the principal broker if

either of the following two (2) circumstances occur within thirty (30) days of that affiliated licensee's license suspension:

1. The affiliated licensee has provided proof of insurance which complies with the required terms and conditions of coverage to the Commission; or
2. The principal broker releases that affiliated licensee whose license is suspended for failure to maintain E&O insurance.

(c) After the aforementioned thirty (30) day period, if the affiliated licensee has neither provided the required proof of insurance nor been released by the principal broker, the Commission authorizes a formal hearing on the matter of the principal broker's failure to exercise adequate supervision over an affiliated licensee who failed to maintain E&O insurance but also authorizes that a consent order shall be sent to the principal broker, offering that principal broker the opportunity to settle the matter informally, thereby making formal hearing proceedings unnecessary, according to the following schedule:

1. Notwithstanding the provisions of Tenn. Comp. R. & Regs. 1260-02-.32, if the principal broker's affiliated licensee reinstates his or her license, or the principal broker releases the affiliated licensee, more than thirty (30) days after suspension but within one hundred twenty (120) days after suspension, the consent order shall contain the following civil penalties:

- (i) Two Hundred Dollars (\$200.00) if the affiliated licensee's insurance carrier back-dated the licensee's E&O insurance policy to indicate continuous coverage; or
- (ii) Four Hundred Dollars (\$400.00) if the affiliated licensee's insurance carrier did not back-date the licensee's E&O insurance policy to indicate continuous coverage.

2. If the principal broker's affiliated licensee reinstates his or her license, or the principal broker releases the affiliated licensee, more than one hundred twenty (120) days after suspension, the consent order referenced in this subparagraph (c) above shall contain a civil penalty of one thousand dollars (\$1,000.00).

3. Where a principal broker does not accept any authorized consent order for failure to supervise an affiliated licensee's E&O insurance, the hearing shall be held before an administrative law judge sitting alone, pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5.

4. Nothing in this rule shall be construed as limiting the Commission's authority to:

- (i) Authorize a consent order in a different amount than listed herein;
- (ii) Seek any other legal discipline - including revocation or suspension of a license - for a failure to supervise an affiliated licensee's E&O insurance;
- (iii) Review an initial order under the Uniform Administrative Procedures Act; or
- (iv) Not seek discipline against a principal broker for failure to supervise an affiliated broker's maintenance of E&O insurance if the Commission determines that such discipline is not appropriate under the facts of that matter.

1260-01-.17 Fingerprinting

(1) Any initial applicant who is required to submit a complete and legible set of fingerprints for the purpose of obtaining a criminal background check pursuant to T.C.A. § 62-13-303 shall submit said fingerprints in an electronic format.

(a) An initial applicant shall be deemed to have supplied the required set of fingerprints if that applicant causes a private company contracted by the State to electronically transmit that applicant's classifiable prints directly to the TBI and FBI to forward an electronic report based on that applicant's fingerprints to the Commission.

(b) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant.

(c) The applicant shall make the arrangements for the processing of his or her fingerprints with the

company contracted by the State to provide electronic fingerprinting services directly and shall be responsible for the payment of any fees associated with processing of fingerprints to the respective agent authorized by the TBI and FBI.

(d) Applicants shall in all cases be responsible for paying application fees for licensure as established by the Commission.

(e) In addition to new applicants for a broker, affiliate broker, time-share salesperson, or acquisition agent license, the following are considered "initial applicants" for purposes of this rule and, therefore, are required to submit fingerprints in an electronic format for the purpose of obtaining a criminal background check:

1. Any former licensee who must reapply in order to obtain reissuance of his or her license; and
2. Any person who previously held an affiliate broker license but no longer holds said license at the time such person applies for a broker license. This does not include any person who has an affiliate broker license which is inactive or retired at the time of application for a broker license.

(2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints which are unclassifiable in nature, the Commission may refuse to issue the requested license.

(a) For the purposes of this rule, "unclassifiable prints" means that the electronic scan or the print of the person's fingerprints cannot be read, and therefore cannot be used to identify the person.

(b) Should an applicant's fingerprints be rejected by the TBI or FBI, the applicant shall pay any fees assessed by the TBI or FBI for resubmission.

Rules of Conduct: Effective June 14, 2010

Rule 1260-02-.02 Termination of Affiliation

(1) Any licensee or principal broker wishing to terminate the licensee's affiliation with a firm shall submit to the Commission a completed Transfer, Release and Change of Status Form (TREC Form 1). The form must be faxed, mailed, or emailed to the Commission to be effective. The principal broker's supervisory to the Commission to be effective. The principal broker's supervisory responsibility for the future acts of the licensee shall terminate upon the Commission's receipt of the release form. The principal broker shall retain a copy of the executed form.

(2) Within ten (10) days after the date of release, the licensee shall complete the required administrative measures for either change of affiliation or retirement. The licensee shall not engage in any activities defined in §62-13-102 until a change of affiliation is received and processed by the Commission.

(3) When a licensee terminates his affiliation with a firm, he shall neither take nor use any property listings secured through the firm, unless specifically authorized by the principal broker.

(4) Upon demand by a licensee for his release from a firm, it shall be promptly granted by the principal broker and the principal broker shall return the license to the licensee. If the licensee cannot be located then the principal broker may return the license to the Commission.

(5) If the principal broker is deceased or physically unable to sign the release, or refuses to sign a release, the licensee requesting termination of affiliation must submit to the Commission a notarized Affidavit for Release.

(6) If the affiliated licensee is deceased or physically unable to sign a release, or refuses to sign a release, the principal broker requesting termination of affiliation must submit to the Commission a completed TREC Form 1.

(7) The Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates.

1260-02-.09 Deposits and Earnest Money

- (1) Each broker shall maintain a separate escrow account for the purpose of holding any funds which may be received in his fiduciary capacity as deposits, earnest money, or the like. Rental deposits must be held in a separate account.
- (2) An affiliate broker shall pay over to the broker with whom he is under contract all deposits and earnest money immediately upon receipt.
- (3) Brokers are responsible at all times for deposits and earnest money accepted by them or their affiliate brokers, in accordance with the terms of the contract.
- (4) Where a contract authorizes a broker to place funds in an escrow or trustee account, the broker shall clearly specify in the contract:
 - (a) the terms and conditions for disbursement of such funds; and
 - (b) the name and address of the person who will actually hold such funds.
- (5) Where a contract authorizes an individual or entity other than either broker to hold such funds in an escrow or trustee account, the broker will be relieved of responsibility for the funds upon receipt of the funds by the specified escrow agent.
- (6) A broker may properly disburse funds from an escrow account:
 - (a) upon a reasonable interpretation of the contract which authorizes him to hold such funds;
 - (b) upon securing a written agreement which is signed by all parties having an interest in such and is separate from the contract which authorizes him to hold such funds;
 - (c) at the closing of the transaction;
 - (d) upon the rejection of an offer to purchase, sell, rent, lease, exchange or option real estate;
 - (e) upon the withdrawal of an offer not yet accepted to purchase, sell, rent, lease, exchange or option real estate;
 - (f) upon filing an interpleader action in a court of competent jurisdiction; or
 - (g) upon the order of a court of competent jurisdiction.
- (7) Funds in escrow or trustee accounts shall be disbursed in a proper manner without unreasonable delay. Funds should be disbursed or interpleaded within twenty one
(21) **calendar days** from the date of receipt of a written request for disbursement of earnest money.
- (8) No postdated check shall be accepted for payment of a deposit or earnest money, unless otherwise provided in the offer.
- (9) Earnest money shall be deposited into an escrow or trustee account promptly upon acceptance of the offer, unless the offer contains a statement such as "Earnest money to be deposited by:"

1260-02-.12 Advertising

- (1) All advertising, regardless of its nature and the medium in which it appears, which promotes the sale or lease of real property, shall conform to the requirements of this rule.
- (2) **General Principles**
 - (a) No licensee shall advertise to sell, purchase, exchange, rent, or lease property in a manner indicating that the licensee is not engaged in the real estate business.
 - (b) All advertising shall be under the direct supervision of the principal broker and shall list the firm name and telephone number.
 - (c) No licensee shall post a sign in any location advertising property for sale, purchase, exchange, rent or lease, without written authorization from the owner of the advertised property or the owner's agent.
 - (d) No licensee shall advertise property listed by another licensee without written authorization from the property owner. Written authorization must be evidenced by a statement on the listing agreement or any other written statement signed by the owner.
 - (e) No licensee shall advertise in a false, misleading, or deceptive manner.

(3) Advertising for Franchise or Cooperative Advertising Groups

(a) Any licensee using a franchise trade name or advertising as a member of a cooperative group shall clearly and unmistakably indicate in the advertisement his name, broker or firm name and firm telephone number (as registered with the Tennessee Real Estate Commission) adjacent to any specific properties advertised for sale or lease in any media.

(b) Any licensee using a franchise trade name or advertising as a member of a cooperative group, when advertising other than specific properties for sale or lease, shall cause the following legend to appear in the advertisement in a manner reasonably calculated to attract the attention of the public:” Each [Franchise Trade Name or Cooperative Group] Office is Independently Owned and Operated.”

(c) Any licensee using a trade name on business cards, contracts, or other documents relating to real estate transaction shall clearly and unmistakably indicate thereon:

1. his name and firm telephone number (as registered with the Commission) ; and
2. the fact that his office is independently owned and operated.

(4) Internet Advertising

(a) The listing firm name and telephone number must conspicuously appear on each page of the website.

(b) Each page of a website which displays listings from an outside database of available properties must include a statement that some or all of the listings may not belong to the firm whose website is being visited.

(c) Listing information must be kept current and accurate.

(5) Guarantees, Claims and Offers

(a) Unsubstantiated selling claims and misleading statements or inferences are strictly prohibited.

(b) Any offer, guaranty, warranty or the like, made to induce an individual to enter into an agency relationship or contract, must be made in writing and must disclose all pertinent details on the face of such offer or advertisement.

1260-02-.32 CIVIL PENALTIES. Effective March 3, 2013

The Commission may, in a lawful proceeding against any person required to be licensed by the Commission, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to the Commission with the following schedule:

VIOLATION	PENALTY
T.C.A. § 62-13-103(b)	\$ 50 ---- 1000
T.C.A. § 62-13-301	50 ---- 1000
T.C.A. § 62-13-312(b)	
(1)	250 ---- 1000
(2)	200 ---- 1000
(3)	300 ---- 1000
(4)	100 ---- 1000
(5)	300 ---- 1000
(6)	200 ---- 1000
(7)	300 ---- 1000
(8)	100 ---- 1000
(9)	200 ---- 1000
(10)	300 ---- 1000
(11)	250 ---- 1000
(12)	300 ---- 1000
(13)	300 ---- 1000
(14)	50 ---- 1000
(15)	250 ---- 1000
(16)	250 ---- 1000
(17)	200 ---- 1000
(18)	250 ---- 1000
(19)	250 ---- 1000
(20)	200 ---- 1000
(21)	100 ---- 1000
T.C.A. § 62-25-103(a)	50 ---- 1000
T.C.A. § 62-25-107(b)	
(1)	250 ---- 1000
(2)	250 ---- 1000
(3)	300 ---- 1000
(4)	50 ---- 1000
T.C.A. § 66-32-121(f)	
(1)	250 ---- 1000
(2)	100 ---- 1000
(3)	200 ---- 1000
(4)	300 ---- 1000
(5)	250 ---- 1000
(6)	250 ---- 1000
(7)	400 ---- 1000
(8)	350 ---- 1000
(9)	400 ---- 1000
(10)	250 ---- 1000

1260-02-.38 DEATH OR EXTENDED ABSENCE OF PRINCIPAL BROKER. Effective 2013

(1) The Commission must be notified within ten (10) days of the death, resignation, termination, or incapacity of a principal broker. In the event of an unexplained extended absence of a principal broker, the Commission must be notified within a reasonable time period. At the time of notification, a plan must be submitted which addresses the continuation of operations without a principal broker.

(2) The Commission may, in its discretion, based on the merits and circumstances of each case, permit a real estate firm to continue operating without a principal broker for a period of time not to exceed thirty (30) days from the date of death, resignation, termination, or incapacity of a principal broker, subject to conditions imposed by the Commission.

(3) If, within the aforementioned thirty (30) day period, a real estate firm contacts the Commission demonstrating compliance with their initial approved plan and circumstances which require additional time to continue operating without a principal broker, the executive director shall have the authority to grant a thirty (30) day extension to the period originally allowed by the Commission. In the event that a thirty (30) day extension is granted, a new principal broker must be in place no later than the sixty-first (61st) day from the date of death, resignation, termination, or incapacity of a principal broker.

EDUCATION Effective 2009

RULE 1260-05-.12 Continuing Education

(1) The Commission may, in its discretion, designate that portion of the continuing real estate education required of licensees by T.C.A. §62-13-303 to be composed of specific topic(s).

(2) The “office or brokerage management” course required of applicants for broker’s licenses will not be approved as a postlicensing or continuing education course for affiliate brokers.

(3) (a) An affiliate broker whose license was originally issued on or after July 1, 1980, will not be eligible for renewal of the license unless, during the immediately preceding two year license period, such affiliate broker satisfactorily completes at least sixteen (16) hours of continuing real estate education. This subparagraph shall not apply to an affiliate broker whose license was temporarily retired in accordance with T.C.A. §62-13-318 for the entire immediately preceding two year period.

(b) A broker whose license was originally issued on or after January 1, 2005, will not be eligible for renewal of the license unless, during the immediately preceding two year license period, such broker satisfactorily completes as least sixteen (16) hours of continuing real estate education. This subparagraph shall not apply to a broker whose license was temporarily retired in accordance with T.C.A. §62-13-318 for the entire immediately preceding two year license period.

(c) A licensee will not receive continuing education credit for classroom hours completed during a prior license period.

(4) Continuing education credit will be given for approved classroom hours completed during the twelve (12) months immediately preceding the original date of licensure.

RULE 1260-05-15 Fee for Educational Course Application

- (1) Before any educational course is reviewed for approval by the Commission, the following nonrefundable fees shall be paid according to the following hourly credit schedule:
- (a) any course not exceeding eight (8) hours a fee of twenty five dollars (\$25.00) ;
 - (b) any course from nine (9) hours to thirty (30) hours a fee of fifty dollars (\$50.00);
 - (c) any course exceeding thirty (30) hours a fee of one hundred dollars (\$100.00).
- (2) In addition to the above fees, a twenty five dollar (\$25.00) fee shall be paid for each course instructor.

RULE 1260-05-16 Course Approval Periods

- (1) The Commission will approve courses based upon a two (2) year review cycle of all courses. Each cycle will end on December 31st of the second year. The first period of approval will end December 31, 2010.
- (2) Each course approval shall remain effective until the end of the review cycle, notwithstanding the date upon which it was approved.
- (3) All course providers shall be required to resubmit their courses for approval at least one hundred twenty (120) days prior to the applicable expiration date. Failure to meet this deadline may result in nonapproval of a course.

Timeshare Programs Effective 2009

Rule 1260-6-.04 Disclosure of Rescission Rights

The following statement shall appear in boldface and conspicuous type in:

- (1) Every public offering statement; and
- (2) Every contract for the sale of a timeshare interval, immediately above the space reserved for the signature of the purchaser.

“You May Cancel a Contract to Purchase a TimeShare Interval within Ten (10) Days from the Date of the Signing of the Contract, Where You Have Made an OnSite Inspection of the TimeShare Project Before Signing the Contract, and, if You Have Not Made Such an Inspection, within Fifteen (15) days from the Date of the Signing of the Contract. If You Elect to Cancel, You May Do So by Hand Delivering Notice to the Seller at [insert address] within the Designated Period, or by Mailing Notice to the Seller (or His Agent for Service of Process) by Prepaid United States Mail at [insert address] Postmarked Anytime within the Designated Period.”

RULE 1260-6-.11 Renewal of Registration

- (1) All registration of timeshare programs shall expire one (1) year from the date the registration was approved, and shall be invalid after that date unless renewed.
- (2) At least one (1) month in advance of the date of expiration of a registration, the Executive Director of the Commission shall notify the registrant by mail of the deadline and fee for renewal of the registration.

(3) An application for renewal of registration must be filed on or before the expiration date of the registration.

The application shall explain any changes in information or documents previously filed with the Commission; provided, however, that this paragraph shall not be construed to obviate rule 1260-6-.05.

(4) If an application for renewal of registration of a timeshare program is not timely filed, the developer must submit a new application in order to reinstate the registration.

BROKER ACT—STATUTORY CHANGES

62-13-104. Exemptions -- Firm licenses for vacation lodging services. Effective 7-1-2011

(a) (1) This chapter does not apply to:

(A) An owner of real estate with respect to property owned or leased by such person;

(B) An attorney-in-fact under a duly executed and recorded power of attorney from the owner or lessor;

(C) The services rendered by an attorney at law in the performance of duties as an attorney at law;

(D) A person acting as receiver, trustee in bankruptcy, administrator, executor or guardian, trustee acting under a trust agreement, deed of trust or will or while acting under a court order or instrument;

(E) A resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property. The resident manager or employee shall not negotiate the amounts of security deposits or rentals and shall not negotiate any leases on behalf of the broker; or

(F) A corporation, foreign or domestic, acting through an officer duly authorized to engage in a real estate transaction, where the transaction occurs as an incident to the management, lease, sale or other disposition of real estate owned by the corporation; however, this exemption does not apply to a person who performs an act described in § 62-13-102(4)(A), either as a vocation or for compensation, if the amount of the compensation is dependent upon, or directly related to, the value of the real estate with respect to which the act is performed.

(2) In addition, except as provided in subsection (b), no other provisions of this chapter or any rules and regulations promulgated pursuant thereto shall apply to vacation lodging services.

(b) (1) As used in this section, unless the context otherwise requires:

(A) "Designated agent" means an owner, principal, officer or upper level manager of a vacation lodging service firm;

(B) "Person" means any natural person, corporation, company, partnership, firm or association; and

(C) "Vacation lodging service" means any person that engages in the business of providing the services of management, marketing, booking and rental of residential units owned by others as sleeping accommodations furnished for pay to transients or travelers staying no more than fourteen (14) days.

(2) Each vacation lodging service shall be required to have a vacation lodging service firm license but shall not be required to have a licensed real estate broker supervising the business. The application for the license shall be filed in the office of the real estate commission on forms that the commission may prescribe and shall be accompanied by a fee for the issuance of the license as specified in § 62-13-308.

(3) (A) Vacation lodging service firm licenses for vacation lodging services shall be granted to all applicants who bear a good reputation for honesty, trustworthiness, integrity and competence to transact the business of providing vacation lodging services in a manner to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the commission. No license shall be denied any person because of race, color, religion, sex or national origin, handicap or familial status.

62-13-112. Errors and Omissions Insurance. Effective 7/1/2013

(a) Each licensee who is licensed under this chapter shall, as a condition to licensing, carry errors and omissions insurance to cover all activities contemplated under this chapter. The requirements of this section shall not apply to acquisition agents.

(b) It is not mandatory that a person who has been issued a firm license obtain errors and omissions insurance in the name of the firm. Persons issued a firm license by the Tennessee real estate commission shall have the option of obtaining errors and omissions coverage in the name of the firm in addition to the mandatory individual coverage for the brokers and affiliate brokers within the firm.

(c) The commission shall make the insurance required under this section available to each licensee by contracting with an insurance provider for errors and omissions insurance coverage for each licensee after competitive, sealed bidding in accordance with title 12, chapter 3.

(d) Any policy obtained by the commission shall be available to each licensee with no right on the part of the insurance provider to cancel coverage for any licensee, other than as set forth by the commission and in compliance with § 56-7-1803.

(e) Each licensee shall have the option of obtaining errors and omissions insurance independently, if the coverage contained in an independently obtained policy complies with the minimum requirements established by the commission.

(f) The commission shall determine the terms and conditions of coverage required under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible and the permissible exemptions.

(g) Each licensee shall be notified of the required terms and conditions of coverage for the policy at least thirty (30) days before the licensee's renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission by the license renewal date by each licensee who elects not to participate in the insurance program administered by the commission.

(h) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the insurance program at a reasonable premium, in such amount as determined by the commission, the requirement of insurance coverage under this section shall be void during the applicable contract period.

(i) The errors and omissions insurance coverage required by this section shall become effective as a

condition of license granting or renewal on December 31, 1990.

(j) (1) If a licensee fails to obtain, maintain or renew the licensee's errors and omissions insurance which meets or exceeds the minimum requirements established by the commission and provide proof of compliance to the commission if such proof is required by subsection (g), then the licensee's license shall be suspended.

(2) The commission shall send notification of the license suspension by regular mail:

(A) To the licensee at the last known business address and home address of the licensee as registered with the commission; and

(B) To the licensee's broker at the broker's address as registered with the commission.

(3) While a license is suspended pursuant to this section, the licensee shall not engage in activities which require a license under this chapter, nor will the license be renewed or a new license issued. Any license suspended pursuant to this section shall remain suspended until the licensee establishes, to the satisfaction of the commission, compliance with this section.

(4) The licensee may, upon written notice to the commission, request a formal hearing on any license suspended pursuant to this section.

(k) (1) A license suspended pursuant to this section shall be reinstated if, within thirty (30) days of suspension, the licensee provides proof of insurance that complies with the required terms and conditions of coverage to the commission without the payment of any fee.

(2) A license suspended pursuant to this section shall be reinstated if, on or after thirty-one (31) days of suspension, the licensee provides proof of insurance that complies with the required terms and conditions of coverage to the commission and the licensee pays:

(A) For a license suspended more than thirty (30) days but less than one hundred twenty (120) days, a penalty fee of not more than five hundred dollars (\$500); or

(B) For a license suspended for more than one hundred twenty (120) days but less than one (1) year, a penalty fee of five hundred dollars (\$500), plus an additional penalty fee of not more than one hundred dollars (\$100) per month for months six through twelve (6-12).

(l) (1) A license suspended more than one (1) year pursuant to this section shall be automatically revoked without any further action by the commission.

(2) The commission shall send notification of the license revocation by regular mail:

(A) To the licensee at the last known business address and home address of the licensee as registered with the commission; and

(B) To the licensee's broker at the broker's address as registered with the commission.

(3) The licensee may, upon written notice to the commission, request a formal hearing on any license revoked pursuant to this section.

(4) Upon revocation of license, any individual seeking reissuance of such license shall reapply for licensure and pay the penalty fees in subsection (k); provided, however, that the commission may, in its discretion:

(A) Waive reexamination or additional education requirements for such an applicant; or

(B) Reinstate a license subject to the applicant's compliance with such reasonable conditions as the commission may prescribe, including, but not limited to, payment of a penalty fee, in addition to the penalty fee provided in subdivision (k)(2)(B), of not more than one hundred dollars (\$100) per month, or any portion thereof, from the time of revocation.

(m) Notwithstanding subsections (k) and (l), if the licensee proves to the commission that the license suspension or revocation pursuant to subsections (k) or (l) was in error and that the licensee obtained, maintained or renewed the licensee's errors and omissions insurance as required by this section, then the commission shall immediately reinstate the license to the date of suspension.

62-13-303. Qualifications—Prerequisites for licensing. Effective on January 1, 2014

(1) (1) The commission shall require all applicants for initial licensure issued under this chapter, including, but not limited to, a time-share license, on or after January 1, 2014, to submit a complete and legible set of fingerprints, on a form prescribed by the commission or in such electronic format as the commission may require, to the commission or to the Tennessee bureau of investigation for the purpose of obtaining a criminal background check from the Tennessee bureau of investigation and the federal bureau of investigation.

(2) The commission shall refuse to issue a license to an applicant for initial licensure who does not comply with subdivision (l)(1); provided, that a licensee who requests to renew an existing license issued under this chapter, or obtain a broker license after being licensed as an affiliate broker, shall not be required to submit a set of fingerprints pursuant to this subsection (l).

(3) The commission shall conduct a criminal background check of each applicant described in subdivision (l)(1) by using information:

(A) Provided by the applicant under this subsection (l); and

(B) Made available to the commission by the Tennessee bureau of investigation, the federal bureau of investigation and any other criminal justice agency.

(4) The commission may:

(A) Enter into an agreement with the Tennessee bureau of investigation to administer a criminal background check required under this subsection (l); and

(B) Authorize the Tennessee bureau of investigation to collect from the applicant the costs incurred by the department in conducting the criminal background check.

62-13-309. Business locations -- Display of license – Signs Effective 2009

(g) A principal broker may act as a principal broker for two (2) firms as long as both firms are in the same location. As used in this subsection (g), "the same location" means that both firms are located at and use the same physical address.

62-13-324. Real estate continuing education instructors. Effective 2009 and (8) effective 7/1/2015

(a) In order to be eligible for approval by the commission, a course in real estate designed to meet the educational requirements established in § 62-13-303 shall be under the personal and direct supervision of an instructor who:

- (1) Has completed a Tennessee real estate commission approved course in instructor training;
 - (2) Holds a diploma or certificate evidencing a high school education or the equivalent of a high school education;
 - (3) Has no complaints filed against such person in the office of the commission that have not been satisfactorily resolved;
 - (4) If the course concerns the principles of real estate, mathematics or sales techniques, is a licensed broker, or, with the approval of the commission, an affiliate broker, with at least five (5) years of experience in the subject of the course;
 - (5) If the course concerns the law of real estate, has graduated from a law school accredited by the American Bar Association or approved by the state board of law examiners;
 - (6) If the course concerns any other field in which a degree or other recognized designation is commonly awarded, has earned that degree or designation or has at least five (5) years of satisfactory experience in the field; and
 - (7) If the course is offered for credit at a college or university, has either a master's degree and three (3) years of satisfactory experience in the area of instruction or a terminal degree in the area of instruction.
- (b) The commission may charge a fee of up to twenty-five dollars (\$25.00) for each instructor in an education cycle in order to review the instructor's qualifications.
- (c) Before teaching the core course required every two (2) years by the real estate commission, an instructor shall demonstrate competency in the subject by taking an approved instructor course of at least four (4) hours on the subject matter being presented in the core course.

(d) Before teaching a course on the law of agency, an instructor shall successfully complete an approved instructor course on agency.

(8) The real estate commission shall approve any continuing education course that consists of a minimum of one (1) classroom hour in length; provided, that the course meets all of the requirements of the commission that are not related to course length. Any rule, policy, or requirement of the real estate commission that is in conflict with this subsection is superseded.

62-13-325. Distance education courses. Effective 2009

(a) "Distance education" shall be used interchangeably with "correspondence courses" and includes all education in which instruction does not take place in a traditional classroom setting but rather through other media where the teacher and student are separated by distance or by time. Distance education courses approved by the commission shall be completed within one (1) year of the date of enrollment in order for continuing education to be granted to the licensee. Distance education may include, but is not necessarily limited to, printed materials, computer based materials and on-line materials.

(b) A distance education course using printed materials may be approved by the commission if:

(1) Students will be provided a manual or other printed material;

(2) A comprehensive course outline, requirements for successful completion of the course and information regarding availability of faculty to students are provided;

(3) It contains at least six (6) written exercises that are to be submitted periodically to the instructor, graded and returned to the student; and

(4) If the class provides more than eight (8) hours of credit, a comprehensive final examination or equivalent measure of achievement is executed prior to the sponsor submitting the roster to the commission indicating successful completion of the course for any and all students.

(c) A distance education course using computer-based or online materials or formats may be submitted to the commission for analysis and possible approval if the course is certified by the Association of Real Estate License Law Officials (ARELLO) or other certifying body at the discretion of the commission, as to technology, support of the technology, interactivity and course design.

(1) The commission shall review these certified courses on a case by case basis to determine whether the curriculum will meet commission education requirements.

(2) Any course that would provide more than eight (8) hours of continuing education shall include a final examination that shall be executed prior to submission to the commission for education credit.

(3) Approval of a course under this subsection (c) will be automatically withdrawn should certification

by the respective certifying body be discontinued for any reason.

(d) Any distance education version of the basic principles of real estate course required of applicants for an affiliate broker's license under § 62-13-303 shall include at least one (1) student interaction with a commission-approved instructor for every five (5) hours of credit.

62-13-501. Part definitions -- Form of notice. Effective 2014

(3) "Notice" means a notice specifically referencing an agreement entered into after October 1, 1997, to pay commissions in any brokerage contract or lease or memorandum of the foregoing, sworn to and executed by the broker, identifying the subject real estate by lot and block number or by a metes and bounds description and in the form of notice set out in this subdivision (3) and containing only the information provided for in the form, recorded as provided for in § 62-13-503(e), in the office of the register of deeds of the county in which the property is located, no less than ten (10) business days before the transfer of the commercial real estate that is the subject of the agreement. The form of the notice to be recorded shall be:

[Click here to view form](#)

(6) "Subsequent owner" means a **transferee or** purchaser of commercial real estate from the owner or from a previous subsequent owner, but will not include the transferee or purchaser of commercial real estate pursuant to a sale conducted pursuant to title 67, chapter 5, part 25.

62-13-502. Enforcement of fee or commission contract against subsequent owners.

A broker who, pursuant to a contract in writing entered into after October 1, 1997, has earned and is owed a fee or commission with respect to a lease or upon the exercise of an option for renewal or expansion of the lease, whether payable over time or in a lump sum, from the owner of commercial real estate pursuant to such written contract for the broker's services in connection with a lease of commercial real estate, shall have a cause of action to enforce the contract with respect to the fee or commission against a subsequent owner, even though the subsequent owner is not a party to the contract, if and only if the subsequent owner has notice of the contract as provided in this part with respect to the fee before obtaining title to the commercial real estate. There shall be no prohibition against a broker giving the notice as required by this part, and any such prohibition is void and unenforceable.

66-5-212. Disclosure of known percolation tests or soil absorption rates -- Disclosure of foundation move. Effective 2009 and (c) effective 7/1/2015.

(a) In addition to any other disclosure required by this part, the seller shall, prior to entering into a contract with a buyer, disclose in the contract itself or in writing, including acknowledgement of receipt, the presence of any known exterior injection well and the results of any known percolation test or soil absorption rate performed on the property that is determined or accepted by the department of

environment and conservation.

(b) Prior to entering into a contract with a buyer on or after May 20, 2009, the seller shall, where such information is known to the seller, also disclose in the same manner whether any single family residence located on the property has been moved from an existing foundation to another foundation.

(c)(1) In addition to any other disclosure required by this part, the seller shall, prior to entering into a contract with a buyer, disclose in the contract or in writing, including acknowledgment of receipt, the presence of a known sinkhole on the property.

(2) For purposes of this section, "sinkhole":

(i) means a subterranean void created by the dissolution of limestone or dolostone strata resulting from groundwater erosion, causing a surface subsidence of soil, sediment, or rock; and

(ii) is indicated through the contour lines on the property's recorded plat map.

**66-5-213. Disclosure requirement where property is located in a planned unit development.
Effective 2009**

(a) As used in this section, unless the context otherwise requires:

(1) "Bylaws" mean guidelines for the operation of a homeowner's association that define the duties of the various offices of the board of directors, the terms of the directors, the membership's voting rights, required meetings and notices of meetings and the principal office of the association, as well as other specific items that are necessary to run the homeowner's association as a business;

(2) "Planned unit development (PUD)" means an area of land, controlled by one (1) or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of these, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restrictions to the existing land use regulations; and

(3) "Restrictive covenant" means any written provision that places limitations or conditions on some aspect of use of the property, such as size, location or height of structures, materials to be used in structure exterior, activities carried out on the property or restrictions on future subdivision or land development.

(b) In addition to any other disclosures required in this part with regard to transfers described in § 66-5-201, the owner of the residential property shall, prior to entering a contract with a buyer, disclose in the contract itself or in writing, including acknowledgement, if the property is located in a PUD, and make available to the buyer a copy of the development's restrictive covenants, homeowner bylaws and master deed upon request.