

NOTICE OF PUBLIC HEARING

On July 26, 2012, the Ohio Department of Commerce, Division of Real Estate and Professional Licensing will hold a public hearing on proposed changes to Chapter 1301:5-1 to 1301:5-7 of the Ohio Administrative Code. The hearing will be held at 9:00 a.m. at 77 South High Street, 20th Floor, Columbus, Ohio 43215.

PROPOSED RULE CHANGES

1301:5-1-02 Amendment

Advertising – The Division staff recommends that this rule be amended.

Clarifies proper name identification in advertisements; what constitutes advertising, including social networking sites and blogs; and how to comply with advertising requirements in medium with limited information or characters.

1301:5-1-03 Amendment

Regarding licenses – The Division staff recommends that this rule be amended.

Clarifies that at least one individual broker affiliated with a licensed corporation, LLC or association must be a member or officer of such. This creates consistency within the rule.

1301:5-1-04 Amendment

Applications – The Division staff recommends that this rule be amended.

Proposed language specifies how a broker sponsoring a sales applicant may withdraw sponsorship.

1301:5-1-05 Amendment

Examinations – The Division staff recommends that this rule be amended.

Proposed language requires the applicant to bring a second form of identification to the testing location to verify his or her identity to the testing vendor.

1301:5-1-06 Amendment

Broker return of licenses, notification of salesperson termination – The Division staff recommends that this rule be amended.

The old rule provided that a broker would only return a salesperson's license upon request of the superintendent. This has been removed to reduce redundancy.

1301:5-1-12 Amendment

Open public meetings - The Division staff recommends that this rule be amended.

Clean-up of the rule including updating the Division's email address.

1301:5-1-17 Rescind/New

Stenographic record - The Division staff recommends that this rule be rescinded and a new rule is recommended.

The existing rule did not account for parties to an adjudication hearing requesting a stenographic service in addition to the Division's stenographic record. The proposed rule clearly states the responsibilities of the parties when a stenographic service is requested.

1301:5-1-18 Amendment

Disciplinary sanctions – The Division staff recommends that this rule be amended.

Proposed language allows the superintendent more discretion in granting extensions to pay fines. In

addition, the rule clarifies the result of failing to reactivate 1 year after suspension and creates consistency with O.A.C.1301:5-1-19.

1301:5-1-19 Amendment

License reactivation – The Division staff recommends that this rule be amended.

This rule has added a section for clarification on reactivating a license after returning from military duty and added another section on reactivating a license from a suspension under R.C. 4735.13(C). This is a result of statute changes in R.C. 4735.13(C).

1301:5-1-21 Amendment

Team advertising – The Division staff recommends that this rule be amended.

Clean-up of the rule to reduce redundancy and new language defines the term “team.”

1301:5-1-22 Amendment

Three year renewal – The Division staff recommends that this rule be amended.

The three year license renewal has been in place since 2006. All licensees are on the three year renewal cycle therefore outdated language has been stricken and new language added.

1301:5-3-02 Amendment

Recommendation and appointment of ancillary trustees – The Division staff recommends that this rule be amended.

Proposed language provides that ancillary trustees will provide a report to the superintendent at the conclusion of closing the business. This will improve tracking of trustees for the Division’s records and confirm with the Division that the business has been properly shutdown according to license law.

1301:5-3-04 Amendment

Equivalent experience for broker licensing – The Division staff recommends that this rule be amended.

Language has been added clarifying when and how an applicant to the broker’s examination can request to use equivalent experience when not meeting the 20 transactions requirement of R.C. 4735.07(B)(5)(a).

1301:5-3-07 Amendment

Educational loans to individuals – The Division staff recommends that this rule be amended.

The proposed changes provide for a more streamlined procedure for repayment of the educational loan and permits outstanding loans to be referred to the Ohio Attorney General for collection proceedings. In addition language has been changed in (H)(5) due to a statute change.

1301:5-3-09 Amendment

Reciprocity agreements – The Division staff recommends that this rule be amended.

Proposed language specifies that sales applicants applying for reciprocity must be non-residents. This adds consistency within the rule.

1301:5-3-13 Amendment

Reservation of name – The Division staff recommends that this rule be amended.

The old rule only allowed one 60 day extension for the reservation of a business name. Proposed language removes that restriction and allows the superintendent to grant an extension of time as deemed appropriate.

1301:5-3-14 Amendment

Settlement agreements – The Division staff recommends that this rule be amended.

Proposed language clarifies the purpose of the formal hearing of a settlement agreement by the commission and clarifies that if a settlement agreement is rejected by the commission that an ORC 119 hearing will be rescheduled.

1301:5-3-15 Amendment

Educational instruction – The Division staff recommends that this rule be amended.

A licensee is required by R.C. 4735.07 and R.C. 4735.09 to complete 10 hours of education within a year of initial licensure. This rule provides the allowable number of hours of instruction that may be completed in one day.

1301:5-3-16 Amendment

Education and research fund advisory committee – The Division staff recommends that this rule be amended.

Provides for some clean-up of the rule. Proposed language also changes the minimum quarterly meetings to a minimum of an annual meeting. This is based upon previous committee needs.

1301:5-5-01 Amendment

Statement to be displayed in broker's office and included in information pamphlets – The Division staff recommends that this rule be amended.

There are minor proposed changes for clarification.

1301:5-5-06 Amendment

Referral fees paid to persons licensed in other states - The Division staff recommends that this rule be amended.

Minor clean-up to mirror the recent update to R.C. 4735.

1301:5-5-07 Amendment

Licensure exemption; residential rental property – The Division staff recommends that this rule be amended.

Provides clarification of how individuals must be paid by the broker under this exemption.

1301:5-5-11 Amendment

Separate property management trust accounts – The Division staff recommends that this rule be amended.

Proposed language provides exceptions to the requirement of maintaining property management trust accounts. Exceptions are where a broker does not collect any money in a fiduciary capacity while managing real property or where a broker only maintains property management accounts in the name of the property owner.

1301:5-5-24 Amendment

Informal mediation meeting accommodations – The Division staff recommends that this rule be amended.

Proposed language adds the definition of mediation and provides clarification on when a complaint file shall be closed after successful mediation.

1301:5-5-25 NEW

Reconsiderations – This is a new rule drafted to clarify the process and procedure by which a person may request reconsideration of a commission order under R.C. 4735.19.

1301:5-6-03 Amendment

Mandatory company policy – **The Division staff recommends that this rule be amended.**

Proposed language adds an additional requirement that all brokerages create procedures to protect consumers' confidential information on websites.

1301:5-6-08 Amendment

Appointment of licensees – **The Division staff recommends that this rule be amended.**

Proposed language adds that if an appointment of a licensee creates a dual agency that the seller and buyer must have knowledge and give written consent. This is consistent with requirements in R.C. 4735.57.

1301:5-6-10 Amendment

Residential property disclosure form – **The Division staff recommends that this form be amended.**

Proposed changes in the form include disclaimers about abandoned mines and mineral rights. The form has also been revised to permit ease of use and understanding.

1301:5-7-02 Amendment

Continuing education requirements – **The Division staff recommends that this rule be amended.**

Proposed language provides that the superintendent may conduct an audit to determine if licensees are in compliance with the rule and clarifies the procedure for completing continuing education when a licensee reactivates out of inactive status due to military service. The restriction on receiving no more than 15 hours of continuing education for subject matters concerning computer hardware or software as applied to the practice of real estate has been removed.

1301:5-7-03 Amendment

Criteria for course approvals – **The Division staff recommends that this rule be amended.**

Proposed language allows for the granting of instruction credit where refreshments are served but instruction continues. Proposed language also clarifies that instructors, seminar or conference leaders or lecturers are ineligible to serve as such if they have been convicted of a felony or crime of moral turpitude or have not established that they are honest, truthful and of good reputation. It also provides that a denial to be an instructor may be appealed to the commission. Allows class rosters of additional class offerings to be submitted within 10 days of the class offering instead of 20 days and adds a category to the acceptable topics of continuing education.

1301:5-7-04 Amendment

Distance education – **The Division staff recommends that this rule be amended.**

Proposed language removes the restriction that distance education consist of no more than six hours of uninterrupted instruction. This adds consistency with rules for other education. Proposed language adds to the list of acceptable topics for distance education.

The proposed rules are available by contacting the Ohio Department of Commerce, Division of Real Estate and Professional Licensing, 77 S. High Street, 20th Fl., Columbus, OH 43215 by calling (614) 466-5384. The proposed rules are also available at the following website: www.registerofohio.state.oh.us.

At the public hearing, any person affected by the proposed actions may appear and be heard in person, by the person's attorney, or both, may present the person's position, arguments, or contentions, orally or in writing, offer and examine witnesses, and present evidence tending to show that the proposed rule or amendments, if adopted or effectuated, will be unreasonable or unlawful.

Any person who wishes to present his or her position, arguments or contentions in writing may do so by mailing his or her written comments to the Ohio Department of Commerce, Division of Real Estate and Professional Licensing, 77 S. High Street 20th Fl., Columbus, OH 43215. Written comments may also be submitted at the hearing. All written comments must be submitted to the Department no later than 5:00 pm. on July 25, 2012. Written comments submitted after this date may be considered as time and circumstances permit.

The Ohio Department of Commerce is an equal opportunity service provider.