

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF BUSINESS REGULATION (INCLUDES THE OFFICE OF THE
HEALTH INSURANCE COMMISSIONER)**

Title of Rule: Real Estate Brokers and Salespersons

Rule Identifier: 230-RICR-30-20-2

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 11/23/2021

Hearing Date: 12/16/2021

End of Public Comment: 12/23/2021

Authority for this Rulemaking:

R.I. Gen. Laws § 5-20.5-6, 5-20.5-12, 5-20.5-19, 5-20.5-20, 5-20.5-26(a)(1)(v).

Summary of Rulemaking Action:

There were two separate reasons for amending this regulation.

First, legislation passed in July 2021 (2021 PL Chapter 322 § 1 and Chapter 211 § 1) that changed the requirements for Real Estate licensees by adding a requirement that the real estate exam contain content on fair housing and that each licensee must complete 3 hours of instruction in Fair Housing as part of their continuing education. The statutory changes also exempted RI licensed attorneys who are also real estate licensees from having to complete real estate continuing education courses as a condition of license renewal.

Second, the RI Association of Realtors (RIAR) created a Teams Task Force in response to DBR's 2019 bulletin on Teams of licensees within real estate brokerages. In April/May 2021, RIAR presented its Task Force recommendations to DBR for amendments to the Real Estate regulation. After consideration of these recommendations, DBR prepared these amendments and to clarify how teams must operate under the supervision of the principal broker, like all other real estate licensees. Teams can be very confusing to consumers and the regulation of Teams is an important component in consumer protection.

In addition, we have modernized and improved the organization of the advertising section which needed to be updated to recognize the variety of digital media now used by licensees.

Here is a summary of the substantive amendments proposed:

§ 2.2 Definitions

- o § 2.2(A)(2) – Added a definition for "Brokerage," which is a term that has been used in the regulation but needed a definition for consistency.
- o § 2.2(A)(12) – Added a new definition for "social media" as it relates to the modernized advertising provisions in § 2.25.
- o § 2.3(A)(13) – Added a new definition for "teams."

§ 2.4 Principal Brokers and Brokerages

- o § 2.4(E)(8) – Added requirements for Principal Broker to supervise all teams and teams' activities within their brokerage, including approving team agreements, names and logos and monitoring team advertising.

§ 2.18 Client Funds

- o § 2.18(B) – Added Teams to the existing prohibition against salespersons holding client funds.
- o § 2.18(B)(2) – Clarified that Teams shall not maintain a separate escrow account from principal broker.

§ 2.21 Commissions

- o § 2.21(D)(1) – Added a new paragraph to clarify that a Team leader may form a single member/manager LLC for the purpose of collecting funds from team members to pay common joint expenses.
- o § 2.21(F) – Clarified that commissions shall be paid by the Principal Broker directly to each licensee and not to the Team as a whole.

§ 2.25 Advertising

- o Updated and modernized advertising requirements recognizing the ever-expanding opportunities withing digital and social media.
- o Organized into sections with general provisions, print advertising, internet advertising, audio/video.
- o Added provisions applying to Teams.
- o Simplified Logo requirements
- o Organized existing miscellaneous requirements under one new heading.

§ 2.29 Real Estate Schools and Instructors

- o § 2.29(E)(8) – Added as grounds for taking an action against a school permit any discrimination against any protected class under the Civil Rights of People with Disabilities Act in RI. This was suggested by the Governor's Commission on Disabilities.
- o § 2.29(G)(6)(f) – given new statutory requirement for fair housing courses, added a requirement that that Real Estate Schools licensed by the Department identify which category each course fits into when apply for approval.
- o § 2.29(G)(8) – added requirement that Real Estate Schools indicate on completion certificates whether the course qualifies for CORE or CORE-Fair Housing Requirements. This will help both licensees and department staff determine if the licensee is in compliance with CE requirements upon renewal.

§ 2.30 Continuing Education

- o Updated section consistent with 2021 legislation:
<http://webserver.rilin.state.ri.us/PublicLaws/law21/law21211.htm>
- o § 2.30(A)(1) and (2) – Rewrote for clarity.
- o § 2.30(C) (prior numbering) – deleted Attorney continuing education requirements
- o § 2.30(B) (new numbering) – increased the CORE course requirements by three to include a minimum of 3 credits in CORE-Fair Housing and a minimum of 6 credits in any CORE subject area listed in 2.30(B)(1), including fair housing. Clarified that the remaining 15 CE hours may be completed with any department-approved course.
- o § 2.30(D) (new numbering) – Consolidated exemptions in one place – Pre-12/12/1984 and Attorneys.

§ 2.31 Mandatory Relationship Disclosures (new numbering)

- o Added new section to refer to Chapter 5-20.6 and clarity that Teams must comply with those laws.

§ 2.31 Subsequent Statutory Changes (old numbering)

- o Deleted this section because it is unnecessary. All statutory changes supersede the regulation.

A Public Hearing will be held remotely on Zoom on Thursday, December 16, 2021 at 10am. The hearing may be accessed here: <https://us02web.zoom.us/j/88490605207> or join the Webinar by Phone - 833 548 0282 (Toll Free) or 877 853 5247 (Toll Free) or 888 788 0099 (Toll Free).

Webinar ID: 884 9060 5207

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until December 23, 2021 by contacting the appropriate party at the address listed below:

Diane L. Paravisini
Department of Business Regulation (includes the Office of the Health Insurance Commissioner)
1511 Pontiac Avenue, Bldg. 68-1
Cranston, RI 02920
Diane.Paravisini@dbri.gov

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on December 16, 2021 at 10:00 am at <https://us02web.zoom.us/j/88490605207> , 833 548 0282 (Toll Free) or 877 853 5247 (Toll Free) , Webinar ID: 884 9060 5207, Cranston, RI 02920 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-462-9551 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

The changes related to continuing education are a direct result of 2021 statutory changes and not at the discretion of DBR. The regulation was updated to be consistent with current practices and the statutory changes. These statutory changes will benefit the public because real estate licensees will be required to take continuing education in fair housing for at least 3 hours every 2 years to renew their license.

Benefits

The regulation of Teams benefits the public by adding transparency to the complex web of real estate licensees that they may interact with during a real estate transaction. These licensees have access to client confidential information, and it is important for the client to understand each licensee's relationship to them pursuant to RI Gen Laws Chapter 5-20.6. These amendments also emphasize that the principal broker of each brokerage is responsible for all the teams in that brokerage. That is the status quo because the principal broker has always been responsible for all licensees in the firm, but it is now explicitly stated that the principal broker is responsible for supervision of the teams. Without this regulation, the Team leader may appear to the public to be the principal broker.

These amendments clarify how the existing statutory and regulatory framework applies to teams of licensees. It gives principal brokers some laws to point to when supervising teams to make it clear what is required. This clarity will aid the principal brokers in their enforcement and supervision of the licensees that they supervise.

The modernized and improved advertising provisions are clearer and now apply to the diverse types of print and digital media used by real estate licensees to advertise real property.

Costs

Some Teams may need to change their name if they do not comply with the regulation. This could result in new signs and changes to other print and digital media. However, these amendments are consistent with DBR's 2019 bulletin on Teams. None of these rules should be a surprise. Teams have had more than 2 years to voluntarily come into compliance with the bulletin that we are now codifying.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation see agency contact person above.