

*****DRAFT - NOT FOR FILING*****

1301:5-1-01 Prescribing the procedure of the Ohio real estate commission, department of commerce, state of Ohio, in giving public notice, as required by law, of intention to consider adopting, amending or rescinding a rule or regulation.

- (A) The commission, in giving public notice as to the adoption, amendment, or rescission of any rule required to be adopted under Chapter 119. of the Revised Code, shall publish a notice, at least once, in the register of Ohio, and in such other publications as the commission may determine from time to time. The notice shall appear at least thirty days prior to the date set for the hearing of the proposed action on any such rule. The notice shall meet the requirements of division (A) of section 119.03 of Revised Code.
- (B) Ohio real estate commission shall be authorized to give additional notice of such public hearing as it deems necessary; however, the giving of such additional notice shall not be mandatory and the failure to give notice by any means other than as specified above (A) shall not in any way invalidate any action which may be taken by the Ohio real estate commission.

*****DRAFT - NOT FOR FILING*****

1301:5-1-02 Advertising.

- (A) Every real estate broker, or real estate salesperson, acting in a capacity as such, who in advertising of any nature performs or offers to perform an act contained in section 4735.01 of the Revised Code or in handling his or her own property, whether held by deed, option or otherwise, shall be identified in such advertisement by name. Name identification in advertising by a licensee shall consist of only the name of the person, partnership, corporation, limited liability company, limited liability partnership or association. A licensee may advertise in a first name other than the name on the license or advertise with the licensee's maiden name provided that the preferred first name or the maiden name is not misleading and is registered with the division.
- (B) The name of the brokerage shall be displayed at least in equal prominence with the name of the salesperson in all advertising, including internet websites, that are within the ownership or direct control of the licensee or the brokerage with which the licensee is affiliated. A licensee shall not be considered to have violated this rule if the terms of use or the format of a website or other advertising medium not owned or controlled by the licensee does not allow the licensee to control or direct the size and prominence of the brokerage and salesperson's names.
- (C)
- (1) Where a person, partnership, corporation, limited liability company, limited liability partnership or association which is a real estate broker has received the approval of the superintendent to conduct business under a trade name, such trade name as it appears on the license issued by the division shall be the identifying name used by such person, partnership, corporation, limited liability company, limited liability partnership or association in all advertising.
- (2) Where a person, partnership, corporation, limited liability company, limited liability partnership or association which is a real estate broker has received the approval of the superintendent to conduct business under more than one trade name, such trade names as it appears on the license and addendum issued by the division shall be the identifying name used by such person, partnership, corporation, limited liability company, limited liability partnership or association in all advertising. The licensee must advertise in at least one of the approved trade names as it appears on the license or addendum.
- (3) Words or abbreviations appearing on a real estate broker's license to indicate the legal framework under which the licensee conducts business, such as "Inc." or "Co.", are not required to appear in the advertising of such licensee. The words "Realty" or "Real Estate," or the authorized use of franchise names or insignia indicating membership in a real estate organization, although not part of the name, may be used by such brokerages in advertising.
- (D) All internet advertising of real estate services as defined in section 4735.01 of the Revised Code shall disclose the name of the brokerage on every viewable web page of the website, except as herein otherwise provided. For purposes of this rule, a web page is one that may or may not scroll beyond the borders of the screen.
- (1) When advertising in electronic messages of limited information or characters a licensee must provide a direct link to a display that is in compliance with paragraph (D) of this rule.
- (2) When advertising on an internet website not owned or controlled by the licensee or a brokerage with which the licensee is affiliated and that internet website's terms of use limit the licensee's ability to comply with paragraph (D) of this rule, the licensee must provide a direct link to a display that is in compliance with paragraph (D) of this rule on every viewable web page of the website.

*****DRAFT - NOT FOR FILING*****

- (E) Information on an internet website maintained by a licensee which becomes outdated or expired, shall be updated within fourteen days of the information becoming outdated or expired. Each website maintained by a licensee shall disclose the date upon which the information contained therein was most recently updated. If a licensee's website is maintained on the licensee's behalf by a third party, the licensee shall provide to the third party, a timely written notice, by mail, fax or electronic means, of any updates to outdated or expired information, so that such updates may be accomplished in accordance with this paragraph. A licensee who provides such timely notice shall not be in violation of this paragraph, if the third party fails to effect a requested change as notified.
- (F) The requirements of this rule only apply to advertising, or information on a website, that is within the licensee's ownership and/or direct control. No licensee shall be responsible for the accuracy of information taken from the licensee's website, or other advertising, and placed on a website, or in other advertising, that is outside the licensee's ownership and/or direct control.
- (G) A licensee shall not advertise or alter any information regarding a listing of any property, that is not listed for sale, lease, or exchange with the licensee's brokerage, unless the licensee has first secured written permission of the owner or owner's authorized agent and fully discloses in the advertisement the name of the listing brokerage, in the same or larger size type as used to describe the property. For purposes of this division, the term alter shall not include limiting informational parts of a listing, provided such limitation, the information is not inaccurate or misleading.
- (H) For purposes of this rule, the term advertising or advertisement means any manner, method or activity by which a licensed real estate broker or salesperson makes known to the general public properties for sale or lease or any services for which a real estate license is required, through the use of, including but not limited to;
- (1) Newspapers,
 - (2) Magazines,
 - (3) Radio,
 - (4) Television,
 - (5) Signs,
 - (6) Internet websites,
 - (7) Unsolicited mail,
 - (8) Voicemail,
 - (9) Email,
 - (10) Facsimile transmissions,
 - (11) Social networking sites,
 - (12) Blogs,
 - (13) Business cards,

*****DRAFT - NOT FOR FILING*****

(14) Property listing data base service.

- (I) The term advertising or advertisement does not include forms of private communication between a licensee and a client, customer or prospective client, including but not limited to the dissemination of information about properties available for purchase or lease, private mail, voicemail, email, password protected websites or facsimile transmissions, provided such communications are initiated at the request of a client, customer or prospective client.

*****DRAFT - NOT FOR FILING*****

1301:5-1-03 Brokerage licenses.

- (A) In accordance with sections 4735.02 to 4735.99 of the Revised Code, there shall be one only real estate broker's license issued to an individual.
- (B) If a principal broker of a brokerage as defined in division (BB) of section 4735.01 of the Revised Code desires to serve as the principal broker for more than one brokerage, the principal broker must seek approval from the superintendent by filing application form(s) as prescribed by the division including, but not limited to, a name reservation application and additional affiliation application. The superintendent may approve the applications to seek approval to serve as a principal broker for more than one brokerage provided:
 - (1) There is commonality in the name of all brokerages with which the principal broker seeks to affiliate;
 - (2) The principal broker certifies and provides supporting documentation, when requested, evidencing the following for each brokerage with which that principal broker seeks to affiliate:
 - (a) If the brokerage is a corporation or limited liability company, the principal broker is an officer or shareholder of the corporation or a member of the limited liability company;
 - (b) If the brokerage is a partnership or limited liability partnership, the principal broker must be a general partner of the partnership or limited liability partnership;
 - (c) If the brokerage is an association, the principal broker is a member of the association.
- (C) For purposes of section 4735.06 of the Revised Code, an applicant who is a corporation or limited liability company must have at least one principal broker affiliated with the corporation or limited liability company. This principal broker must be an officer or shareholder of the corporation or a member of the limited liability company. Said principal broker shall perform the functions of a principal broker solely on behalf of and in the name of the corporation or limited liability company unless the principal broker has been approved by the superintendent to serve as the principal broker for more than brokerage in accordance with paragraph (B) of this rule. No corporation or limited liability company shall maintain a valid brokerage license without at least one principal broker affiliated with said corporation or limited liability company.
- (D) All officers of a corporation or members of a limited liability company applying for a brokerage license who are not licensed as a principal or management level licensee shall submit to the division of real estate an affidavit stating that the officer or member is not authorized to nor will act as a principal broker or management level licensee for the brokerage.
- (E) For purposes of section 4735.06 of the Revised Code, an applicant who is a partnership or limited liability partnership must have at least one principal broker affiliated with the partnership or limited liability partnership. This principal broker must be a general partner of the partnership or limited liability partnership. Said principal broker shall perform the functions of a principal broker solely on behalf of and in the name of the partnership or limited liability partnership applicant unless the principal broker has been approved by the superintendent to serve as the principal broker for more than brokerage in accordance with paragraph (B) of this rule. No partnership or limited liability partnership shall maintain a valid real estate broker's license without at least one principal broker affiliated with the partnership or limited liability partnership who is a general partner.
- (F) All general partners or limited partners of a partnership or limited liability partnership applying for a real estate brokerage license who are not licensed as a principal or management level broker shall submit to the division of real estate an affidavit stating that the general partner or limited partner is not authorized to nor

*****DRAFT - NOT FOR FILING*****

will act as a principal or management level broker for the or limited liability partnership brokerage.

- (G) For the purposes of section 4735.06 of the Revised Code, an applicant who is an association must have at least one principal broker affiliated with the association. This principal broker must be a member of the association. Said principal broker shall perform the functions of a principal broker solely on behalf of and in the name of the association unless the principal broker has been approved by the superintendent to serve as the principal broker for more than brokerage in accordance with paragraph (B) of this rule. No association shall maintain a valid brokerage license without at least one principal broker affiliated with said association.
- (H) All members of an association applying for a brokerage license who are not licensed as a principal or management level broker shall submit to the division of real estate an affidavit stating that the member is not authorized nor will act as a principal or management level broker for the brokerage.
- (I) For purposes of license law, a sole proprietorship has only one affiliated broker who shall act as the principal broker.

*****DRAFT - NOT FOR FILING*****

1301:5-1-07 Placing a brokers license on deposit.

- (A) A real estate broker may at any time make application, on a form prescribed by the superintendent, to place the broker's license on deposit with the division.
- (B) The broker's license may remain on deposit with the division indefinitely, provided that:
 - (1) The broker complies with the post-licensure education requirements of section 4735.07 of the Revised Code; and
 - (2) The broker complies with the continuing education requirements of section 4735.141 of the Revised Code; and
 - (3) The broker renews the broker's license in accordance with the provisions of section 4735.14 of the Revised Code and rule 1301:5-1-20 of the Administrative Code.
- (C) When depositing the broker's license with the division will result in the closing of the brokerage, the broker shall give written notice of this fact to all salespeople associated with said broker when applying with the division to place the broker's license on deposit.
- (D) A broker may reactivate the broker's license on deposit, pursuant to the requirements of rule 1301:5-1-19 of the Administrative Code.

*****DRAFT - NOT FOR FILING*****

1301:5-1-13 Failure to comply with a subpoena as evidence of misconduct.

Evidence that a licensee has failed to obey a subpoena issued pursuant to section 4735.04 or Chapter 119, of the Revised Code shall constitute prima facie evidence of misconduct and shall constitute a violation of division (A)(6) of section 4735.18 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-1-14 Use of name or license for benefit of others.

- (A) No arrangement, direct or indirect, shall be entered into by any licensee whereby an individual licensee lends the licensee's name or license for the benefit of another person, firm or corporation, or whereby the provisions of the real estate license laws or regulations are circumvented.
- (B) Lending a principal broker's license for the benefit of another person, firm or corporation shall be construed as including any arrangement whereby a principal broker fails to personally oversee and direct the operations of the business of which the licensee is licensed as the principal broker. A principal broker approved by the superintendent to be licensed with and act as the principal broker for more than one brokerage does not violate this section provided the principal broker personally directs and oversees the operations of the brokerage and performs all other duties required by division (C) of section 4735.081 of the Revised Code.
- (C) Evidence that a licensee has entered into an arrangement to lend the licensee's name or license under the provisions of this rule shall constitute prima facie evidence of misconduct and shall constitute a violation of division (A)(6) of section 4735.18 of the Revised Code.
- (D) Evidence that a licensee has entered into an arrangement with a principal broker to use the principal broker's name or license under the provisions of this rule shall constitute prima facie evidence of misconduct and shall constitute a violation of division (A)(6) of section 4735.18 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-1-15 Education requirements for brokers and salespersons.

- (A) To establish an individual's satisfactory completion of the educational requirements prescribed in sections 4735.07 and 4735.09 of the Revised Code, the individual shall present to the division of real estate and professional licensing a properly issued certificate, transcript or similar documentation from the institution or entity at which the course of education was completed.
- (B) The post-licensure education requirements of instruction as prescribed in division (G)(1) of section 4735.07 of the Revised Code and division (J) of section 4735.09 of the Revised Code may be completed only after the issuance of the licensee's real estate broker's license or real estate salesperson's license.
- (C) An individual who has provided classroom instruction of the pre-licensure educational requirements prescribed in sections 4735.07 and 4735.09 of the Revised Code within a ten-year period immediately preceding their current application for licensure as a real estate broker or real estate salesperson shall be considered to have successfully completed the unduplicated classroom hours of each required course so instructed.

*****DRAFT - NOT FOR FILING*****

1301:5-1-16 Effective date of licensure.

- (A) No person nor entity shall engage in any conduct for which a real estate license is required until an effective date of licensure has been established by the division.
- (B) For initial licensure, the effective date of licensure will be the date that the license is issued, which will be reflected on the license itself.
- (C) For license changes, the effective date of licensure will not be established until the division has all of the information and fees necessary to process and issue a new license.

*****DRAFT - NOT FOR FILING*****

1301:5-1-17 Stenographic record.

For purposes of section 119.09 of the Revised Code, the record of an adjudication hearing before the Ohio division of real estate and professional licensing or Ohio real estate commission shall be provided by use of audio or video teleconferencing electronic recording devices. Such recording shall serve as the official record of the proceeding and may serve as the basis for a transcript for furnishing to a court upon appellate review. A stenographic service other than the division's audio or video recording devices may be requested by one of the parties to the hearing. Advance written notice shall be provided to the division by the requesting party prior to the scheduled hearing date. All scheduling with the stenographic service shall be the responsibility of the party requesting the stenographic service. The testimony at the adjudication hearing shall be transcribed at the cost of the party requesting the stenographic service. Upon request, the stenographic service may provide a transcript of the adjudication hearing and the cost of the transcript shall be the responsibility of the party requesting the transcript. The division may use the transcript from the stenographic service as the official record of the proceeding.

*****DRAFT - NOT FOR FILING*****

1301:5-1-18 Disciplinary sanctions.

(A) Pursuant to division (I) of section 4735.051 of the Revised Code, the following shall apply:

- (1) The real estate commission may include, at its sole discretion, any combination of sanctions in its order;
- (2) Where multiple violations of the Revised Code are found in a single case, the real estate commission's order shall specifically state the sanction(s) applicable to each violation.
- (3) Any final order of the real estate commission no longer subject to appeal, may be publicly disseminated using any of the following methods:
 - (a) Publication in the division of real estate and professional licensing's newsletter;
 - (b) Press release(s); and,
 - (c) Any other method deemed appropriate by the real estate commission and/or superintendent.

(B) Pursuant to division (I)(3) of section 4735.051 of the Revised Code, when the real estate commission imposes a monetary fine as a sanction for violation of any provision of Chapter 4735. of the Revised Code, the payment of the fine by the licensee shall be subject to the following conditions:

- (1) In all cases except those qualifying under paragraph (B)(2) of this rule, payment of any fine shall be received by the division of real estate and professional licensing within thirty days of the date of the commission's finding and order imposing the fine;
- (2) The superintendent may extend the payment of any fine. The terms of the extended payment period may include a schedule for specified interim payments;
- (3) Any fine or payment not received by the division as specified in the real estate commission's order or pursuant to paragraph (B)(2) of this rule shall result in the automatic suspension of the licensee's real estate license;
- (4) Reactivation of a license suspended pursuant to paragraph (B)(3) of this rule must be within twelve months of the date of license suspension and shall only occur upon all of the following:
 - (a) Payment in full to the division of real estate and professional licensing of all fines imposed;
 - (b) Filing of a reactivation application; and
 - (c) Payment of the reactivation fee, as required by section 4735.15 of the Revised Code.
 - (d) If the licensee's renewal deadline passed during the period of license suspension, renewal of the license including payment of the renewal fee plus a penalty fee of fifty per cent of the renewal fee, as required by section 4735.14 of the Revised Code.
 - (e) If the licensee's continuing education, pursuant to section 4735.141 of the Revised Code, and/or post-licensure education, pursuant to section 4735.07 or 4735.09 of the Revised Code, deadline passed during the period of license suspension, the licensee shall submit proof of completion of the required education.
- (5) A licensee's license is revoked automatically, without the taking of any action by the superintendent,

*****DRAFT - NOT FOR FILING*****

when the licensee fails to properly reactivate the license under paragraph (B)(4) of this rule within twelve months of the date of the license suspension.

- (C) Pursuant to division (I)(5) of section 4735.051 of the Revised Code, when the real estate commission imposes education course(s) as a sanction for a violation of any provision of Chapter 4735. of the Revised Code, the completion of the course(s) by the licensee shall be subject to the following conditions:
- (1) The real estate commission's order imposing the education sanction shall specify the specific course content, the number of hours to be completed, date by which the course(s) is to be completed, and the method by which satisfaction of the order is to be reported to the division of real estate and professional licensing;
 - (2) No education course(s) ordered by the real estate commission as sanction for violation of any provision of section 4735.18 of the Revised Code shall be credited towards the licensee's continuing education requirements as addressed in section 4735.141 of the Revised Code;
 - (3) Only courses pre-approved by the division of real estate and professional licensing shall be accepted for purposes of fulfilling a education sanction as order by the real estate commission;
 - (4) Any licensee ordered to complete additional education as a sanction, may in advance of completing such course work, request written verification from the division of real estate and professional licensing that the proposed course(s) will satisfy the criteria set forth in the real estate commission's order;
 - (5) The superintendent shall have the discretion to extend the time for completion and/or modify the course(s) content parameters of the real estate commission order imposing education course(s) upon good cause shown;
 - (6) Any education course(s) not satisfactorily completed and reported to the division of real estate and professional licensing, as specified in the real estate commission's order, shall result in the automatic suspension of the licensee's real estate license;
 - (7) Reactivation of a license suspended pursuant to paragraph (C)(6) of this rule must be within twelve months of the date of license suspension and shall only occur upon all of the following:
 - (a) Satisfactory verification of the completion of the ordered education course(s);
 - (b) Filing of a reactivation application; and
 - (c) Payment of a reactivation fee, as required by section 4735.15 of the Revised Code.
 - (d) If the licensee's renewal deadline passed during the period of license suspension, renewal of the license including payment of the renewal fee plus a penalty fee of fifty per cent of the renewal fee, as required by section 4735.14 of the Revised Code.
 - (e) If the licensee's continuing education, pursuant to section 4735.141 of the Revised Code, and/or post-licensure education, pursuant to section 4735.07 or 4735.09 of the Revised Code, deadline passed during the period of license suspension, submission of proof of completion of the required education.
 - (8) A licensee's license is revoked automatically, without the taking of any action by the superintendent, when the licensee fails to properly reactivate the license under paragraph (B)(7) of this rule within

*****DRAFT - NOT FOR FILING*****

twelve months of the date of the license suspension.

- (D) Pursuant to division (I)(2) of section 4735.051 of the Revised Code, when the real estate commission imposes a license suspension as a sanction for a violation of any provision of Chapter 4735. of the Revised Code, the license will be automatically reactivated by the superintendent after the suspension period, unless the licensee's renewal, continuing education or post-licensure education deadline passed during the period of license suspension, in which case the license suspension is continued and the licensee is subject to the appropriate reactivation requirements of rule 1301:5-1-19 of the Administrative Code.
- (E) Pursuant to division (C)(5) of section 4735.16 of the Revised Code and section 4735.181 of the Revised Code, if the superintendent imposes a license suspension for failure to remit the fine contained in a final citation, the license reactivation must be within twelve months of the date of license suspension, and shall only occur upon all of the following:
- (1) Payment in full to the division of real estate and professional licensing all fines imposed, and
 - (2) Filing of a reactivation application;
 - (3) Payment of the reactivation fee, as provided in section 4735.15 of the Revised Code;
 - (4) If the licensee's renewal, continuing education or post-licensure education deadline passed during the period of license suspension, the licensee is also subject to the appropriate reactivation requirements of rule 1301:5-1-19 of the Administrative Code; and
 - (5) A licensee's license is revoked automatically, without the taking of any action by the superintendent, when the licensee fails to properly reactivate the license under this paragraph within twelve months of the date of the license suspension.
- (F) Pursuant to section 4735.182 of the Revised Code, if a license is suspended for failure to remit payment on an unpaid negotiable instrument for insufficient funds or the penalty fee, the license reactivation must be within twelve months of the date of license suspension, and shall only occur upon all of the following:
- (1) Payment by cashier's check, certified check or money order, all fees due and fines imposed;
 - (2) Filing of a reactivation application;
 - (3) Payment of the reactivation fee, as provided in section 4735.15 of the Revised Code;
 - (4) If the licensee's renewal, continuing education or post-licensure education deadline passed during the period of license suspension, the licensee is also subject to the appropriate requirements of rule 1301:5-1-19 of the Administrative Code; and
 - (5) A licensee's license is revoked automatically, without the taking of any action by the superintendent, when the licensee fails to properly reactivate the license under this section within twelve months of the date of the license suspension.

*****DRAFT - NOT FOR FILING*****

1301:5-1-20 Annual brokerage assessment.

- (A) Licensed corporations, partnerships, limited liability companies, limited liability partnerships, sole-proprietorships or associations shall file the annual brokerage assessment along with the requisite fee with the division on or before June thirtieth of each year.
- (B) The annual brokerage assessment pursuant to section 4735.15 of the Revised Code, shall be calculated based on the number of salespeople licensed with the brokerage on April first of each year.
- (C) The superintendent shall send by regular or electronic mail the annual brokerage assessment to the business address of the brokerage no later than April thirtieth of each year.
- (D) Failure to file the annual brokerage assessment along with the requisite fee with the division on or before June thirtieth of each year shall result in the suspension of the license in accordance with division (C) of section 4735.14 of the Revised Code.
- (E) The superintendent shall provide notice to the licensee of the suspension of the license for failure to pay the annual brokerage assessment and include in such notice an outline of the procedure for reactivating the license.
- (F) The superintendent may reduce the amount of the brokerage assessment pursuant to section 4735.15 of the Revised Code, in any year, based upon the date the payment is received by the division. If the superintendent has reduced the fee, the superintendent may later raise it to the amounts specified in section 4735.15 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-1-21 Team advertising.

- (A) For purposes of this rule, "team" includes any group of two or more associated real estate licensees affiliated with the same brokerage and any other non-licensed professionals, such as administrative assistants and other professionals specializing in real estate related fields who advertise together in a group with a group name and that name is not licensed pursuant to Chapter 4735. of the Revised Code.
- (B) Any licensee who advertises as being part of a team shall:
- (1) Include in the advertisement the name as prescribed in rule 1301:5-1-02 of the Administrative Code of at least one of the licensees. The licensee is not required to include in the advertisement the names of every member of the team;
 - (2) Include in the advertisement the name of the brokerage under whom the licensee is licensed and displayed in equal or greater prominence with the team name and with the name of the salesperson in the advertisement;
 - (3) Identify as unlicensed any unlicensed team member whose name is included in such advertising;
 - (4) Include the term "group" or "team" in the team name;
 - (5) Not use the terms "realty" or "associates" in the team name.
- (C) Provided the requirements of paragraph (A) of this rule are met, photographs of members may be included in the advertisement without disclosure of the names of all of the members in the photograph;
- (D) Failure to advertise as provided herein shall be prima facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-1-22 Three year renewal.

- (A) All licenses issued shall be renewed on a three year renewal cycle in accordance with paragraph (B) of this rule.
- (B) All licenses renewed on a timely basis shall be renewed for a three year period for a fee that is three times the renewal fee for one year for that license and shall be due on the licensee's birthday occurring immediately after the licensee's date of initial licensure and on the licensee's birthday every three years thereafter.
- (C) For the purposes of this rule, "license" shall include real estate broker licenses issued in accordance with section 4735.06 of the Revised Code, and real estate salesperson licenses issued in accordance with section 4735.09 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-3-01 Superintendent's report to the commission on division activities.

- (A) The superintendent shall submit to the commission, for its review, a monthly report of the activities and decisions of the division which shall include but not be limited to:
 - (1) The number of all applicants who passed the real estate broker examination and the real estate salesperson examination.
 - (2) A report of all orders issued by the division pursuant to the authority granted the superintendent through Chapter 4735. of the Revised Code.
 - (3) Financial reports of the present status of the education and research fund and recovery fund, setting forth all disbursements and a summary of all payments to the funds for the preceding month.
- (B) The monthly report shall be submitted to the commission for its revision and review at the first session of the commission following the month for which it was prepared. The commission may amend or review the monthly report before approval and entry in the minutes of the commission.
- (C) After approval by the commission, the monthly report shall be available on request to interested parties. The superintendent may require that the costs of reproduction and transmittal of the monthly report of the commission be defrayed by payment of the actual costs of reproduction by the party requesting same.
- (D) The commission shall have access to all public records maintained by the superintendent and to all materials pertinent to matters pending before the commission.

*****DRAFT - NOT FOR FILING*****

1301:5-3-02 Recommendation and appointment of ancillary trustees.

- (A) The recommendation or appointment of an ancillary trustee by the superintendent in accordance with division (C)(3) of section 4735.05 of the Revised Code shall be made as soon as possible following the receipt of an application for such recommendation or appointment.
- (B) The appointment of an ancillary trustee to conclude the business affairs of a deceased or revoked principal broker is subject to review by the superintendent, but the authority of such trustee is not automatically stayed pending such review.
 - (1) Efforts to conclude the business transactions of a deceased or revoked, principal broker shall be limited to the supervision and completion of existing contracts and obligations of the principal broker for whom the ancillary trustee is named. Approval as an ancillary trustee by the superintendent shall not authorize said trustee to initiate new ventures or obligations on behalf of the deceased or revoked, principal broker.
 - (2) Upon conclusion of the business transactions of a deceased or revoked, principal broker the appointed ancillary trustee shall prepare a report to the superintendent stating that all business transactions are concluded and a withdrawal as ancillary trustee.
- (C) The appointment of an ancillary trustee to continue the business affairs of a suspended principal broker is subject to the approval by the superintendent, but the authority of such trustee is not automatically stayed pending such approval.

*****DRAFT - NOT FOR FILING*****

1301:5-3-04 Equivalent experience for broker licensing.

- (A) For the purposes of division (B)(5)(a) of section 4735.07 of the Revised Code, "real estate transaction" shall be defined as follows:
- (1) One consummated bona fide sale of a real property and the improvements thereon for the account of another in which the applicant received compensation and was the procuring or selling agent, shall constitute one-half transaction.
 - (2) One consummated bona fide sale of a real property and the improvements thereon for the account of another, in which the applicant received compensation and was the listing agent, shall constitute one-half transaction.
 - (3) One lease of individual commercial or industrial property for a term of at least one year, for the account of another in which the applicant received compensation and was the procuring agent, shall constitute one-half transaction.
 - (4) One lease of individual commercial or industrial property for a term of at least one year for the account of another in which the applicant received compensation and was the listing agent, shall constitute one-half transaction.
 - (5) One lease of residential property for a term of at least one year for the account of another in which the applicant received compensation and was the listing and/or procuring agent, shall constitute one-half transaction.
- (B) If leasehold transactions constitute sixteen or more of the required number of transactions, the applicant shall have completed three years full-time experience in property management.
- (C) For purposes of division (B)(5)(a) of section 4735.07 of the Revised Code, the term "for another" shall mean a real estate transaction as defined in paragraph (A) of this rule in which the applicant has no ownership interest in the real property.
- (D) For the purposes of division (B)(5)(b) of section 4735.07 of the Revised Code, where the experience of an applicant does not satisfy the requirement set forth in division (B)(5)(a) of section 4735.07 of the Revised Code, the applicant or the superintendent may request that the information on file pertinent to the application of such individual be reviewed by the real estate commission who shall determine if the applicant satisfies equivalent experience without precluding the applicant's opportunity to personally appeal the initial review of his application.

*****DRAFT - NOT FOR FILING*****

1301:5-3-07 Educational loans to individuals.

- (A) All applications for loans to defray the costs of satisfying the prelicensure educational requirements of division (F)(6)(a) of section 4735.09 of the Revised Code shall be made in writing on a form provided by the superintendent which shall include, although not to be limited to, the following information:
- (1) A statement by the applicant that a loan from the educational and research fund is necessary for the completion of courses required for licensing;
 - (2) The title or titles of the educational course or courses for which the loan is sought;
 - (3) The full name and address of the institution or institutions of higher education at which the course or courses will be taken;
 - (4) The cost of tuition and required texts for such course or courses;
 - (5) The name of the principal broker sponsoring the license and loan applicant who will serve as a guarantor for the loan from the education and research fund.
- (B)
- (1) The sponsoring principal broker shall serve as guarantor of the loan and shall be liable to the education and research fund for any amount outstanding should the loan go into default.
 - (2) In the event a loan applicant changes sponsoring principal brokers prior to being issued a license, the new sponsoring principal broker shall assume, in writing, the guaranty responsibility of the principal broker who originally sponsored the loan applicant for the salesperson license examination.
 - (3) In the event a licensee, who received an educational loan which has an outstanding balance, files an application to transfer the licensee's license to a different brokerage, the transfer application shall be accompanied by an affidavit from the principal broker with whom the licensee seeks to affiliate acknowledging guaranty responsibility for the outstanding loan balance.
- (C) Disbursements from the education and research fund for pre-licensing education loans shall be made directly to the accredited institution or institutions of higher education at which the course or courses will be taken upon the applicant submitting proof of registration. The proceeds shall be used solely for the payment of expenses for tuition and books incurred as a consequence of the courses reported on the individual's loan application form.
- (D)
- (1) Repayment to the education and research fund of monies advanced to defray costs of satisfying the requirements of section 4735.09 of the Revised Code shall be made in full no later than twelve months from the date of licensure.
 - (2) In the event that the loan recipient has not been licensed as a real estate salesperson within one year of the date of eligibility to take the sales examination, the full amount of the disbursement shall immediately become due. In no event shall any individual's indebtedness to the fund continue beyond three years from the date of disbursements. Any amount outstanding at that time shall immediately be referred to the Ohio attorney general's office for collection proceedings.
- (E) No individual shall be authorized to make application for a loan from the education and research fund who

*****DRAFT - NOT FOR FILING*****

has previously failed to satisfactorily complete a course required by section 4735.09 of the Revised Code for which the costs were defrayed by a loan from the fund.

- (F) No salesperson shall be approved for admission to the broker license examination who has not repaid in full any obligation incurred by the applicant to the education and research fund.
- (G) In the event of the death or permanent total disability of a guarantor of a loan made in accordance with section 4735.06 of the Revised Code and this chapter of the Administrative Code, the obligations of such guarantor shall be discharged.
- (H) The loan amount which an applicant is eligible to receive under this rule shall be based upon a percentage of the actual cost of the tuition and required texts determined in accordance with:
 - (1) One hundred per cent of the federal poverty level qualifies for one hundred per cent;
 - (2) One hundred thirty-three per cent of the federal poverty level qualifies for eighty per cent;
 - (3) One hundred seventy-five per cent of the federal poverty level qualifies for sixty per cent;
 - (4) Two hundred per cent of the federal poverty level qualifies for forty per cent; and
 - (5) Two hundred fifty per cent of the federal poverty level qualifies for twenty per cent.
- (I) A copy of the applicant's federal income tax return for the calendar year immediately preceding the year in which the loan application is filed must accompany the student loan application as verification of gross income. Married applicants who filed a separate return must also submit a copy of their spouse's federal income tax return. The commission may request other documentation for applicants who did not file a federal income tax return for the preceding calendar year.
- (J) In determining the loan amount which an applicant is eligible to receive, the commission may consider factors affecting the applicant's current gross income including, but not limited to, loss of employment, medical expenses, and divorce or legal separation.
- (K) Any loan approved by the commission under this rule shall not exceed the actual total cost of the required text and tuition, or the amount allowed pursuant to section 4735.06 of the Revised Code, whichever is less.

*****DRAFT - NOT FOR FILING*****

1301:5-3-13 Company name reservation process.

- (A) Any person who wishes to reserve a name for a proposed new brokerage, or an existing brokerage intending to change its name, shall submit to the division of real estate and professional licensing a written request for the exclusive right to use a specified name as the name of the brokerage.
- (B) Any name proposed for use by a brokerage shall be approved by the superintendent if it meets the following requirements:
 - (1) The proposed name is not the same as, or is clearly distinguishable from, a name reserved or licensed with the division of real estate and professional licensing by any existing real estate brokerage except that the superintendent may approve the use of a brokerage business name even where the proposed name is not such as to distinguish it from any other existing licensee where written consent from the licensee using the same or similar name is filed with the division of real estate and professional licensing; and
 - (2) The proposed name is not misleading or is likely to mislead the public.
- (C) The superintendent may approve the use of more than one trade name by a brokerage provided:
 - (1) There is commonality between the trade names;
 - (2) The proposed name is not misleading or is likely to mislead the public;
 - (3) The brokerage has no more than five trade names.
 - (4) A special or trust account, pursuant to division (A)(26) and/or (A) (27) of section 4735.18 of the Revised Code is maintained in each trade name;
 - (5) All trade names are registered with the Ohio secretary of state's office once approved by the superintendent.
- (D) If the superintendent finds that the proposed name is available for such use, the applicant shall have sixty days from the date of approval to apply for a license in the reserved name. Upon written request of the applicant and upon good cause shown the superintendent may grant an extension of time as deemed appropriate.
- (E) The right to this name may be transferred by the applicant by filing with the division of real estate and professional licensing a written consent stating the name and address of the transferee. If a reserved name is transferred, the transferee, upon submitting the appropriate fee, will have sixty days from the date of transfer to apply for licensure with use of the reserved name. Upon written request of the applicant and upon good cause shown the superintendent may grant an extension of time as deemed appropriate.
- (F) If the superintendent denies a name reservation, the person who requested the name may request that the Ohio real estate commission review the superintendent's determination. The request for review shall be made in writing and within thirty days of the denial letter. The request will then be scheduled for the next regularly scheduled commission meeting. The commission may approve and adopt or reverse, vacate or modify the superintendent's decision.

*****DRAFT - NOT FOR FILING*****

1301:5-3-14 Settlement agreements.

- (A) Any real estate broker or real estate salesperson who has been notified by the superintendent of a hearing to be held by a hearing examiner pursuant to Chapter 119. of the Revised Code to determine whether a violation(s) of section 4735.18 of the Revised Code occurred by such licensee may enter into a settlement agreement with the superintendent.
- (B) The settlement agreement shall contain the following information:
- (1) A description of the conduct which the superintendent alleges the licensee committed;
 - (2) An admission by the licensee that the licensee engaged in such conduct;
 - (3) An acknowledgement by the licensee that such conduct admitted to constitutes a violation of section 4735.18 of the Revised Code;
 - (4) A waiver by the licensee of the licensee's right to an administrative hearing pursuant to Chapter 119. of the Revised Code;
 - (5) An acknowledgement by the licensee that the licensee had the opportunity to review the settlement agreement with the licensee's legal counsel and understands said agreement;
 - (6) Recommendation of a sanction, if any, which the superintendent believes should be imposed by the Ohio real estate commission on the licensee for the admitted violation(s) of section 4735.18 of the Revised Code. However, the superintendent may choose not to make any recommendation as to a sanction and leave that solely within the discretion of the commission;
 - (7) An acknowledgement by the parties that the settlement agreement, if accepted and adopted by the commission, will become a final order;
 - (8) A waiver by the licensee of all appeals pursuant to section 119.12 of the Revised Code and right to reconsideration pursuant to section 4735.19 of the Revised Code; and
 - (9) Any other provision which the superintendent deems to be appropriate.
- (C) If a settlement agreement is accepted by the licensee and the superintendent, the formal hearing shall be continued and the terms of the settlement agreement shall be presented to the commission at their next regularly scheduled meeting. The commission may hear the testimony of the parties to the settlement agreement and the complainant upon request. The testimony shall relate only to mitigation of the settlement agreement or the commission's acceptance, reduction of sanction, or rejection of the settlement agreement. The commission shall not hear the testimony of any additional witnesses and shall not admit any exhibits. All settlement agreements are contingent on the approval of the commission.
- (D) The superintendent shall not enter into any settlement agreements with a licensee if the superintendent knows it is not the licensee's free and voluntary act to enter into such an agreement.
- (E) Upon reviewing a proposed settlement agreement, the commission may accept, reduce the sanction or reject said proposal. If the settlement agreement is rejected by the commission, the matter is returned to the division for further proceedings pursuant to section 4735.051 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-3-15 Educational instruction.

The post-licensure instruction as prescribed in division (G)(1) of section 4735.07 and in division (J) of section 4735.09 of the Revised Code shall not be offered to a licensee in which the instruction exceeds eight hours in any one calendar day.

*****DRAFT - NOT FOR FILING*****

1301:5-3-16 Education and research fund advisory committee.

- (A) For purposes of assisting in the administration of the real estate education and research fund, as provided in division (C) of section 4735.03 of the Revised Code, the commission may appoint an education and research fund advisory committee.
- (B) The committee shall consist of nine voting members with three year staggered terms. Chairperson, vice-chairperson and members shall be appointed annually by the commission, upon the qualification of the commission member appointed in such year. The commission shall fill any vacancy within sixty days of such vacancy. Committee members may not serve more than two consecutive full terms.
- (C) Membership shall be comprised of one agency representative, one representative of the Ohio realtors, one representative of the Ohio realtor association, one member of the commission and five persons actively licensed as real estate brokers or salespersons, pursuant to Chapter 4735. of the Revised Code. The commission may remove any member who misses two consecutive meetings without an excused absence. A majority of the committee members shall constitute a quorum.
- (D) The committee shall hold at least one meeting annually.
- (E) The commission shall:
 - (1) Adopt a prescribed funding application which, at a minimum, shall require disclosure of project manager, project description and an itemized budget;
 - (2) Adopt factoring criteria which shall be utilized by the commission and committee to provide a fair and impartial evaluation of proposed programs and/or projects;
 - (3) Adopt standard granting conditions that, at a minimum, meet those set forth in the "Federal Circulars and Common Rules Subgrant Guidelines" (<https://www.whitehouse.gov/omb/circulars/>), to which any grantee of education and research funds must agree and adhere. At a minimum, the conditions must require periodic progress reporting for grants requiring more than six months, staggered funding based on performance, provisions for cancellation or termination of the grant, methods under which the grantee may request an extension, disclosure of property rights and delivery requirements;
 - (4) Adopt a grant award letter which shall include special conditions as determined by the commission which must be satisfied by the grantee as a stipulation of funding;
 - (5) Recommend to the committee education projects, research projects and/or programs of interest to the real estate profession.
- (F) The committee may:
 - (1) Solicit education projects, research projects and/or programs topics from industry members, consumers and educational institutions in this state;
 - (2) Advertise funding availability through, including but not limited to, issuing newsletter articles, press releases, website postings or requests for proposals;
 - (3) Recommend to the commission education projects, research projects and/or programs for funding;
 - (4) Recommend to the commission funding amounts based on the fiscal year budget allocation;

*****DRAFT - NOT FOR FILING*****

(5) Provide guidance and oversight to grantees of funds for education projects, research projects and/or programs.

(G) The division shall:

(1) Provide administrative support to the committee;

(2) Develop and distribute requests for proposals as instructed by the committee;

(3) Provide tracking information on funded programs and projects, budget information and other information requested by the committee or commission;

(4) Maintain and prepare required documents pursuant to paragraph (E) of this rule.

*****DRAFT - NOT FOR FILING*****

1301:5-5-06 Referral fees paid to persons licensed in other states or countries.

- (A) A licensed real estate broker of this state may pay a commission or referral fee to a licensed real estate broker of another state or country who refers clients or prospects to the Ohio real estate broker. Except as provided in section 4735.022 of the Revised Code, the out of state or out of country broker who refers clients or prospects to an Ohio real estate broker may not perform any of the other acts of a real estate broker with regard to property located in Ohio unless they first obtain an Ohio real estate license.
- (B) A licensed real estate broker of this state may receive a commission or referral fee from a licensed real estate broker of another state or country for the referral of clients or prospects to the licensed real estate broker of another state or country.
- (C) As used within this rule, the term "refer" or "referral" means the introduction or directing of a person by one broker to another broker for real estate brokerage services.

*****DRAFT - NOT FOR FILING*****

1301:5-5-07 Licensure exemption; residential rental property.

- (A) An individual working with residential rental property who works under the supervision of a principal broker or management level licensee and whose compensation for service is primarily on a salaried or hourly basis, paid by and through the brokerage, shall be exempt from licensure if the individual only performs the following limited duties:
- (1) Maintenance;
 - (2) Clerical or administrative support;
 - (3) Collects or accepts rents and/or security deposits which are made payable to the owner or real estate brokerage;
 - (4) Exhibits or shows residential rental units to prospective tenants;
 - (5) Furnishes published information;
 - (6) Supplies applications and leases;
 - (7) Receives applications and leases for submission to the owner or brokerage for approval.
- (B) To be exempt from the licensure requirement as provided in paragraph (A) of this rule, the individual working under the supervision of the principal broker or management level licensee may not perform the following:
- (1) Negotiate contracts or lease agreements;
 - (2) Vary or deviate from the rental price and/or other terms and conditions previously established by the owner or principal broker or management level licensee when supplying information concerning the rental of property to a prospective tenant;
 - (3) Approve applications or lease agreements, or settle or arrange the terms and conditions of a lease on behalf of the owner or brokerage;
 - (4) Offer inducements to prospective tenants unless they are previously advertised or prearranged with the owner or principal broker;
 - (5) Interpret or provide their opinion concerning the terms or conditions of a lease agreement;
 - (6) Indicate to the public that the individual is in a position of authority which has the ultimate managerial responsibility of the rental property.
- (C) The principal broker or management level licensee shall supervise and regularly verify compliance with this rule.

*****DRAFT - NOT FOR FILING*****

1301:5-5-08 Handling of trust account funds.

- (A) No licensee shall accept any note, nonnegotiable instrument or anything of value not readily negotiable in a real estate transaction without the knowledge and written consent of the owner of the real estate.
- (B) Special or trust bank accounts shall be designated by the depository in which the account is located, and all deposit tickets and checks drawn on said account shall bear the words "trust account" or "special account."
- (C) A broker may maintain the broker's own funds in the special or trust account only when they are clearly identified as the broker's funds and only for the following purposes:
 - (1) If the financial institution in which the account is maintained requires a special minimum balance that must be maintained in order to keep the account open, the broker may maintain that amount in the account designated as the broker's funds.
 - (2) If the financial institution in which the account is maintained requires a service charge be paid for the account, the broker may maintain a reasonable amount to cover the service charge in the account in the broker's name.
- (D) Any real estate licensee who fails to comply with the provisions of this rule may be deemed to be in violation of division (A)(6), and/or (A)(26) of section 4735.18 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-5-09 Trust account records to be maintained.

- (A) Every brokerage shall keep a record of all trust funds received, including escrow funds, security deposits, and other monies received by the brokerage in a fiduciary capacity. This record shall include, but not be limited to, the following information :
- (1) Date funds received;
 - (2) Method of receipt including:
 - (a) Cash and associated receipt number;
 - (b) Negotiable instrument number;
 - (c) Money order number;
 - (d) Electronic funds transfer number;
 - (e) Funds transfer number;
 - (f) Automated clearing house (ACH) number;
 - (g) Credit or debit card transaction number;
 - (3) Party from whom funds are received and the purpose of the funds;
 - (4) Amount received;
 - (5) Date funds are deposited in special or trust bank account and account number;
 - (6) Date funds are disbursed;
 - (7) Method of disbursement including:
 - (a) Cash and associated receipt number;
 - (b) Negotiable instrument number;
 - (c) Money order number;
 - (d) Electronic funds transfer number;
 - (e) Funds transfer number;
 - (f) Automated clearing house (ACH) number;
 - (g) Credit or debit card transaction number;
 - (8) Amount of disbursement;
 - (9) Party, and if applicable, account to whom funds are disbursed and purpose of disbursement;
 - (10) Any other documents necessary and sufficient to verify and explain record entries and identify the current balance in the special or trust bank account.

*****DRAFT - NOT FOR FILING*****

(B) Evidence of a licensee's failure to maintain records in accordance with this rule shall constitute a violation of division (A)(24) of section 4735.18 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-5-11 Separate property management trust accounts.

- (A) All brokerages engaging in the management of property for another shall establish and maintain a separate trust account(s), to be designated as property management trust account(s), for the deposit of security deposits, rents, and money received from the owner(s) or on the owner's(s') behalf for payment of expenses related to the management of property. Before making disbursements from a property management trust account, the real estate licensee shall ensure that the account balance for that owner's(s') property(ies) is sufficient to cover the disbursements.
- (B)
- (1) A property management trust account established by a broker may earn interest. Except as provided in paragraph (B)(2) of this rule, the interest earned shall be payable on a pro rata basis to the owner(s) of the property(ies) on whose behalf monies are deposited in the property management trust account. The interest shall be paid or credited on a regular basis, but in no event later than on a quarterly basis.
 - (2) The property owner(s) and broker may agree that the interest due the owner(s) under this rule will be paid in a manner other than specified in this rule and to a party(ies) other than the owner(s). Any such agreement must be specified in writing, signed by the owner(s) and the broker or an authorized agent of the broker.
 - (3) Nothing in this rule shall be construed to require that a broker's property management trust account earn interest.
- (C) A separate ledger sheet shall be maintained for each owner of property managed by the brokerage identifying the following information :
- (1) Name and/or address of the property;
 - (2) Parties to the transaction;
 - (3) Amount, date, and purpose of deposit(s);
 - (4) Method of receipt including:
 - (a) Cash and associated receipt number;
 - (b) Negotiable instrument number;
 - (c) Money order number;
 - (d) Electronic funds transfer number;
 - (e) Funds transfer number;
 - (f) Automated clearing house (ACH) number;
 - (g) Credit or debit card transaction number.
 - (5) Party from whom deposits are received;
 - (6) Party to whom disbursements are made;

*****DRAFT - NOT FOR FILING*****

- (7) Method of disbursement including:
 - (a) Cash and associated receipt number;
 - (b) Negotiable instrument number;
 - (c) Money order number;
 - (d) Electronic funds transfer number;
 - (e) Funds transfer number;
 - (f) Automated clearing house (ACH) number;
 - (g) Credit or debit card transaction number.
- (8) Amount of disbursement, party, and if applicable, account to whom funds are disbursed and purpose of disbursement;
- (9) Running balance of funds on deposit for the particular owner of property;
- (10) Amount of interest earned on behalf of the owner(s) of the property(ies), if any.
- (D) Security deposits received by a licensee must be deposited and maintained in the property management trust account unless the lease and property management agreement provide otherwise. Security deposits maintained in the property management trust account must be clearly identified and credited to the tenant.
- (E) All brokerages who engage in property management activities shall provide an accounting to each owner of property managed on a regular basis, but in no event not less than on a quarterly basis.
- (F) Any real estate licensee who fails to comply with the provisions of this rule may be deemed to be in violation of divisions (A)(5), (A)(6), and/or (A)(27) of section 4735.18 of the Revised Code.
- (G) Division (A)(26) of section 4735.18 of the Revised Code does not apply to brokers who are engaged only in property management and who maintain a property management trust account, as required division (A)(27) of section 4735.18 of the Revised Code.
- (H) Division (A)(27) of section 4735.18 of the Revised Code does not apply to brokers:
 - (1) That do not collect any rents, security deposits, escrow funds, or other money received in a fiduciary capacity in the course of managing real property; or
 - (2) That only collect but do not retain security deposits, first or last month's rent, or other money and do not collect any other monthly rent or money and have no other duties on behalf of the owner following the execution of a lease; or
 - (3) That only maintain property management accounts in the name of the owner pursuant to rule 1301:5-5-23 of the Administrative Code.

*****DRAFT - NOT FOR FILING*****

1301:5-5-23 Property management account(s) in the name of the owner.

- (A) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management account(s) maintained in the name of that property owner. The contract with the property owner shall specify the purposes for which the brokerage may make withdrawals from the owner's account(s) and any dollar limits that exist on the amounts the brokerage may withdraw. Any modification to these specifications must be agreed to in writing.
- (B) A brokerage that withdraws funds from a property management account maintained in the name of the property owner, pursuant to a written contract with the property owner, does not violate division (A) of section 4735.18 of the Revised Code.
- (C) Brokerages engaged in the management of property on behalf of property owners through property management accounts maintained in the owner's name, must comply with paragraphs (C) and (E) of rule 1301:5-5-11 of the Administrative Code.

*****DRAFT - NOT FOR FILING*****

1301:5-5-24 Informal mediation meeting accommodations.

- (A) An informal mediation meeting, in accordance with section 4735.051 of the Revised Code, may be held for the purpose of facilitating an accommodation between the complainant and licensee. Any party who participates in the informal mediation meeting may be accompanied by legal counsel, whose role shall be limited to representing his/her client. "Mediation" is defined by division (A) in section 2710.01 of the Revised Code.
- (B) Except as provided in Chapter 2710. of the Revised Code, nothing said or done during the informal mediation meeting shall be disclosed by the mediator or division staff or be used as evidence in any subsequent hearing, investigation or other proceeding.
- (C) If an accommodation is reached at the informal mediation meeting, the mediator shall prepare an accommodation agreement. The accommodation agreement shall be signed by the persons to be bound by the agreement and the division's mediator on behalf of the superintendent.
- (D) In accordance with division (D) of section 4735.05 of the Revised Code, the accommodation agreement shall be held in confidence by the superintendent, the mediators and other personnel of the department.
- (E) If the superintendent finds the licensee has failed, without good cause shown, to comply with the terms set forth in the accommodation agreement the following shall apply:
 - (1) The accommodation agreement will be considered null and void; and
 - (2) The superintendent may proceed with the formal investigation based on the original complaint; and
 - (3) The licensee's failure to comply with the accommodation agreement shall constitute prima facie evidence of misconduct and shall constitute a violation of division (A)(6) of section 4735.18 of the Revised Code.
- (F) The complaint file shall be closed if the superintendent finds:
 - (1) The complainant has failed, without good cause shown, to comply with the terms set forth in the accommodation agreement; and
 - (2) The licensee has made a good faith effort to comply with the terms set forth in the accommodation agreement.
- (G) If an accommodation is reached at the informal mediation meeting and the terms of the accommodation agreement satisfied, the complaint file shall be closed. If an accommodation is not reached at the informal mediation meeting, an investigator shall proceed with an investigation as provided in section 4735.051 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-5-25 Reconsiderations.

- (A) The real estate commission shall only consider applications for reconsideration pursuant to section 4735.19 of the Revised Code where a complainant, respondent, or credential applicant has filed newly discovered, material evidence which with reasonable diligence could not have been discovered and produced at the commission hearing or review.
- (B) A description of the newly discovered oral evidence and/or documentary evidence shall accompany the application for reconsideration.

*****DRAFT - NOT FOR FILING*****

1301:5-5-30 Waiver of duties statement.

The appendix to this rule contains the form to be used for waiver of duties as required by division (C) of section 4735.621 of the Revised Code. All of the requirements of section 4731.621 of the Revised Code are contained in the appendix to this rule.

*****DRAFT - NOT FOR FILING*****

1301:5-6-01 Management level licensee.

- (A) A licensee will be found to be a management level licensee under division (FF) of section 4735.01 of the Revised Code if both of the following apply:
- (1) The licensee has been assigned management duties that involve oversight responsibilities for the brokerage's main office, a branch office, or a division within that brokerage by its principal broker; and,
 - (2) Those management duties include the supervision of affiliated licensees whose agency duties to their clients may conflict with those of other licensees affiliated with the brokerage.
- (B) Supervision shall include, but not be limited to, the general oversight of, or the direction of, activities conducted by other real estate licensees affiliated with the brokerage.
- (C) The assignment of supervisory duties to management level licensees does not relieve the principal brokers from the principal brokers' responsibility to actively oversee and direct the operations of the business conducted on behalf of the brokerage.

*****DRAFT - NOT FOR FILING*****

1301:5-6-02 Open houses and referrals.

- (A) A licensee who acts as a host at an open house on behalf of a listing agent will only be considered to be the agent of the seller if one of the following applies:
- (1) The licensee was appointed by the listing agent or the brokerage to represent the seller and the seller agreed in writing to that representation;
 - (2) The licensee assisted in establishing the agency relationship;
 - (3) The licensee received confidential information from the listing agent; or
 - (4) The licensee is a management level licensee as defined in division (FF) of section 4735.01 of the Revised Code, except as provided in division (C) of section 4735.70 of the Revised Code.
- (B) The licensee will not be found to have assisted in establishing an agency relationship as provided in section 4735.53 of the Revised Code as a result of referring a prospective purchaser or seller to another licensee or receiving a referral fee. However, if the licensee making the referral, participates in the real estate transaction which results from the referral and receives a referral fee, the payment of that referral fee must be disclosed to all parties to the transaction. For purposes of this rule, the terms "referral" and "referring" have the same meaning as contained in paragraph (C) of rule 1301:5-5-06 of the Administrative Code.

*****DRAFT - NOT FOR FILING*****

1301:5-6-03 Mandatory company policy.

- (A) The written company policy required under section 4735.54 of the Revised Code shall be available to all affiliated licensees and, at a minimum, address the following information and be applicable to all offices of the brokerage:
- (1) The types of agency relationships the affiliated licensees of the brokerage may establish including an explanation of each agency relationship authorized and whether any dual agency relationships are permitted;
 - (2) A current list of positions in the brokerage, if any, which are designated by the brokerage as principal brokers, and management level licensees;
 - (3) The procedure to be followed for an affiliated licensee to be appointed to represent the client of another affiliated licensee, including the procedure for giving prior notification and obtaining approval of the client for this representation;
 - (4) The type of agency relationship that shall be established and the disclosures that shall be made when licensees are handling real estate transactions involving persons with whom they have a personal, business, or familial relationship;
 - (5) The type of agency relationship that shall be established and the disclosures that shall be made when licensees are handling real estate transactions involving themselves or any affiliated licensee as a party to the transaction;
 - (6) The procedures to be followed to ensure that confidential information is not disclosed in violation of the licensee's agency duties. These procedures shall include those steps affiliated licensees are required to follow to protect confidential information from being disclosed to other licensees within the brokerage who are not bound by the agency relationship. This policy must address the following:
 - (a) Office files;
 - (b) Computerized records and messages;
 - (c) Office meetings and discussions;
 - (d) Facsimile transmissions;
 - (e) Telephone messages, inter-office messages, and any kind of conversations;
 - (f) Meetings and conversations with clients;
 - (g) Internet websites including social networking sites and blogs.
 - (7) If the brokerage practices dual agency, the procedures to be followed by a licensee in the event any of the following occurs:
 - (a) A party to a real estate transaction refuses to consent to dual agency;
 - (b) A party to a real estate transaction seeks to terminate an agency relationship as the result of an attempt to create a dual agency relationship;

*****DRAFT - NOT FOR FILING*****

- (c) There is a material change to any of the information that was previously disclosed to any party prior to obtaining full consent to the dual agency.
- (8) The procedures to be followed by a licensee who wishes to change an agency relationship, to include but not be limited to procedures for securing the written consent of the client(s) to such change; and,
- (9) The types of cooperation, and explanation thereof, which are offered other brokerages, including:
 - (a) Whether the brokerage offers subagency;
 - (b) Whether the brokerage offers compensation to subagencies and buyer's brokerages;
 - (c) Whether the brokerage accepts compensation from other brokerages; and,
 - (d) Whether the types of cooperation are offered on a consistent and equal basis to all brokerages.
- (10) If the principal broker is approved by the superintendent to serve as principal broker in more than one brokerage, the name(s) and business address(es) of the additional brokerage(s).
- (11) If the brokerage operates under more than one trade name, a list of any and all such trade names.
- (B) The principal broker is responsible for providing and documenting receipt of such policy by each employee, independent contractor and affiliated licensee.

*****DRAFT - NOT FOR FILING*****

1301:5-6-04 Agency agreements Fair housing and Blockbusting Disclosures.

- (A) Divisions (A)(2) to (A)(4) of section 4735.55 of the Revised Code shall only apply to an agency agreement in which the property identified on the agency agreement falls within the definition of housing accommodation as contained in any municipal, state, or federal fair housing laws and regulations and the disclosures required pursuant to section 4735.56 of the Revised Code.
- (B) Unless exempt under paragraph (A) of this rule, the statement regarding blockbusting shall read as follows:
- "It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes."

*****DRAFT - NOT FOR FILING*****

1301:5-6-05 Consumer guide to agency relationships.

- (A) A broker shall develop a consumer guide to agency relationships that contains the written disclosures required by division (B) of section 4735.56 of the Revised Code.
- (B) The consumer guide to agency relationships shall:
- (1) Be entitled "Consumer Guide to Agency Relationships". The title font size shall be no less than fourteen points;
 - (2) Contain the brokerage name and fair housing logo. The brokerage may also include the brokerage logo, a brokerage franchise name or insignia indicating membership in a real estate organization. The name of any salesperson, team advertising name, unlicensed person or entity shall not be included;
 - (3) Contain the disclosures required pursuant to divisions (A)(2) and (A)(3) of section 4735.55 of the Revised Code, for housing accommodation and vacant land transactions only, in a font size of no less than nine points;
 - (4) Contain a disclosure that Ohio law requires the guide to be provided to prospective sellers, lessors, purchasers, lessees and the agent is required to obtain their signature acknowledging receipt of the guide;
 - (5) Contain a disclosure of the brokerage policy on customers that are un-represented;
 - (6) Provide all required disclosures in a font size of no less than eleven points;
 - (7) Contain a description of only those forms of agency permissible pursuant to section 4735.53 of the Revised Code.
- (C) Other licensees within the same brokerage who later perform acts described in division (C) or (D) of section 4735.56 of the Revised Code are not required to make the disclosures described in section 4735.56 of the Revised Code if previously provided by another licensee within the same brokerage.
- (D) The acknowledgement required pursuant to divisions (C) and (D) of section 4735.56 of the Revised Code may be on a document separate from the "Consumer Guide to Agency Relationships". The acknowledgement shall not be contained within any contract, agreement or addendum to which the buyer or seller is a party.

*****DRAFT - NOT FOR FILING*****

1301:5-6-06 Refusal to acknowledge or sign agency disclosure forms.

- (A)
- (1) If a purchaser or seller declines to acknowledge receipt of the "Consumer Guide to Agency Relationships" required pursuant to section 4735.56 of the Revised Code or sign an agency disclosure form that is presented as required by section 4735.58 of the Revised Code, the licensee shall note the following on the bottom of the form:
 - (a) The party(ies) to whom the form was presented;
 - (b) The date and time the form was presented;
 - (c) The fact that the party(ies) declines to sign the form; and
 - (d) The reason the party(ies) declines to sign the form if known.
 - (2) If a purchaser or seller declines to acknowledge receipt of "Consumer Guide to Agency Relationships" or sign an agency disclosure statement that is presented as required by section 4735.58 of the Revised Code, notice thereof shall immediately be communicated to a management level licensee in the brokerage who supervises the licensee.
 - (3) The brokerage shall, for a period of three years from the date of the transaction, maintain a copy of the form containing the information required by paragraph (A)(1) of this rule.
- (B) No licensee shall fail to deliver or present an offer to purchase or lease because a party has declined to sign an agency disclosure statement or because an agency disclosure statement was not received.
- (C) No modification, alteration, addition, deletion, or reduction in size of the agency disclosure statement shall be permitted. This provision shall not be construed as prohibiting compliance with the requirements of the Americans with Disabilities Act.

*****DRAFT - NOT FOR FILING*****

1301:5-6-07 Agency disclosure statement.

The following appendix A contains the form to be used for the agency disclosure statement, as required by section 4735.57 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-6-08 Appointment of licensees.

- (A) When an agency relationship is formed between a licensee and client, that client may delegate to that licensee, the authority to specifically appoint other licensees within the same brokerage to represent the client's interests. This delegation must be done in writing and must be signed by the client. It must also include language notifying the client of the right to veto the appointment of any other licensee within the brokerage.
- (B) If any delegation of authority to appoint as outlined in paragraph (A) of this rule is made, the licensee must notify the client, at the time the appointment takes place, that such an appointment is being made.
- (C) When any delegation of authority to appoint as outlined in paragraph (A) of this rule creates a dual agency relationship described in section 4735.70 of the Revised Code, both the seller and the purchaser in the transaction must have full knowledge of the dual representation and consent in writing to the dual representation on the agency disclosure statement described in section 4735.57 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

1301:5-6-09 Negotiations with a purchaser or tenant.

- (A) Except as provided in section 4735.75 of the Revised Code, a licensee shall not negotiate the sale, exchange or lease of any real property directly with the purchaser or tenant if the licensee has actual knowledge that the purchaser or tenant has entered into a written agency agreement that grants exclusive agency to another real estate broker and that agreement is still in effect.
- (B) A licensee is not required to ask a purchaser or tenant whether they have entered into such a written, exclusive agency relationship with another broker; except that a licensee is required to inquire as to the nature of a purchaser or tenant's relationship with another licensee if the licensee has reasonable cause to believe the purchaser or tenant may be currently represented by another licensee.
- (C) A licensee may rely upon a definitive representation by a purchaser or tenant that they are not currently subject to a written exclusive agency agreement with another brokerage. In such case, the licensee is not required to verify the accuracy of such a representation by a purchaser or tenant. Following such a representation by a purchaser or tenant a licensee may enter direct negotiations with a purchaser or tenant.
- (D) If the purchaser or tenant does not know whether they have entered into a written exclusive agency agreement with another licensee, a licensee is not permitted to negotiate with that purchaser or tenant until the purchaser, tenant, or the licensee is able to verify that the purchaser or tenant has not entered into such a written exclusive agreement with another licensee.

*****DRAFT - NOT FOR FILING*****

1301:5-6-10 Residential property disclosure form.

In accordance with division (D) of section 5302.30 of the Revised Code, the attached residential property disclosure form is prescribed by the director of commerce to permit transferors of residential real estate to disclose material matters relating to the physical condition of the property to be transferred, including, but not limited to, the source of water supply to the property; the nature of the sewer system serving the property; the availability of information relating to the sewage treatment system; the condition of the structure of the property, including the roof, foundation, walls, and floors; the presence of hazardous materials or substances, including lead-based paint, asbestos, urea-formaldehyde foam insulation, and radon gas; and any material defects in the property that are within the actual knowledge of the transferor.

*****DRAFT - NOT FOR FILING*****

1301:5-7-02 Continuing education requirements.

- (A) All real estate licensees, except as provided in paragraph (D) of this rule, are required to certify completion of thirty hours of continuing education courses every three years. If a licensee is licensed as a broker, broker on deposit, or acts as a management level licensee, a three hour course on the duties of a principal broker and other issues involved in operating a real estate brokerage must be included within the required thirty hours of continuing education courses.

The superintendent may have an audit conducted of any licensee to determine whether the licensee is in compliance with this rule. All licensees must maintain proof of compliance for six years and shall make such records available for audit.

- (B) Licensees must certify completing the thirty hours of continuing education on or before the licensee's date of birth three years after the licensee's date of initial licensure and every three years thereafter.
- (C) Where a licensee fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the license was inactive due to military service, the licensee must submit proof of completing the thirty hours of continuing education, on or before the date required by section 4735.13 of the Revised Code. The continuing education submitted shall satisfy the continuing education requirements for the first renewal filed following the date of honorable discharge or separation under honorable conditions from the armed forces.
- (D) Each licensee, who is seventy years of age or older shall submit proof of completing the hours of continuing education listed in paragraph (E) of this rule on or before the licensee's date of birth and every three years thereafter. Each licensee with an inactive license, or broker license on deposit, who is seventy years of age or older, is exempt from the continuing education requirements specified in paragraph (E) of this rule.

Regardless of age, if a licensee is licensed as a broker, broker on deposit, or acts as a management level licensee, the licensee shall submit proof of completing a three hour course on the duties of a principal broker and other issues involved in operating a real estate brokerage on or before the licensee's date of birth and every three years thereafter.

- (E) For every three-year reporting period, licensees shall complete pursuant to the statutory continuing education requirement in division (A) of section 4735.141 of the Revised Code:
- (1) Three classroom hours minimum in a course devoted exclusively to instruction in current municipal, state and federal civil rights laws; civil rights case law; desegregation issues; methods for eliminating the effects of prior discrimination; and strategies for affirmatively furthering fair housing.
 - (2) Three classroom hours minimum in a course on current state and federal legislation affecting the real estate industry, which may include, but not be limited to, relevant state real estate licensing laws and regulations, court decisions and related reports. Certified attendance of an entire monthly meeting of the Ohio real estate commission may satisfy this requirement.
 - (3) Three classroom hours minimum in a course on the canons of ethics for the real estate industry as adopted by the Ohio real estate commission and section 4735.18 of the Revised Code.
- (F) The licensee shall submit to the superintendent of real estate and professional licensing proof of completion on a form prescribed by the superintendent.
- (G) For the purposes of this rule, the term hour of continuing education shall consist of sixty minutes.

*****DRAFT - NOT FOR FILING*****

- (H) A maximum of ten continuing education hours, obtained in excess of the required thirty credits for a three year reporting period, may be transferred to help meet the requirements of the subsequent reporting period. No licensee shall receive credit for more than eight classroom hours of continuing education instruction taken in any one calendar day.
- (I) Except as provided in this paragraph, courses completed prior to being certified by the division of real estate and professional licensing do not qualify for continuing education credit. Licensees may receive credit for a course that has not been previously certified by the commission, only when:
- (1) The course is not required pursuant to paragraph (E) of this rule;
 - (2) The course is taken outside the state of Ohio;
 - (3) The course meets the requirements as set forth in rule 1301:5-7-03 of the Administrative Code.
 - (4) The licensee submits the course for credit within the same continuing education reporting period of which the course was taken;
 - (5) For each course, the licensee submits an out-of-state education compliance form, the course syllabus, course attendance certificate and a one hundred dollar course approval application fee.

*****DRAFT - NOT FOR FILING*****

1301:5-7-04 Continuing education course completion and certificates.

- (A) No provider shall certify to the attendance of a licensee who was not present during at least ninety per cent of the course.
- (B) The provider shall issue a certificate to a licensee who successfully completed the course. The certificate shall include the following information:
 - (1) The correct course certification number as issued by the division of real estate and professional licensing;
 - (2) Licensee's full name;
 - (3) Licensee's formatted credential number;
 - (4) Date of course attendance;
 - (5) Course hours completed;
 - (6) Course title;
 - (7) Instructor's full name;
 - (8) Provider's name and address; and
 - (9) Provider's attendance verifier's name and signature.
- (C) If the provider issues a course certification with the incorrect information required in paragraph (B) of this rule, the provider shall issue a corrected certificate to each licensee in attendance within thirty days.
- (D) A provider shall maintain for six years a record of attendance of each licensee attending an offering disclosing the following information:
 - (1) The course certification number as issued by the division;
 - (2) Name and address of licensees;
 - (3) Offering, title and description;
 - (4) Classroom hours of attendance;
 - (5) Date of offering; and
 - (6) Name, address, and signature of verifier in employ of entity course provider.
- (E) Each provider shall submit to the division, in a format prescribed by the division, within ten days after completion of each offering, a list of licensees who successfully completed the course. The list shall include the correct course certification number; number of approved hours; date and location the course was held; name of licensee, and correctly formatted file number.

*****DRAFT - NOT FOR FILING*****

1301:5-7-05 Continuing education course denials.

- (A) The superintendent may deny the initial application or renewal for any continuing education course if the superintendent finds that the course does not meet the requirements of Chapter 4735. of the Revised Code or of rules 1301:5-7-02 to 1301:5-7-04 of the Administrative Code.
- (B) If the superintendent determines an initial offering or an offering previously approved does not or no longer meets prescribed standards set forth in Chapter 4735. of the Revised Code or this rule, a written notice of withdrawal of approval will be given stating the reasons therefore. Such withdrawal of approval will be effective ten days from the date of the notice of withdrawal.
- (C) Any applicant who wishes to appeal a denial of approval by the superintendent shall file a written request for hearing. Such request must be received by the division no later than thirty days after the date of the written notice of denial or withdrawal of approval. If a request for hearing is timely filed, a hearing before the Ohio real estate commission shall be scheduled.

*****DRAFT - NOT FOR FILING*****

1301:5-7-06 Continuing education course fees and penalties.

- (A) A course provider proposing to offer continuing education credit to license renewal applicants shall remit to the division of real estate and professional licensing annual fees in accordance with the following schedule:
- (1) For each application for initial approval of a continuing education course: fifty dollars;
 - (2) For each offering of an approved course after the initial course: ten dollars;
 - (3) For each continuing education course renewal: twenty dollars;
 - (4) For amendment of an approved course offering: ten dollars.
- (B) The superintendent of the division may waive the requirements of the forty-five day notification on an original application for course approval or the fifteen day notification for additional offerings of an already approved course as set forth in paragraphs (B) and (G) of rule 1301:5-7-03 of the Administrative Code, if the superintendent determines that the offering meets the prescribed standards set forth in rule 1301:5-7-03 of the Administrative Code. The offering provider must submit the list of licensees required under paragraph (E) of rule 1301:5-7-04 of the Administrative Code, and pay penalties in accordance with the following schedule in order to request the superintendent's waiver:
- (1) New continuing education course offering submitted less than forty-five days prior to the offering date, but not less than fifteen days prior to the offering: two dollars per credit hour per attendee;
 - (2) Additional offering of a course approved for that calendar year submitted less than fifteen days prior to the offering date: two dollars per credit hour per attendee;
 - (3) Change of location, time, instructor, or change of course content of a course approved for that calendar year, submitted less than three days prior to the offering date: two dollars per credit hour per attendee.

*****DRAFT - NOT FOR FILING*****

1301:5-7-07 Continuing education instructors.

- (A) Persons seeking approval to be an instructor of a continuing education course shall submit to the division of real estate and professional licensing on the appropriate form prescribed by the division certifying that they meet at least one of the following qualifications:
- (1) Possession of a bachelor's degree in a related field to that in which the person is to teach, from a school listed as an institution of higher learning by the United States department of education, or from a comparable school of a foreign country;
 - (2) Possession of a valid teaching credential or certificate from Ohio or another state authorizing the holder to teach in the field of instruction in which the person is to teach;
 - (3) Five years full-time experience in a profession, trade, or technical occupation in the applicable field;
 - (4) Any combination of at least five years of full-time experience relevant to the applicable field and college level education.
- (B) The superintendent has the right to request evidence supporting the applicant's statement that the applicant meets one of the qualifications listed in paragraph (A) of this rule.
- (C) Only one application per calendar year is required for persons seeking approval to be an instructor of a continuing education course. The instructor must reapply each calendar year by submitting a new application seeking approval to be an instructor of a continuing education course.
- (D) If the superintendent determines an instructor, seminar or conference leader or lecturer has been disciplined by the Ohio real estate commission for a violation of Chapter 4735. of the Revised Code or the rules adopted there under, been disciplined by the Ohio appraiser board for a violation of Chapter 4763. of the Revised Code or the rules adopted there under, has been convicted of a felony or crime of moral turpitude, or has not established to the satisfaction of the superintendent that the person is honest, truthful, and of good reputation, the superintendent may deny or withdraw the approval to be an instructor, seminar or conference leader or lecturer.
- (1) A written notice of denial or withdrawal of approval will be given stating the reasons therefore. Such denial or withdrawal of approval will be effective ten days from the date of the notice.
 - (2) The instructor, seminar or conference leader or lecturer who wishes to appeal their denial or withdrawal of approval by the superintendent shall file a written request for hearing. Such request must be received by the division no later than thirty days after the date of the written notice of denial or withdrawal of approval. If a request for hearing is timely filed, a hearing before the Ohio real estate commission shall be scheduled.

*****DRAFT - NOT FOR FILING*****

1301:5-7-08 Distance education.

- (A) For purposes of this rule, the term "distance education" refers to educational programs in which instruction is accomplished through the use of interactive, electronic media and where the teacher and student are not physically in the same location at the time the course is being taught.
- (B) An entity shall apply to the division of real estate and professional licensing for distance education course approval in a form prescribed by the superintendent of real estate and include a nonrefundable processing fee of two hundred dollars. The application form and processing fee must be submitted to the division at least forty-five days prior to the proposed initial date of the offering. Distance education courses completed by a licensee prior to being approved will not qualify for continuing education credit.
- (C) For the purposes of this rule, the term "hours of classroom education" shall mean the amount of time necessary to complete the course, without interruption.
- (D) In addition to the information required on the application form prescribed by the superintendent, an application for approval for a distance education course shall include the following and any other documentation or information requested by the superintendent:
 - (1) A complete copy of the course on the medium that is to be utilized and, if requested by the superintendent, the sponsor must make available at the sponsor's expense all software necessary for the superintendent to review the submitted course;
 - (2) Any other relevant information useful in determining that the entity proposes an offering which will contribute to desired current knowledge for the purpose of protecting the consumer and improving service by real estate licensees;
 - (3) A summary of course design, including methods used to ensure active student participation, a detailed course outline of topics covered, a time sequence for the hours requested, estimation of length of time it should take a student to complete the course;
- (E) The superintendent may approve a course in distance education for continuing education credit, based upon a satisfactory review of the following criteria:
 - (1) The application and materials submitted pursuant to paragraph (D) of this rule;
 - (2) The course is designed to ensure that students actively participate in the instructional process while completing the course by utilizing techniques that require substantial student interaction with the instructor, other students or a computer program. The course design must not permit students to merely sit passively and observe instruction or read instructional materials;
 - (3) The provider provides the students with an orientation or information package which contains all necessary information about the course, including but not limited to, information about the course subject matter and learning objective, procedures and requirements for satisfactory course completion, special requirements with regard to computer hardware and software or other equipment and the availability of instructor or technical support;
 - (4) The provider provides appropriate instructor and technical support to enable students to satisfactorily complete the course;
 - (5) The provider utilizes procedures that provide reasonable assurance of student identity and that the student

*****DRAFT - NOT FOR FILING*****

receiving the continuing education credit for completing the course actually performed all of the work required to complete the course.

- (F) The superintendent may approve distance education course offerings in only the subject areas specified in paragraph (H) of rule 1301:5-7-03 of the Administrative Code.
- (G) Upon notice from the division that an application for initial distance education course approval or additional course offering is incomplete or incorrect as filed, the applicant shall within thirty days of the date of the division's notice of deficiency submit to the division a corrected application or the additional information requested. Failure to timely submit such corrected application or additional information shall constitute just cause for the application to be withdrawn and the superintendent to impose a forfeiture of the application fee.
- (H) Every ten days, each provider shall submit to the division, in a format and submission method prescribed by the division, a list of licensees who successfully completed the course.

The list shall include the correct course certification number; number of approved hours; date the course was held; name of licensee; and correctly formatted license number.
- (I) The provider shall issue a certificate to a licensee who successfully completed the course. The provider shall comply with the requirements set forth in paragraphs (B) and (C) of rule 1301:5-7-04 of the Administrative Code.
- (J) The superintendent may deny an application for course approval for a distance education course that does not include institutional controls on the pace of instruction that are satisfactory to the superintendent.
- (K) Initial distance education course approval shall be valid for the calendar year in which the course was approved. Renewal for a distance education course approval shall be filed with the division no later than December thirty-first of the calendar year of initial approval and every year thereafter on forms prescribed by the division along with a nonrefundable fee processing fee of sixty dollars. Any renewal for a course approval filed after January thirty-first shall be considered a new course and require approval through the submission of a course application along with the nonrefundable fee in accordance with paragraph (B) of this rule.

*****DRAFT - NOT FOR FILING*****

1301:5-7-09 Post-licensing education.

- (A) Post-licensing education courses for brokers and salespeople shall be completed in seminars, schools, and educational institutions which are not limited to institutions providing two-year or four-year degrees but may include qualifying public or private schools, firms, associations, organizations, individuals, corporations, or similar arrangements.
- (B) Providers of the post-licensing education for brokers shall use the curriculum approved by the Ohio real estate commission. Providers of the post-licensing education for salespersons shall, at a minimum, use the course learning objectives approved by the Ohio real estate commission.
- (C) An applicant for provider approval shall apply to the division of real estate and professional licensing for approval on the appropriate form prescribed by the division. The initial application form must be submitted to the division at least ninety days prior to the proposed initial date of the offering.
- (D) The commission will act on all applications to provide post-licensing education for brokers. The superintendent will act on all applications to provide post-licensing education for salespersons. When acting on an application for approval of a post-education provider consideration will be given, but not be limited to, the following criteria:
 - (1) Information included on the application form:
 - (a) Name, address and telephone number of provider;
 - (b) Name and contact information for person(s) authorized to act on behalf of provider;
 - (c) Policy regarding attendance and procedure for recordkeeping of attendance;
 - (d) A summary including but not limited to:
 - (i) Brief description of the provider and its educational standard;
 - (ii) Form of attendance certificate;
 - (iii) Method of record maintenance;
 - (iv) Sample of proposed advertising, if any;
 - (v) Attendance or participation fees;
 - (vi) Location of offering;
 - (e) Such other information as the Ohio real estate commission or superintendent may request;
 - (2) Personal data indicating names of teachers and instructors and evidence that they meet at least one of the following qualifications:
 - (a) Possession of a bachelor's degree in a field related to that in which the person is to teach, from a school listed as an institution of higher learning by the United States department of education, or from a comparable school of a foreign country;
 - (b) Possession of a valid teaching credential or certificate from Ohio or another state authorizing the holder to teach in the field of instruction in which the person is to teach;

*****DRAFT - NOT FOR FILING*****

- (c) Five years full-time experience in a profession, trade, or technical occupation in the applicable field;
or
 - (d) Any combination of at least five years of full-time experience relevant to the applicable field and college level education.
- (E) No provider shall certify to the attendance of a licensee who was not physically present during at least ninety per cent of the course.
- (F) The provider shall issue a certificate to a licensee who successfully completed the course. The certificate shall include the following information:
 - (1) Licensee's full name;
 - (2) Licensee's formatted credential number;
 - (3) Date of course attendance;
 - (4) Course hours completed;
 - (5) Course title;
 - (6) Instructor's full name;
 - (7) Provider's name and address;
 - (8) Provider's attendance verifier's name and signature.
- (G) If the provider issues a course certification with the incorrect information required in paragraph (F) of this rule, the provider shall issue a corrected certificate to each licensee within thirty days.
- (H) A provider shall maintain for three years a record of attendance of each licensee attending an offering disclosing the following information:
 - (1) Name and address of licensees;
 - (2) Hours of attendance;
 - (3) Date of offering; and
 - (4) Name, address, and signature of verifier in employ of the provider.
- (I) The division shall keep a current list of approved post education providers, which shall be available to licensees and the public.