

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority set forth in D.C. Official Code § 47-2853.10(a)(12) and Mayor's Order 2000-70, dated May 2, 2000, D.C. Official Code § 42-1305(2) and Mayor's Order 99-82, dated May 21, 1999, hereby gives notice of the intent to adopt, in not less than thirty (30) calendar days from the date of publication of this notice in the *D.C. Register*, amendments to 17 DCMR Chapter 26 (Real Estate Licenses and Amendments) and amendments to 17 DCMR Chapter 27 (Real Estate Practice and Hearings). This rulemaking amends the real estate licensing rules to reflect the changes in the laws regulating the licensing requirements and practice requirements of real estate brokers, real estate salespersons, and property managers. In addition, the amendments reflect the Board of Real Estate's decision to update continuing education requirements, allow licensees to use distance learning to complete some continuing education requirements, add a supervisory requirement for real estate brokers and property managers, add an advertising section, add new agency disclosure forms, and add historic preservation to the seller's disclosure form.

17 DCMR Chapter 26 is amended to read as follows:

**CHAPTER 26 REAL ESTATE LICENSES AND AMENDMENTS**

Sec.

- 2600 Board of Real Estate
- 2601 Licensure Of Real Estate Brokers
- 2602 Licensure Of Real Estate Salespersons
- 2603 Licensure Of Property Managers
- 2604 Registration And Certification Of Resident Manager [Repealed]
- 2605 Continuing Education Requirements For Real Estate Brokers And Salespersons
- 2606 Accreditation And Certification Of Pre-License Education Programs
- 2607 Approved Continuing Education Programs
- 2608 Licensure Of Mortgage Brokers [Repealed]
- 2609 Code Of Ethics For Real Estate Brokers, Real Estate Salespersons, And Property Managers
- 2610 License Requirements Applicable To All Applicants
- 2611 Licensure By Waiver Or Reciprocity
- 2612 Inactive Status
- 2613 Agency Disclosure
- 2614 Supervision
- 2615 Advertising Requirements
- 2616 [Reserved]
- 2617 [Reserved]
- 2618 [Reserved]
- 2619 [Reserved]
- 2620 Term Of A License

- 2621 Renewal Of A License
- 2622 Reinstatement Of An Expired License
- 2623 Reinstatement After Suspension Or Revocation
- 2624 Exemptions From Licensing Requirements
- 2699 Definitions

**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 preceding 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 of 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 of 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 A real estate broker or real estate salesperson shall provide to a prospective purchaser of residential real estate who expresses the intent to reside in the real estate a notice, approved by the Board, which clearly discloses the relationship of the broker or salesperson with the prospective purchaser and seller of the real estate.

2613.2 The notice required by § 2613.1 of this section shall be provided to a prospective purchaser not later than the time of the first personal meeting between the prospective purchaser and the broker or salesperson for the purpose of discussing a specific property, excluding a meeting during an open house.

2613.3 A broker or salesperson shall request a prospective purchaser to sign, date, and return a copy of the required notice to the broker or salesperson. If a prospective purchaser declines to sign the notice, the broker or salesperson shall make a notation on the notice indicating the date that he or she presented the notice to the prospective purchaser, that the prospective purchaser declined to sign the agency disclosure notice and the reason therefore, if any, given by the prospective purchaser. 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:

<input type="checkbox"/> Seller(s) and Buyer(s)	or	<input type="checkbox"/> Landlord(s) and Tenant(s)
<p>The Seller(s) or Landlord(s) and the Buyer(s) or Tenant(s) are proceeding with the transaction acknowledging: (choose one below)</p> <p><input type="checkbox"/> <b>Designated Representation:</b></p> <p>The brokerage firm has assigned _____ (Name of Licensee &amp; License #) to act as the Designated Representative of the Seller(s) or Landlord(s) and,</p> <p>The brokerage firm has assigned _____ (Name of Licensee &amp; License #) to act as the Designated Representative of the Buyer(s) or Tenant(s)</p> <p align="center">----- OR -----</p> <p><input type="checkbox"/> <b>Dual Representation</b></p> <p>The Licensee: _____ (Name of Licensee &amp; License #)</p> <p>And the Brokerage Firm represents more than one party to the contract as indicated above.</p>		

Seller or Landlord	Date	Buyer or Tenant	Date
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Seller or Landlord	Date	Buyer or Tenant	Date
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**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.

17 DCMR Chapter 27 is amended to read as follows:

**CHAPTER 27 REAL ESTATE PRACTICE AND HEARINGS**

Sec.

- 2700 Change of Licensee Status
- 2701 Place of Business; Display of License; Notice of Change of Address
- 2702 Escrow Fund
- 2703 Exception to Insurance Company Exemption
- 2704 Real Estate Guaranty and Education Fund Assessment
- 2705 Real Estate Guaranty and Education Fund Payment to Applicants
- 2706 Real Estate Guaranty and Education Fund Restoration of License
- 2707 Real Estate Guaranty and Education Fund Use for Programs
- 2708 Real Property Seller's Disclosure Statement
- 2709 [Reserved]
- 2710 Opportunity for a Hearing
- 2711 Notice of Contemplated Action
- 2712 Procedures When a Person Fails to Respond to a Hearing Notice
- 2713 Notice of a Hearing
- 2714 Conduct of Hearings
- 2715 Findings and Decisions
- 2716 Reopening, Judicial Review and Reconsideration
- 2717 Suspension of License Through Affiliation
- 2799 Definitions

**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.
- 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 91<sup>st</sup> 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 two million eighty thousand dollars (\$2,080,000).
- 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 The Seller's Disclosure Statement required under subsection 2708.3 shall contain the following items and format.

REAL ESTATE SELLER'S DISCLOSURE STATEMENT

Property Address: (Street) \_\_\_\_\_

Condominium Unit: \_\_\_ (Street) \_\_\_\_\_

Cooperative Unit: \_\_\_ (Street) \_\_\_\_\_

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 any expertise in construction, architecture, engineering, or any other specific area related to the construction or condition 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's 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 part of any contract between Buyer and Seller.

If this is a sale of a condominium unit or cooperative unit, or lot 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.

A. Property Conditions, Improvements & Additional Information:

	Yes	No	Unknown	N/A
1. Water system:				
Well supplied	___	___	___	___
City supplied	___	___	___	___
Working order?	___	___	___	___
2. Sewer system:				
Septic tank	___	___	___	___
City supplied	___	___	___	___
Working order?	___	___	___	___
3. Insulation	___	___	___	___

	Yes	No	Unknown	N/A
4. Urea formaldehyde Foam insulation	_____	_____	_____	_____
5. Leaks in roof	_____	_____	_____	_____
6. Age of Roof				
0-5 years	_____	_____	_____	_____
5-10 years	_____	_____	_____	_____
10-15 years	_____	_____	_____	_____
15+ years	_____	_____	_____	_____
7. Wall defects	_____	_____	_____	_____
8. Floor defects	_____	_____	_____	_____
9. Foundation defects	_____	_____	_____	_____
10. Window defects	_____	_____	_____	_____
11. Evidence of water in basement	_____	_____	_____	_____
12. Heating system:				
Central	_____	_____	_____	_____
Gas	_____	_____	_____	_____
Oil	_____	_____	_____	_____
Heat Pump	_____	_____	_____	_____
Working Order?	_____	_____	_____	_____
Age of Heating System:				
0-5 years	_____	_____	_____	_____
5-10 years	_____	_____	_____	_____
10+ years	_____	_____	_____	_____
13. Air Conditioning System:				
Central	_____	_____	_____	_____
Window	_____	_____	_____	_____
Gas	_____	_____	_____	_____
Electric	_____	_____	_____	_____
Heat Pump	_____	_____	_____	_____
Working order?	_____	_____	_____	_____

	Yes	No	Unknown	N/A
Age of Air Conditioning System:				
0-5 years	---	---	---	---
5-10 years	---	---	---	---
10+ years	---	---	---	---
14. Plumbing system:				
Copper	---	---	---	---
Galvanized	---	---	---	---
Other	---	---	---	---
Working Order?	---	---	---	---
Any known problems?	---	---	---	---
15. Electrical system:				
Working order?	---	---	---	---
Any known problems?	---	---	---	---
16. History of Infestation				
Termites	---	---	---	---
Carpenter Ants	---	---	---	---
Rodents	---	---	---	---
Other	---	---	---	---
17. Environmental Problems				
Asbestos	---	---	---	---
Radon Gas	---	---	---	---
Formaldehyde	---	---	---	---
Contaminated soil	---	---	---	---

Provide any explanations of the foregoing responses here. Attach additional sheets if necessary:

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B. Appliances/Systems/Services -- The items below are in working order:

	Yes	No	Unknown	N/A
1. Range/Oven	---	---	---	---
2. Dishwasher	---	---	---	---
3. Refrigerator	---	---	---	---

	Yes	No	Unknown	N/A
4. Range hood/fan	___	___	___	___
5. Disposal	___	___	___	___
6. TV antenna, TV rotor & controls	___	___	___	___
7. Storm Windows	___	___	___	___
8. Garage door opener & remote control	___	___	___	___
9. Alarm system	___	___	___	___
10. Intercom system	___	___	___	___
11. Central vacuum	___	___	___	___
12. Attic fan	___	___	___	___
13. Pool heater, wall liner & equip.	___	___	___	___
14. Microwave oven	___	___	___	___
15. Trash compactor	___	___	___	___
16. Ceiling fan	___	___	___	___
17. Sauna/hot tub	___	___	___	___
18. Lawn sprinkler system	___	___	___	___
19. Water heater	___	___	___	___
20. Water softener/conditioner	___	___	___	___
21. Sump pump	___	___	___	___
22. Furnace	___	___	___	___
23. Humidifier	___	___	___	___
24. Electronic air filter	___	___	___	___
25. Solar heating system	___	___	___	___
26. Fireplace & chimney	___	___	___	___
27. Wood burning system	___	___	___	___
28. Smoke detector(s)	___	___	___	___
29. Carbon Monoxide detector(s)	___	___	___	___

Provide any explanations of the foregoing responses here. Attach additional sheets if necessary:

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UNLESS OTHERWISE AGREED, ALL HOUSEHOLD APPLIANCES ARE SOLD IN WORKING ORDER EXCEPT AS NOTED, WITHOUT WARRANTY BEYOND DATE OF CLOSING.

C. Other items: Are you aware of the following:		Yes	No	Unknown	N/A
1.	Features of the property shared in common with adjoining landowners	___	___	___	___
	Walls	___	___	___	___
	Seller responsible for maintenance	___	___	___	___
	Fences	___	___	___	___
	Seller responsible for maintenance	___	___	___	___
	Roads	___	___	___	___
	Seller responsible for maintenance	___	___	___	___
	Driveways	___	___	___	___
	Seller responsible for maintenance	___	___	___	___
	Other (list)	___	___	___	___
	_____	___	___	___	___
	_____	___	___	___	___
	_____	___	___	___	___
	Seller responsible for maintenance	___	___	___	___
2.	Encroachments	___	___	___	___
3.	Easements	___	___	___	___
4.	Zoning violations	___	___	___	___
5.	Nonconforming uses	___	___	___	___
6.	Structural modifications	___	___	___	___
7.	Settling problems	___	___	___	___
8.	Flooding problems	___	___	___	___
9.	Drainage problems	___	___	___	___
10.	Structural problems	___	___	___	___
11.	Grading problems	___	___	___	___
12.	Damage to property from:				
	fire	___	___	___	___
	wind	___	___	___	___
	floods	___	___	___	___
	landslides	___	___	___	___
13.	Historic District				
	a. Is the Property a DC landmark or located in a historic district?	___	___	___	___
	b. Has the property been cited for a violation during your ownership?	___	___	___	___
	c. Is the property subject to a conservation easement?	___	___	___	___

Provide any explanations of the foregoing responses here. Attach additional sheets, if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Seller has lived in the residence on the property from \_\_\_ (date) to \_\_\_ (date). The Seller has owned the property since \_\_\_ (date) and makes the statements herein only since that date. The Seller has indicated above as to the condition of all the items based on information actually known to the Seller.

Seller certifies that the information in this statement is true and correct to the best of Seller's actual knowledge as of the date of Seller's signature.

BUYER SHOULD OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY.

Seller \_\_\_\_\_ Date \_\_\_\_\_

Seller \_\_\_\_\_ Date \_\_\_\_\_

BUYER HEREBY EXPRESSES AN INTENT TO RESIDE IN THE PROPERTY TO BE TRANSFERRED.

BUYER HAS READ AND ACKNOWLEDGES RECEIPT OF THIS STATEMENT AND ACKNOWLEDGES THAT THIS STATEMENT IS MADE BASED UPON THE SELLER'S ACTUAL KNOWLEDGE AS OF THE ABOVE DATE; IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES WHICH BUYER MAY WISH TO OBTAIN; AND 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 issued 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 AFFILIATION**

- 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.

Any person desiring to comment on these proposed rules should submit comments in writing no later than thirty (30) days from the date of the publication of this notice in the D.C. Register. Comments should be filed with Paul Waters, Legislative Liaison, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., 9th Floor, Washington, D.C. 20001. Please place "REAL ESTATE BOARD" conspicuously on any correspondence sent in response to the notice. Additional copies of these proposed rules may be obtained at that address. A copying fee of one dollar (\$1.00) will be charged for each copy of the proposed rules requested.

## THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of District of Columbia Housing Authority ("DCHA") hereby gives notice of its intent to adopt the following amendment to Chapter 61 of Title 14 DCMR in not less than twenty-one (21) days from the date of publication of this notice in the D.C. Register. The proposed amendments contain the rules governing designations of Elderly-Only public housing properties. As these proposed regulations have been negotiated between DCHA, the District of Columbia City-Wide Advisory Board and advocates representing DCHA's client base, DCHA is not expecting to receive substantive comments. Based on the negotiated nature of these proposed regulations, DCHA will adopt the amendment in less than thirty (30) days.

Proposed Amendment: Chapter 61, Admission and Recertification, is amended by adding the following text as the new Section 6114 and renumbering the remaining sections 6114 through 6120 as section 6115 through 6121.

**6114           TENANT SELECTION AND ASSIGNMENT: ELDERLY-ONLY DESIGNATIONS**

6114.1       In accordance with the authority granted to the Authority under that certain Moving to Work Agreement by and between HUD and DCHA, dated July 2003, as more specifically set forth beginning with the Creative Living Solution Plan for Fiscal Year 2004, the Authority will designate certain properties as elderly-only from time to time as follows:

- (a)       The designation of properties as elderly-only will allow DCHA to provide additional opportunities for seniors to live with the neighborly support systems, reduction of potential intergenerational conflicts that often arise in mixed population properties, and the greater security that comes with a limited access building.
- (b)       In order to more effectively meet the needs of elderly families, both disabled and non-disabled, DCHA will from time to time by resolution of the Board of Commissioners, designate as elderly-only, certain existing public housing properties or new construction or newly acquired properties that are owned or financially assisted by DCHA. Such designations will continue from year to year indefinitely from the date of designation and continuing beyond the term of the Moving to Work demonstration as may be authorized by joint agreement of HUD and DCHA, or, unless otherwise rescinded or modified by the Commission.

- (c) For Mixed Population properties being considered for designation as elderly only, notice of the proposed designation shall be published in the DCMR, a public hearing at each such property shall be held at least 30 days prior to action by the Board of Commissioners, and the Commissioners shall take in to consideration comments from each such hearing as well as comments and testimony at the public meeting of the Commission.
- (d) No disabled residents of the properties designated as elderly-only will be required to move. Any units becoming vacant in the designated elderly-only properties will be leased to elderly families and the properties will gradually transition to elderly-only buildings.
- (e) DCHA may, when feasible in cooperation with the owner of a redeveloped property, provide for a site-based application preference for existing elderly residents in Mixed Population properties requesting a transfer to a newly constructed or acquired elderly-only property.
- (f) Disabled residents continuing to reside in an elderly-only building after a designation converting such building from Mixed Population status, may at any time request, on a priority basis, a transfer to a vacant unit of an appropriate size at any other public housing property or for a housing choice voucher as may be available. Such residents who are mobility impaired will have a priority for existing units being converted to federal accessibility standards, as well as newly constructed or acquired public housing units that meet those standards. Fully accessible units will be available in many properties in all areas of the District.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than twenty-one (21) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at that same address.

## THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of District of Columbia Housing Authority ("DCHA") hereby gives notice of its intent to adopt the following amendments to Chapter 62 and Chapter 74 of Title 14 DCMR in not less than twenty-one (21) days from the date of publication of this notice in the D.C. Register. The proposed amendments contain the rules governing pet ownership in public housing and the rules for service animals. As these proposed regulations have been negotiated between DCHA, the District of Columbia City-Wide Advisory Board, and advocates representing DCHA's client base, DCHA is not expecting to receive substantive comments. Based on the negotiated nature of these proposed regulations, DCHA will adopt the amendment in less than thirty (30) days.

Proposed Amendment: Chapter 62, Low Rent Housing: Rent and Lease, is amended by adding new Sections 6211 through 6213, to read as follows:

**6211 PET OWNERSHIP IN PUBLIC HOUSING**

6211.1 Overview. DCHA recognizes that pets offer companionship and pleasure to individuals and provide therapeutic value to certain individuals with disabilities. However, DCHA also recognizes that many individuals are allergic to or frightened of animals and wish to live in a pet free environment and that large animals and large numbers of animals may be a detriment to the physical and social environment of a property. As a landlord, DCHA has the responsibility to balance these conflicting interests. These regulations balance those interests by permitting limited pet ownership at various types of properties (subject to registration and other rules governing ownership), while limiting the types of permitted pets, allowing for the creation of no-pet areas, and providing for requests for reasonable accommodations to allow service animals for residents with disabilities.

6211.2 Elderly Only or Mixed Population Properties. Residents at DCHA-owned properties designated as Elderly Only or Mixed Population Properties where unit sizes are generally small may keep certain pets. Pets that are permitted are one dog of up to 25 pounds, one cat of any breed, or two birds. Fish in a tank no bigger than twenty gallons must be registered in accordance with Subsection 6212.4, but are not subject to the other requirements of Section 6212.

- 6211.3 General Population Properties. Leases at DCHA properties designated as General Population Properties do not allow for pets. Applications to enter into lease addendums will be accepted on an exception basis for ownership of up to two (2) cats, depending on the size and location of the unit, where adequate justification based on environmental factors is provided. Applications must be presented to the Property Manager and those approved are subject to the registration and other rules set forth in Section 6212 hereof. Fish in a tank no bigger than twenty gallons must be registered in accordance with Subsection 6212.4, but are not subject to the other requirements of Section 6212.
- 6211.4 Service Animals at all Properties. Residents of any DCHA-owned property who are disabled may own service animals as a Reasonable Accommodation provided that an application for a Reasonable Accommodation has been submitted and approved in accordance with Section 7403 of this Subtitle and compliance with the requirements of Section 6212 of this Subtitle, except for the application fee required by Subsection 6212.1(b). Nothing in Section 6212 is intended to impair the rights of persons with disabilities otherwise provided under federal law or regulation.
- 6211.5 Special Designations. In order to provide housing for residents who may be allergic or that are fearful of living in close proximity to dogs or other pets, specific properties, specific floors of buildings, or specific sections of buildings may be designated as no-pet areas, other than for service animals, by the Deputy Executive Director for Operations. In addition, the Deputy Executive Director for Operations can exclude pets, other than service animals, from common areas, except to enter and exit the building.

**6212 REGISTRATION OF PETS IN PUBLIC HOUSING**

- 6212.1 Each resident who wishes to become a pet owner is required to:
- (a) File an application to register a pet with the resident's Property Manager; and
  - (b) Pay DCHA a one-time application and processing fee of \$25.
- 6212.2 The Property Manager will notify the resident in writing, within thirty (30) days, of the approval or denial of the application. If the application is denied, the notice of denial shall state the basis for DCHA's action and shall

be served by sending a letter by first class mail. A denial is subject to the Grievance Procedures found at Chapter 63 of this Subtitle.

6212.3 Before the pet is brought onto DCHA's property, residents must register a pet, other than fish in a properly sized tank, and must update the registration annually at the Property Manager's Office. The registration must include:

- (a) A certificate signed by a licensed veterinarian or a local authority empowered to inoculate animals (or designated agent of such an authority) stating that the pet has received all inoculations required by applicable local law;
- (b) Information sufficient to identify the pet and to demonstrate that it is a permitted type of pet;
- (c) The name, address, and telephone number of one or more responsible parties who will care for the pet if the pet owner dies, is incapacitated, or is otherwise unable to care for the pet; and
- (d) A certificate signed by a licensed veterinarian that the pet has been spayed or neutered if the pet is a mammal and if age appropriate.

6212.4 DCHA will refuse to register or re-register a pet if:

- (a) Ownership of the pet would be a violation of the lease;
- (b) The pet is not a dog of the proper weight class, a cat, bird, a tank of fish, or service animal approved in accordance with the reasonable accommodation requirements under Section 7403 of this Subtitle;
- (c) The keeping of the pet would violate any applicable pet rule contained in Subsections 6211, 6212 or 6213 or the keeping of the service animal would violate any applicable pet rule contained in Subsection 6212 (excluding 6212.1(b));
- (d) The resident fails to provide complete pet registration information; or
- (e) DCHA reasonably determines that ownership of the pet will compound an existing lease violation. The pet's size, behavior or temperament may be considered as factors in determining whether a pet will be registered or re-registered.

- (f) DCHA's refusal to register or register a pet is subject to the Grievance Procedure provided in Chapter 63 of this Title.

## 6213 RULES GOVERNING PET OWNERSHIP

6213.1 The following procedures are required so that the units and grounds are maintained in a clean and sanitary manner:

- (a) Dogs must be kept on a leash and controlled by a responsible individual whether inside or outside;
- (b) Residents must immediately dispose of all pet waste produced anywhere on DCHA's property;
- (c) Pet owners are required to separate pet waste from other garbage. Pet waste must be disposed of in a tied, plastic bag and deposited in DCHA trash containers. Bags of pet waste may not be put in the garbage chute;
- (d) Residents must not permit refuse from litter boxes to accumulate or to become unsanitary. Litter, flushable or otherwise, may not be disposed of by being flushed down the toilet;
- (e) Residents must take adequate measures necessary to eliminate pet odors; and
- (f) Management must be notified when a pet owner will be absent for a period of more than two (2) days and provide the name and contact information for a designated person to provide care for the pet.

6213.2 Residents are required to provide proper veterinary care for their pets. In addition, pets which are mammals must be spayed or neutered before being brought onto DCHA's property, if age appropriate, or upon reaching such age.

6213.3 Each resident who owns pets shall execute a lease addendum with DCHA under which the resident acknowledges the following:

- (a) That the head of household will be primarily responsible for care of the pet and will return home in the event the pet causes a disturbance when left alone;

- (b) That a dog may not be left alone in a unit for more than twenty-four hours;
- (c) The right of DCHA to enter the unit, without advance notice to the resident, when there is evidence that a pet has been abandoned, neglected or deprived of necessary sustenance and have the pet removed and transferred to the proper authorities. DCHA will contact the party identified in accordance with Subsection 6212.4(c) after the animal has been removed from the unit, but DCHA accepts no responsibility for the pet under such circumstances;
- (d) The responsibility of the resident to:
  - (i) Secure the pet when DCHA employees or contractors are entering the unit and the resident is present; and
  - (ii) To control noise caused by a pet;
- (e) That failure to abide by any pet-related requirement hereunder or failure to remove a pet after notice of violation of a pet-related requirement constitutes a violation of the "Tenant Obligations" appearing in the dwelling lease and is grounds for lease termination pursuant to Section 6404 of this Subtitle; and
- (f) That the resident has read the pet rules and agrees to comply with them, including registration, veterinary care, etc.

6213.4 Under no circumstances, except for service animals, will animals whose natural protective mechanisms pose a risk of serious bites and lacerations, or are considered dangerous, aggressive, vicious, intimidating or detrimental to the health and safety of other residents be permitted.

6213.5 Residents who already own pets will be required to file a pet application within sixty (60) days of the promulgation of these regulations. Notice will be posted at all Property Management offices to inform residents of the required process. A request to approve a pet that is not permitted under these rules shall be denied and such a denial is subject to the Grievance Procedure provided in Chapter 63 of this Title.

Proposed Amendment: Chapter 74, Reasonable Accommodation Policies and Procedures, is amended by revising Section 7409 to read as follows:

**7409 SERVICE ANIMALS**

- 7409.1 Residents of DCHA with disabilities are permitted to have service animals, if such animals are necessary as a reasonable accommodation for their disabilities. DCHA residents or potential residents who need a service animal as a reasonable accommodation must request the accommodation in accordance with the reasonable accommodation policy.
- 7409.2 Residents must comply with all applicable requirements of Sections 6212 of this Subtitle (except for 6212.1 (b)), including the requirement to register their animal with their Property Manager before it is brought onto DCHA's property, and must update the registration annually at the Property Manager's Office. The registration must include a certificate signed by a licensed veterinarian or a local authority empowered to inoculate animals (or designated agent of such an authority) stating that the service animal has received all inoculations required by applicable local law.
- 7409.4 DCHA requires that a resident or prospective resident with a service animal provide written certification from a third party, such as a health care provider, that:
- (a) the resident or a member of his or her family is a person with a disability; and
  - (b) the animal has been individually trained, by the person with a disability or others, to work for the benefit of the person with a disability.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than twenty-one (21) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at that same address.

## THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of District of Columbia Housing Authority ("DCHA") hereby gives notice of its intent to adopt the following amendment to Chapter 62 of Title 14 DCMR in not less than twenty-one (21) days from the date of publication of this notice in the D.C. Register. The proposed amendments contain the rules for the newly created Neighbor to Neighbor Initiative. As these proposed regulations have been negotiated between DCHA, the District of Columbia City-Wide Advisory Board and advocates representing DCHA's client base, DCHA is not expecting to receive substantive comments. Based on the negotiated nature of these proposed regulations, DCHA will adopt the amendment in less than thirty (30) days.

Proposed Amendment: Chapter 62, Low Rent Housing: Rent and Lease, is amended by adding new Section 6214, to read as follows:

**6214 NEIGHBOR TO NEIGHBOR INITIATIVE**

- 6214.1 The Neighbor to Neighbor Initiative is intended to assist public housing residents in improving their economic and social well-being and to give residents a greater stake in their communities. The Neighbor to Neighbor Initiative allows residents the opportunity to give back to their communities and facilitates upward mobility. Through the performance of voluntary work or duties that provide a community benefit to their neighbors, residents are able, on an individual basis, to improve the quality of their lives, enhance their level of self-sufficiency, and increase self-responsibility in their communities.
- 6214.2 DCHA as part of a demonstration program called Moving to Work (MTW) is permitted under the terms of that certain MTW Agreement by and between DCHA and the US Department of Housing and Urban Development, dated July 25, 2003, is permitted to adopt local program rules and policies suited to the needs of DCHA's residents and their communities. The DCHA has designed the Neighbor to Neighbor Initiative as a voluntary community service initiative in lieu of the community service requirements mandated by the Quality Housing and Work Responsibility Act of 1998.
- 6214.3 DCHA encourages its public housing residents to engage in active service to their neighbors and public housing communities through:
- (a) Active participation in their Resident Council;

- (b) Active participation in Resident Council activities, including outreach programs and events which provide services to residents;
- (c) Attending training developed and offered by DCHA in support of the Neighbor to Neighbor Initiative, such as a Model Resident Council, peer training classes, or best practices instruction;
- (d) Running for leadership positions in the Resident Councils, District of Columbia City-Wide Advisory Board and the Board of Commissioners; and
- (e) Participating in DCHA-sponsored programs, such as Orange Hat Patrols, building playgrounds and landscaping events.

6214.4 DCHA will support residents seeking to provide service to their neighbors in the greater community through community service opportunities such as, but not limited to:

- (a) Active volunteering at schools;
- (b) Outreach programs based at community churches; and
- (c) Civic and public interest organizations, such as the Boys and Girls Clubs of Greater Washington, AmeriCorps, and Vista.

6214.5 DCHA will publicize notice of community service opportunities in the following manner:

- (a) Periodic publication in the DCHA resident newsletter;
- (b) Providing information to each Resident Council and the District of Columbia City-Wide Advisory Board; and
- (c) Letters from the Executive Director to residents.

6214.6 The variety of actions undertaken to support resident voluntary participation as part of the Neighbor to Neighbor Initiative will be documented in DCHA's Annual Report to the DCHA Board of Commissioners.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than twenty-one (21) days after the date of

publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at that same address.

**D.C. OFFICE OF PERSONNEL****NOTICE OF PROPOSED RULEMAKING**

The Interim Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title X-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Official Code § 1-610.51 *et seq.* (2001)), hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register, the following rules. These rules would amend § 1005 of Chapter 10 of the *D.C. Personnel Regulations, Executive Service*, to include language on the procedures for approval of performance incentives, and add a new § 1006, Additional Income Allowance for Medical Officers. Upon adoption, these rules will amend Chapter 10 of the *D.C. Personnel Regulations, Executive Service*, published at 47 DCR 6224 (August 4, 2000) and amended at 50 DCR 4254 (May 30, 2003), 50 DCR 6707 (August 15, 2003), and 50 DCR 11078 (December 26, 2003).

**CHAPTER 10****EXECUTIVE SERVICE**

*Section 1000.2 is amended to read as follows:*

- 1000.2 Appointments to Executive Service positions shall be made by the Mayor as provided by §§ 1051 through 1063 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-610.51 *et seq.*) (2001).

*Section 1005 is amended to read as follows:*

**1005 PERFORMANCE INCENTIVES**

- 1005.1 Pursuant to § 1057 of the CMPA (D.C. Official Code § 1-610.57) (2001), the Mayor may authorize performance incentives for exceptional service by a subordinate agency head.
- 1005.2 A performance incentive may be paid only once in a fiscal year, and only when the agency head is subject to an annual performance contract that clearly identifies measurable goals and outcomes and the agency head has exceeded contractual expectations in the year for which the incentive is to be paid.
- 1005.3 The amount of a performance incentive shall be determined by the Mayor and shall not exceed ten percent (10%) of the employee's rate of basic pay in any year.

- 1005.4 A performance incentive pursuant to this section shall be approved as specified in § 1005.6.
- 1005.5 A performance incentive granted under this section shall not be considered base pay for any purpose, and shall be subject to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable. The amount of a performance incentive shall not be adjusted upward to cover these taxes.
- 1005.6 Performance incentives pursuant to this section shall be approved in accordance with procedures established by the Director of Personnel. The procedures shall provide for the following approval authorities, which may be further limited by written instruction from the Mayor when deemed to be in the best interests of the District government:
- (a) The Mayor may approve performance incentives exceeding two thousand dollars (\$2,000) for subordinate agency heads (not including the Director of Personnel) as specified in § 1005.6(c).
  - (b) The Mayor may grant a performance incentive to the Director of Personnel after review and recommendation by the City Administrator.
  - (c) To advise the Mayor in reviewing and recommending performance incentives for subordinate agency heads (excluding the Director of Personnel), the Mayor shall appoint a committee comprised of all Deputy Mayors, the Mayor's Chief of Staff, the City Administrator, and the Director of Personnel (or his or her designee). The committee shall meet at least once every year to discuss annual performance incentives for subordinate agency heads.

*A new § 1006 is added to read as follows:*

**1006 ADDITIONAL INCOME ALLOWANCE FOR MEDICAL OFFICERS**

- 1006.1 Pursuant to § 1056 of the CMPA (D.C. Official Code § 1-610.56) (2001), at the discretion of the Mayor, a subordinate agency head who is required to hold a medical degree and who enters into a service agreement, may be paid an additional income allowance of up to fifteen percent (15%) of the maximum rate of pay for the level held.

*Section 1006 is renumbered as 1007 and amended to read as follows:*

**1007 SEPARATION PAY**

- 1007.1 Pursuant to § 1058 of the CMPA (D.C. Official Code § 1-610.58) (2001), at the discretion of the Mayor and subject to the provisions of this section, a subordinate agency head may receive separation pay of up to twelve (12) weeks upon separation from District government service, provided that the agency head has been employed by the District government in the position from which separating for at least one (1)

year prior to separation. Any separation pay granted to a subordinate agency head who has been employed by the District government for less than one (1) year prior to separation shall not exceed four (4) weeks of his or her basic pay.

- 1007.2 The number of weeks of separation pay authorized pursuant to this section shall not exceed the number of weeks between the individual's separation and the individual's appointment to another position in the District government.
- 1007.3 Separation pay, if authorized pursuant to § 1007.1, shall be provided at the time of separation from the District government as a lump-sum, one-time payment, subject only to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable.
- 1007.4 Separation pay shall not be payable to any individual who:
- (a) Accepts an appointment to another position in the District government without a break in service; or
  - (b) Is eligible to receive an annuity under any retirement program for employees of the District government, excluding the District retirement program under § 2605 of the CMPA (D.C. Official Code § 1-626.05) (2001).
- 1007.5 An individual who receives separation pay pursuant to this section, and who is subsequently appointed to any position in the District government during the period of weeks represented by that payment, shall be required to repay the amount of separation pay attributable to the period covered by such appointment. The pro-rated amount to be repaid shall be based on the entire amount of the separation pay, including all deductions for taxes, *etc.*, and shall be paid to the agency that made the separation payment.

*Section 1007 is renumbered as 1008 and amended to read as follows:*

**1008 UNIVERSAL LEAVE**

- 1008.1 An employee appointed on or after January 2, 1999 without a break in service from another position in the District government to serve in an acting or interim capacity in an Executive Service position shall not become subject to the provisions of this section until confirmation by the Council and promulgation of the Mayor's Order appointing him or her to the Executive Service position, whereupon applicability of this section shall become effective as of the date specified by Mayor's Order as the effective date of that appointment.
- 1008.2 Each Executive Service employee shall have a universal leave account.
- 1008.3 On the first pay period of the leave year, each individual shall have his or her universal leave account credited with twenty-six (26) days of universal leave.

- 1008.4 Except as provided in § 1008.5, each full biweekly pay period represents one (1) workday of accrued universal leave.
- 1008.5 Each Executive Service employee appointed after the first pay period of the leave year shall have his or her leave account credited with universal leave on a pro rata basis.
- 1008.6 An Executive Service employee who initially enters on duty on any workday of a biweekly pay period shall receive credit for the entire biweekly pay period for purpose of crediting universal leave.
- 1008.7 Universal leave provided by this chapter shall be used on days on which an Executive Service employee would otherwise work and receive pay and shall be exclusive of official holidays and non-workdays established by statute or administrative order.
- 1008.8 There shall be no charge to universal leave for absences of less than one (1) workday.
- 1008.9 An Executive Service employee may carry over not more than five (5) days of unused universal leave for use in succeeding years. All other unused leave shall be forfeited at the end of the leave year.
- 1008.10 Upon separation, an Executive Service employee shall be paid for any universal leave remaining to his or her credit (less a pro-rated amount representing the portion of the universal leave that would be creditable for the remainder of the year).
- 1008.11 Payment for leave upon separation from the Executive Service as provided in §1008.10 shall be at the employee's rate of pay at the time of separation.
- 1008.12 Except as provided in § 1008.14, each employee who was in the Executive Service on or before January 2, 1999 shall have his or her accrued annual leave balance, up to a maximum of two hundred forty (240) hours, transferred to an annual leave escrow account for use at the discretion of the employee until exhausted.
- 1008.13 The employee shall be given a lump-sum payment for any annual leave in excess of the leave transferred pursuant to § 1008.12, payable at the rate of pay in effect on the last day of the last pay period of the 1998 leave year.
- 1008.14 Each employee appointed without a break in service to a position in the Executive Service from another position in the District government on or after October 21, 1998 shall have his or her accrued annual leave balance, up to a maximum of two hundred forty (240) hours, transferred to an annual leave escrow account for use at the discretion of the employee until exhausted.
- 1008.15 The employee shall be given a lump-sum payment for any annual leave in excess of the leave transferred pursuant to § 1008.14, payable at the rate of pay in effect immediately before his or her appointment to the Executive Service.
- 1008.16 Upon separation, an Executive Service employee shall be paid for any annual leave remaining in the annual leave escrow account.

- 1008.17 Sick leave credit of an Executive Service employee that was accrued under § 1203(j) of the CMPA (D.C. Official Code § 1-612.03(j)) ((2001)) shall be held in a sick leave escrow account and may be used at the discretion of the employee until exhausted.
- 1008.18 Any balance remaining in a sick leave escrow account at the time of retirement of an Executive Service employee under the U.S. Civil Service Retirement System (Chapter 83 of Title 5 of the U.S. Code) or the Police and Fire Retirement System (D.C. Official Code § 5-701 *et seq.* (2001)) shall be available for use as additional service credit under the provisions of the applicable retirement system.
- 1008.19 When an employee elects to use leave from either the annual leave escrow account or the sick leave escrow account, such usage shall only be charged for absences for a full day, resulting in a reduction of eight (8) hours in the balance of the sick leave or annual leave escrow account.

*“Reserved” §§ 1007 through 1010 are renumbered as 1009 through 1011, respectively:*

- 1009 RETIREMENT BENEFITS [RESERVED]**
- 1010 LIFE INSURANCE BENEFITS [RESERVED]**
- 1011 DISABILITY INCOME PROTECTION PROGRAM [RESERVED]**

*Section 1099 is amended to modify the definitions of the terms “Executive Service” and “subordinate agency:”*

**1099 DEFINITIONS**

1099.1 In this chapter, the following terms have the meaning ascribed:

**Executive Service** – except as modified by § 1008.1 for purposes of §1008, any subordinate agency head position under the administrative control of the Mayor, to which the Mayor is authorized to appoint executives in accordance with §§ 1051 through 1063 of the CMPA (D.C. Official Code § 1-610.51 *et seq.*) (2001).

**Subordinate agency** – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in § 301(q) of the CMPA (D.C. Official Code § 1-603.01(17)) (2001).

Comments on these proposed regulations should be submitted, in writing, to Ms. Rosalind R. Inge, Interim Director of Personnel, 441 4<sup>th</sup> Street, N.W., Room 300S, Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005

**NOTICE OF PROPOSED RULEMAKING**

**FORMAL CASE NO. GT04-1, IN THE MATTER OF THE APPLICATION  
OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND  
ITS GENERAL SERVICE PROVISIONS**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,<sup>1</sup> of its intent to act upon the Application of Washington Gas Light Company ("WGL" or the "Company")<sup>2</sup> in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On June 14, 2004, WGL filed an Application requesting authority to revise General Service Provision No. 13 entitled "Installation of Service Pipes and Connections" and General Service Provision No. 14 entitled "Extension of Mains." Consequently, the Company requests authority to revise the following tariff pages:

**GENERAL SERVICES PROVISION, P.S.C. of D.C. No. 3**  
**Installation of Service Pipes and Connections No. 13**  
**Extension of Mains No. 14**  
**2<sup>nd</sup> Revised Page No. 42**  
**2<sup>nd</sup> Revised Page No. 43**  
**6<sup>th</sup> Revised Page No. 44**

3. WGL's proposed tariff revisions allow it to use a net present value ("NPV") test instead of the existing two-year revenue test to determine whether a contribution must be provided by the customer for service main extensions in the District of Columbia.<sup>3</sup> WGL proposes that these revisions will benefit its customers in the District because they will be charged the most appropriate price for the costs of extending services and the changes will enable District ratepayers to be charged in the same manner as similarly situated customers in Maryland and Virginia. The tariff revisions, if approved, will allow the Company to apply the same NPV test in the District as in

<sup>1</sup> D. C. Code, 2001 Ed. § 2-505.

<sup>2</sup> *Formal Case No. GT04-1, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions*, Letter to Sanford M. Speight, Acting Commission Secretary, from Bernice K. McIntyre, Senior Counsel for Washington Gas Light Company, re: Formal Case No. GT04-1, filed June 14, 2004 (hereinafter referred to as "Application").

<sup>3</sup> Application at 1.

Maryland and Virginia.<sup>4</sup> Additionally, the Company maintains that these tariff revisions will enable it to charge District customers a lower and more appropriate rate than the existing tariff and will allow WGL to more effectively ensure the consistent implementation and application of its tariffs in all three jurisdictions.

4. This Application is on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the tariff pages are available upon request, at a per-page reproduction cost.

5. Comments on the proposed tariff pages must be made in writing to Sanford M. Speight, Acting Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment and reply comment periods have expired, the Commission will take final action on WGL's Application.

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<sup>4</sup> *Id.*