

RHODE ISLAND DEPARTMENT OF BUSINESS REGULATION

Regulatory Analysis for Amendments to Real Estate Brokers and Salespersons 230-RICR-30-20-2

November 16, 2021

Reason for Regulatory Action

This regulatory action was taken to:

1. Conform to 2021 legislative changes requiring fair housing topics to be included on real estate licensing exams and that a minimum of 3 hours of instruction in fair housing be completed as part of 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.
2. Incorporate provisions related to how teams of licensees must operate under the supervision of the principal broker and in compliance with the existing statutory rules for all real estate licensees set forth in R.I. Gen. Laws Chapters 5-20.5 and 5-20.6. The Department first addressed the regulation of Teams in a 2019 bulletin.¹ The bulletin was widely distributed by the Department and the Rhode Island Association of Realtors (RIAR). These specific Teams related amendments were prompted by a request from RIAR.

The below regulatory analysis was prepared pursuant to the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.9.

Regulatory Development

While drafting the amendments to Real Estate Brokers and Salespersons, the Department considered a range of alternative options, parallels to other Rhode Island regulations and policies, Departmental experience in implementation, and industry current and best practices.

Regulatory Analysis

Summary of Amendments Resulting in No Costs to Real Estate Licensees/Brokerages

- The proposed amendments to § 2.2 add definitions for clarity within the regulation.
- The proposed amendments to §§ 2.4, 2.18, and 2.21 clarify that Teams of licensees are no different than other licensees under the supervision of the principal broker.
- The proposed amendments to § 2.25 as related to general advertising provisions, although reorganized and modernized, have minimal changes. Licensees have always been required to display the name of the brokerage so that it is larger than the name of the licensee, except on business cards. This requirement remains but is restated as it applies to different types of advertising media: print, audio/video recordings, social media and websites. The proposed amendments clarify that the advertising provisions apply to all licensees whether working individually or in a team.

¹ Department's Real Estate Teams FAQs, first issued as a bulletin in 2019.
<https://dbr.ri.gov/divisions/commlicensing/realestate/faq.php>

- The proposed amendment to § 2.29(E) is at the request of the Governor’s Commission on Disabilities and serves to put real estate schools on notice that they are subject to the Civil Rights of People with Disabilities Act in RI.
- The proposed amendments to § 2.30 and § 2.29(G) for Continuing Education implement changes imposed by 2021 statutory amendments that take effect on January 1, 2021.²
- The proposed amendments in new § 2.31 merely clarify that licensees must comply with R.I. Gen. Laws Chapter 5-20.6, existing law.

Summary of Amendments that May Result in Costs to Some Real Estate Licensees/Brokerages

- The proposed amendments in § 2.25(C)(1)(d) & (e) that establish new requirements for team names may result in some teams having to change their team names and then update all advertising to comply with the new advertising requirements. Team names must include the word “team” or “group” and cannot use a list of words that could cause a consumer to believe that the team was a brokerage. Non-compliant teams will have to update their advertising materials, which could include signs, commercials, business cards, promotional materials, social media and websites. While most web content can be easily updated, there will be costs associated with new print materials and updated audio/visual advertising.

Costs: Teams may incur some expenses if their Team name does not comply with the proposed requirements in § 2.30(C)(1)(d) & (e). It is difficult to estimate the number of teams that would be impacted by these amendments because the Department does not collect any data on teams within real estate brokerages. The limited data available on teams is from the RIAR’s State-Wide Multiple Listing Service (MLS) because some teams choose to register within the MLS system to get credit for a sale. However, team registration in MLS is optional therefore, these numbers do not necessarily reflect the number of potential non-compliant teams.

The analysis of this data is further complicated by the fact that teams have varying numbers of members. A per licensee cost would be based on the number of licensees on a team and we do not have that data.

The Department consulted with some licensees who are members of its Real Estate Commission. They reported that whether individual licensees pay for all their advertising costs depends on the team and the brokerage. Some team leaders will bear the advertising costs of the whole team while on other teams, individual members will each pay their own advertising costs. Additionally, some brokerages will cover the costs of signs while the teams pay for the name riders. Some brokerages will also cover the costs of business cards. There are other variables like discounts for bulk orders.

The tables below present assumptions and calculations used to calculate the upfront costs for Teams with names that do not meet the requirement of the proposed regulation. The estimated maximum cost is \$165,000 and would be incurred one time during calendar year 2022.

² 2021 PL Chapter 322 § 1 and Chapter 211 § 1, <http://webserver.rilin.state.ri.us/PublicLaws/law21/law21211.htm>
<http://webserver.rilin.state.ri.us/PublicLaws/law21/law21322.htm>

Department Licensing Data as of October 26, 2021	
Broker Licenses	2078
Salesperson Licenses	6244
Broker Corporation Licenses	292
Total Individual Licenses	8614

RIAR Membership and MLS Data as of September 30, 2021	
RIAR Realtor Members (Salespersons or Brokers)	6211
Percentage of Department Real Estate Licensees that are members of RIAR	72%
MLS registered participant Firms/Brokerages	971
MLS Registered Teams	168
MLS Registered Teams with names that do not comply with the proposed regulation amendments	22
Percentage of Teams with non-compliant Team Names	13%

Estimated Costs for New Advertising	
Signs or sign riders	<p>Range from \$20 for cardboard stock to \$150 or more for large 4ft x 4ft signs made aluminum/metal.</p> <p>Posts to install signs may have team names on them.</p> <p>Discounts are available for bulk orders</p>
Business Cards	\$17 for 100 cards

Promotional Gifts for Clients – these need to be replenished	<p>Examples: Pens, gift labels, water bottles, travel mugs, etc.</p> <p>Labels for gifts – \$10 and up depending on size and style</p> <p>Pens – 100 pens starting at \$42 and up</p> <p>Plastic Water Bottles - \$0.62 to \$3 per bottle, minimum orders required, and minimums vary. Assume 100 item minimum the cost to rebrand the bottles is \$300.</p>
Change to Domain Name – Website	\$10 to \$20 per year
<p>Billboards – Costs for new billboards.</p> <p>Ability to edit the content would depend on the form of the advertising.</p>	<p>Estimates are per location for 4 weeks.</p> <p>Bulletin (Large Billboard) \$1,400</p> <p>Digital Bulletin (Large Digital Billboard) \$1,700</p> <p>Poster (Medium Billboard) \$725</p> <p>Digital Poster (Medium Digital Billboard) \$975</p>
Per person costs to replace signs and business cards	<p>\$500 to \$5000 per team</p> <p>Average estimated cost of \$700 per team member</p> <p>Will vary depending on the average volume of listings for each team and how many members are on the team.</p>

Total Estimated Costs	
<p>Estimated number of teams in the state</p> <p>(168 teams registered with MLS x 1.5 to account for teams not registered with MLS)</p>	252
<p>Estimated number of noncompliant teams</p> <p>(13% of 252)</p>	33
<p>Maximum Cost</p> <p>(33 teams x \$5000)</p>	\$165,000

Benefits

Clarifying how the existing regulations apply to teams provides greater accountability for escrow funds and protection for the entire transaction. Brokers are responsible for all licensees within their brokerage, whether they have formed teams or work individually. Brokers are also responsible for

handling consumers' money, deposits and down payments, and collecting and distributing the commissions to participating licensees after the closing. It is important for the consumer to know that the team is part of a brokerage in case they are having a problem with the team or individual licensee.

Some brokers have advised that oversight of teams would be easier with clearer regulations. These amendments provide brokers with clear responsibilities and rules to enforce within their brokerages while supervising their teams. When rules are questioned, they can point to these new provisions in the regulation.

The proposed amendments also cross reference R.I. Gen. Laws Chapter 5-20.6 in new § 2.31 to emphasize that teams need to complete the mandatory relationship disclosure form so consumers know how each team member relates to them in the transaction. This process also clarifies who the broker is, and which licensees have access to the consumer's confidential information.

Alternatives

Effective January 2022 in Connecticut, all teams are required to register with the state and pay initial registration fees of \$565 and subsequent renewal registration fees of \$375.³ The Department has not required Teams to register and pay a fee, which would increase costs. Rather, we have clarified that Principal Brokers, who have always been responsible for the licensees in their brokerages, are also responsible for the oversight of the Teams operating within their brokerages.

Like the Department's proposed amendments, Connecticut's legislation prohibits team names from including any abbreviation, term or phrase that implies the team is a business entity or the name of anyone who is not a real estate licensee.

³ <https://www.cga.ct.gov/2021/BA/PDF/2021HB-06624-R000349-BA.PDF>